



Report of the Group of Experts to the UN Security Council

21 July 2004

Table of Content

- I. Introduction**
- II. Methodology**
- III. Background**
- IV. Border Porosity and Arms Trafficking**
 - A. General
 - B. State and Institutional deficiencies
 - C. Porosity
 - 1. Road
 - 2. Lake

The case of Ntoroko port and Ituri armed group leader Chief Kahwa

- D. Borders as sources of revenue from Armed Groups.

The Case of Ugandan Transit Trade and the FAPC

- V. Air Transport and Trafficking**
 - A. General
 - B. Irregular Aircraft Practices Are the Norm
 - C. Inadequacies of Air Traffic Services
 - D. Uncertainty over Control in Ituri and the Kivus

- E. Differentiating Military from Civilian Flights
- F. Unregulated Internal Movements of Weapons

The Case of the Vice President Bemba and Internal Movement of Arms

- G. The Commander of the Air Force, an Influx of Weapons and Suspect Military Flights
- H. Lack of Proper Coordination and Need for Modalities

Controversy Surrounding Weapons Delivery in the DRC to MONUC from Non-MONUC Foreign Sources

VI. Aiding and Abetting

- A. The Case of Rwandan Support to Mutebutsi and Nkunda's Mutinous Forces
- B. Rwanda as a rear base for regroupment
- C. Recruitment
- D. Mutebutsi's Weapons
- E. Special Protection
- F. Preparations for Military Activities inside the DRC
- G. Forced Recruitment In Support of Nkunda's War Preparations

VII. Foreign Forces Involvement – The Case of Rwanda

- A. The Negative Forces of the FDLR
- B. Rwandan Forces Inside the DRC
 - 1. RDF Encroachment into the Congo's National park
 - 2. Rwandan Troop Deployment in remote areas in North Kivu

VIII. Military Alliances with Uncontrolled Armed Groups

- A. Support to Dissident Proxy Forces
- B. Alliance of Convenience

IX. Recommendations

Annex I Abbreviations

Annex II Meetings

I. Introduction

1. Pursuant to Security Council resolution 1493 (2003) of 28 July 2003, the Security Council imposed an arms embargo, for an initial period of 12 months, in which all States, including the Democratic Republic of the Congo, were required to take the necessary measures to prevent the direct or indirect supply, sale or transfer of arms and any related material, and of any assistance, advice or training related to military activities to all foreign and Congolese armed groups and militias operating in the territory of North and South Kivu and of Ituri, and to groups not party to the Global and All-inclusive agreement, in the Democratic Republic of the Congo (DRC).
2. In paragraph 72 of his fourteenth report on the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), the Secretary-General proposed a three-tiered approach to addressing the effective monitoring and implementation of the arms embargo. Under the first tier, MONUC collects and categorizes information in accordance with its means. Under the second tier, a group of technical experts collects and conducts preliminary investigations of information both within the Democratic Republic of the Congo and in other countries, and reports to the third tier, a sanctions committee.
3. By the statement of its President of 19 November 2003 (S/PRST/2003/21), the Security Council reaffirmed its determination to closely monitor compliance with the arms embargo imposed in resolution 1493 and expressed its intention to address the problem posed by the illicit flow of weapons into the Democratic Republic of the Congo, including by considering the possible establishment of a monitoring mechanism.
4. In paragraph 10 of Security Council resolution 1533 (2004) of 12 March 2004 concerning the Democratic Republic of the Congo, the Security Council requested the Secretary General, in consultation with the Security Council Committee established pursuant to the

same resolution, to appoint, for a period expiring on 28 July 2004, a Group of experts to perform the following tasks:

(a) To examine and analyse information gathered by MONUC in the context of its monitoring mandate;

(b) To gather and analyse all relevant information in the Democratic Republic of the Congo, countries of the region and, as necessary, in other countries, in cooperation with the governments of those countries, on flows of arms and related materiel, as well as networks operating in violation of the measures imposed by paragraph 20 of resolution 1493;

(c) To consider and recommend, where appropriate, ways of improving the capabilities of States interested, in particular those of the region, to ensure the measures imposed by paragraph 20 of resolution 1493 are effectively implemented;

(d) To report to the Council through the Committee, on the implementation of the measures imposed by paragraph 20 of resolution 1493, with recommendations in this regard;

(e) To keep the Committee frequently updated on its activities;

(f) To exchange with MONUC, as appropriate, information that might be of use in the fulfilment of its monitoring mandate;

(g) To provide the Committee in its reports with a list, with supporting evidence, of those found to have violated the measures imposed by paragraph 20 of resolution 1493, and those found to have supported them in such activities for possible future measures by the Council.

5. As appointed by the Secretary-General in his letter dated 21 April 2004 addressed to the President of the Security Council (S/2004/317), the Group of experts consisted of Mr. Leon-Pascal Seudie, Police expert (Cameroon), Ms. Kathi Lynn Austin, arms trafficking expert (United States of America), Mr. Victor Dupere, air navigation expert (Canada) and Mr. Jean Luc Gallet, customs expert (France). The Panel was assisted by a Political Affairs Officer.
6. The Group of experts received invaluable support, both in terms of information and logistics, from the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) both inside the DRC and in neighbouring countries, and wishes in particular to thank Special Representative of the Secretary-General for the Democratic Republic of the Congo William Lacy Swing. In line with the three tiered approach set forth in Resolution 1533 (2004), the Group of experts has considered information provided to it by MONUC as a springboard for some of its further investigations, and the Group values the close collaboration it has developed with MONUC in line with the respective mandates. The Group also wishes to thank the Office of the Special Representative of the Secretary-General for the Great Lakes Region of Africa based in the United Nations Office at Nairobi (UNON), for its administrative support.

II. Methodology

7. The amount of time allocated to the Group of experts to bring its work to fruition was a key factor in determining the methodology it adopted. Given the ten week mandate conferred to it, the Group of experts, in prior consultation with the Committee, opted for a case study approach. As such, from its inception, the Group of experts conveyed that its report should be considered as a foundation report, focused on a set of specific cases reflecting a balanced approach, rather than as a comprehensive and all encompassing account of arms flows and related activities in the Democratic Republic of the Congo (DRC). During its time in the field, the Group scrupulously abided by the Security Council's request to keep the Committee informed of its activities by submitting detailed bi-monthly updates..

8. Time constraints were also a critical factor underpinning the geographical domain elected by the Group of experts. Given the proximity and alleged involvement of Rwanda and Uganda in Ituri and the Kivus, the Group of experts decided to prioritize its focus on the border areas between the eastern DRC and western Rwanda and Uganda. On this premise, the Group assessed 21 primary and ancillary border areas, and surveyed Lakes Albert and Kivu extensively within six weeks. Further, aerial surveys were conducted in the area around Bunia, Fataki, Mahagi and Boga in Ituri and in areas surrounding Beni and Walikale in North Kivu. All assessments and surveys are backed by photographic evidence.
9. Owing to UN security restrictions and logistical constraints, the Group has at times had to reschedule or postpone field assessments, in particular in such areas as Lubumbashi (Katanga), Isiro, Aba, Faradje (Oriental) and a number of airstrips in Ituri. The Group also lost valuable time by being denied direct access from Rwanda into the DRC.
10. In accordance with its mandate, the Group of experts only examined and analysed information pertaining to suspected violations of the arms embargo as from 28 July 2003, with particular focus on more recent and ongoing violations that more aptly represent the current dynamics in the region, which include heightened political volatility and security concerns.
11. The Group of experts construes as equally relevant to its mandate the direct or indirect supply, sale or transfer of arms and any related material, the encroachment of foreign government troops into the DRC, the provision of assistance, advice or training related to military activities, the unimpeded access of leaders of Congolese armed groups to neighbouring countries, in particular to recruit demobilised combatants or civilians, whether forcibly or not, the passage through neighbouring countries to outflank opposing troops in the DRC, the use of neighbouring countries as a retreat, rear base or safe haven and the illicit internal movement of weapons within the DRC. All of these actions constitute a threat to peace and security in the region.
12. In all countries visited, the Group has interacted with Government and military officials, MONUC and UN agencies, the diplomatic corps, relevant local officials, Civil Society, NGOs and other targeted sources. Interaction with Governments included collegial

briefings with relevant representatives of the State, along with individualised meetings per area of specialisation. The Group also submitted to the Governments of the DRC, Rwanda and Uganda questionnaires on specific areas of interest to the Group, including border security concerns and civil aviation. While actively, constructively and openly engaging with Governments, the Group of experts gave equal opportunity to them to exchange information and ideas, provided them with the broadest possible leeway to respond to its queries and, when possible, made alterations to its travel schedule to accommodate them.

13. During its interaction with Governments, entities and individuals, the Group of experts has sought views on practical and short to medium term measures to improve compliance with the arms embargo. It is against this backdrop that the Group considers that the series of recommendations listed in the report represent a concerted and consensual approach to the resolution of the illegal flow of arms and related activities in the DRC. The Group has also familiarised, or improved the awareness of, government officials and indeed all interlocutors, regarding the arms embargo and its implications.
14. In view of the fact that the Security Council mandated the Group of experts to report on non compliance and violations of the arms embargo, the Group of experts has striven to meet the highest evidentiary standards available to a non-judicial body. In the absence of judicial recourse, it considers as “beyond reasonable doubt’ information obtained from, or volunteered by, at least three credible and independent primary sources or indeed two such sources in addition to expert observation *in situ*. It has used its best judgement in assessing the relevance of the information collected from primary and secondary sources before coming to a considered and unanimous view.
15. Throughout its mandate, the Group of experts has made a point of being physically present in areas of concern to obtain first-hand information and make first-hand assessments. It also made every attempt to meet with representatives of armed groups and dissident factions. For instance, it interacted with former and current PUSIC leaders Chef Kahwa Mandro Panga and Kitembo Bitarama, FPDC leader Thomas Unencan Uketha, FAPC Chief of Staff Emmanuel Ndungutse and dissident commander Jules Mutebutsi. The Group of experts is aware of at least two instances when its mere presence in the field has had a deterrent effect on the activities it had come to investigate.

16. Cases availed in this report have been selected in accordance with a pre-established set of intertwined criteria. These include reliability of the sources and the existence of corroborative documentation to further substantiate allegations. The many cases that do not meet these requirements have been left out of the report for further investigation.
17. In light of the political volatility prevailing in the region, the Group of experts has also placed particular emphasis on impartiality, fairness, transparency and even-handedness in its selection process. It is for this reason, but also owing to the fact that time constraints have in some instances precluded the Group from completing its investigations and providing sufficient right of reply to Governments, entities and individuals it has interacted with, that it has refrained from establishing the list requested in paragraph 10 (g) of resolution 1533 (2004). The Group of experts had conveyed this possibility when it initially met with the Committee in New York on 5 May 2004.

III. Background

18. Peace and security continue to be elusive in the DRC. Many positive steps have been taken since the signing of the Global and All Inclusive Agreement and the subsequent establishment of the Transitional Government. However, areas of particular relevance to the Group of experts, including military integration, DDR, DCR in Ituri, reform of the police, DDRRR and the extension of State administration and authority, have advanced modestly.
19. The normalization of relations between the DRC and its neighbours to the east, Rwanda and Uganda, has also made some progress, despite episodic relapses, in particular with Rwanda. Progress is largely due to sustained bilateral and multilateral diplomatic efforts.
20. The functioning of the Transitional Government has been marred by the political and military machinations of different actors and stakeholders both inside and outside the DRC as they continue to pursue military aims to forward their own political and financial agendas. During the eight weeks that the Group of experts spent in the field, there was an unsuccessful coup attempt against the Transitional Government in Kinshasa, a serious military confrontation in South Kivu between FARDC and mutinous forces, the subsequent build-up of opposing troops in the Kivus, operations to expel SPLA troops from northern

parts of the DRC, attacks on MONUC and its personnel, and continued military activities, including offensives, of Armed Groups mainly in Ituri.

21. Recent events in the Kivus represent a significant setback in the normalization of relations between the DRC and Rwanda, and indicate that despite the withdrawal of its troops from the DRC in October 2002, Rwanda, which has legitimate security concerns in the eastern DRC, continues to play a destabilizing role there. Albeit more defused, the role of Uganda, in particular in Ituri province should not be overlooked. The sovereignty of the DRC continues to be challenged not only by the intervention and military support provided by Rwanda and Uganda to its allies or proxy forces in the DRC, but also by the presence of foreign armed groups such as FDLR and ADF on its soil.
22. Shortly prior to the imposition of the arms embargo, there was a noticeable upsurge in supplies to armed groups in the border areas of eastern DRC. These supplies supplemented the pre-existing stock of arms, including residual weapons that remained in the eastern DRC after the withdrawal of Rwandan and Ugandan troops. However, with the intervention of IEMF “Operation Artemis” in mid-2003 in Ituri province, regular supplies by air, water and land were stymied. Artemis applied necessary reconnaissance, information and interdiction assets which enabled it to limit re-supply in its theatre of operations.
23. The replacement of IEMF by a less equipped MONUC force created, at first, an environment more propitious to the resumption of weapons trafficking and other logistical support to key actors in Ituri and the Kivus. With the gradual deployment of the Ituri Brigade outside of Bunia, MONUC forces were better positioned to fill the power vacuum in the more remote areas.
24. Under resolution 1493 (2003), MONUC was tasked to monitor the arms embargo, at a time when it lacked both human resources and technical assets to face its own operational priorities and deployment constraints, particularly in Ituri and later in the Kivus. Under these conditions, MONUC's limited arms monitoring capability was stretched to its limit, although MONUC fully appreciated the importance of this task. It is in this context that the three tier monitoring mechanism was established under resolution 1533 (2004).
25. During its time in the field, the Group of experts has identified a number of channels through which direct and indirect assistance is being provided to armed groups operating

in Ituri, the Kivus and in other parts of the DRC, both by neighbouring countries and from within. This on-going assistance, which includes the supply of arms and ammunition, continues to threaten the fragility of the TG and, if unchecked, could lend itself to renewed outbreak of hostilities and further jeopardize regional stability.

IV. Border Porosity and Arms Trafficking

A. General

26. The DRC is a vast quasi-landlocked country that shares its 9000 kilometers of border with nine surrounding countries. In the east alone, the DRC's border extends from Uganda to Zambia over some 2500 kilometers, a significant portion of which is maritime. It shares Lake Albert and Lake Edward with Uganda, Lake Kivu and Ruzizi River with Rwanda, and Lake Tanganyika with Burundi and Tanzania. In addition, the DRC has a massive unregulated airspace spanning most of Central Africa. As will be discussed in a separate section, there are more airstrips than workable roads making it permissible for largely unmonitored internal and international flights. The expanse and geographical characteristics of the DRC make it vulnerable to traffickers and smugglers.

27. The Transitional Government (TG) exerts little or no authority over extended parts of its eastern border. For instance, in Ituri, cross border trade is controlled by armed groups who reap substantial benefits, both in terms of tax generated revenue and easy access to commodities, both licit and illicit, from abroad. Holding borders, or border localities, is also of major strategic relevance, because it allows for timely retreat to neighbouring countries when needed. The Group of experts concluded that most of the Ituri armed groups and dissident forces in eastern DRC would be considerably constrained financially, logistically and militarily if denied the direct and indirect support received from officials and business partners operating in immediate cross border areas and freedom of movement across these borders.

28. The porosity, permeability and permissibility of the DRC's borders to the east constitute the most critical factor undermining the ability of the TG in Kinshasa, and of the international community, to monitor the flow of weapons and other illicit commodities into the DRC whether by commercial arms merchants or foreign government suppliers.

B. State and Institutional deficiencies

29. In accordance with its mandate, the Group of experts considered the adequacy of border, immigration and airspace control systems in the region for the purpose of detecting the movement of arms and related material across national borders in violation of the sanctions imposed by the Security Council. Effective monitoring at land and sea crossing points as well as airspace is vital for the detection of illicit trafficking. In this context, the Group found that local, regional, and international capacities, controls and surveillance are weak or totally inadequate in detecting, or in acting as a deterrent to, the arms traffickers supplying embargoed entities within the DRC.

30. As an institutionally weak State, the DRC significantly lacks control over both customs and immigration at its 83 formal border posts, of which 27 in Ituri and the Kivus. In some instances, State administration and authority is not present at all. The General Director of Immigration (DGM) informed the Group of experts that he had no authority over border posts in Ituri or North and South Kivu. Where the State does exert nominal authority, it is only partial. The Group interviewed numerous customs officials in the eastern DRC whose power or authority to carry out their regular official duties was minimal. Furthermore, even perfunctory officials were excused from their posts at approximately 6:00 pm. The Group has documented and sighted a number of suspicious movements of trucks and personnel at border crossings after normal working hours, when borders fall under the exclusive control of the military.

31. The Group of experts noticed similar problems both in Uganda and Rwanda. In the Ugandan border town of Paidha, local customs officials told the Group of their concern for their own security at night and of their powerlessness to stop the regular nocturnal movement of trucks

across the border into the DRC despite blatant violations of normal customs, immigration and police procedures. Similar incidents were relayed by officials not only at remote border crossings but also at major crossing points for transit goods. Police and military connivance facilitates the movement of illicit cargo. A number of customs officials explained that this complicity was the key reason behind their own inability to intervene or interdict suspect cargo. In other cases, border posts were located in such insecure areas that customs officials had been relocated to positions further inland for their own protection.

C. Porosity

1. Road

32. Overland transport by trucks or other vehicles, and the portage of weapons by individuals and troops provide ample opportunity to traffic weapons into the DRC. This is facilitated by the fact that much of the movement across borders involves informal trade conducted by peoples on both sides who share the same ethnic origin, family ties or political agendas. The Group of experts observed that cross boundary trade at remote border crossings is unregulated, and taxes are seldom levied. Border markets, particularly in remote areas accessible to armed groups also play an important role in the dissemination of arms. Small quantities of arms are purchased and ammunition is available on the black market.

33. The Group of experts has received and analysed numerous reports of trucks allegedly ferrying weapons and logistical material to the DRC through the Ugandan border posts of Arua, Paidha and Mpondwe and the Rwandan border posts of Gisenyi and Cyangugu. It has been able to collect from multiple credible and independent eye witnesses detailed information on trucks allegedly used to transport weapons and related material, dates and routes used, as well as, in some cases, weapon serial numbers. However, this information has been difficult to confirm after the fact, in particular because the end users are usually armed groups who exert tight control over their populations. And more importantly, the Group was unable to travel to some of the areas.

2. Lake

34. The use of inter-State lakes to traffic arms and other illicit commodities is of equal concern to the Group of experts. After having assessed numerous ports in Lake Albert for instance, it has found that local authorities on the Ugandan side, including at Ntoroko, Butiaba and Wanseka lack basic requirements to aptly monitor trading activities or have formed alliances with leaders of Ituri armed groups, Congolese transporters and traders to create illicit networks for the smuggling of both normal and contraband goods. The networks involve the connivance of multiple local authorities in Uganda such as military, police and customs with most of the trade at such ports conducted by Congolese.
35. There are little or no marine patrols to control the illicit trade of arms or the movement of troops, particularly at night. At several lakeside ports in Uganda, the Group of experts often found the local Marine Patrol grounded or without sufficient fuel to conduct meaningful patrols.
36. Security on the lakes is also problematic creating an environment where normal traders are less likely to ply their goods leaving most of the transport and business dealing in the hands of unscrupulous brokers. The Group of experts interviewed the local police and regional military commander who stated that protecting boats traveling in convoys as well as local Ugandan fisherman and transporters from piracy and theft were their primary security concerns for which they had few assets.

The case of Ntoroko port and Ituri armed group leader Chief Kahwa

37. Ntoroko is a Ugandan port on the southern tip of Lake Albert. It is the most convenient passage way to and from the Iturian ports of Kasenyi and Tchomia, respectively controlled by former Parti pour l'Unité et la Sauvegarde de l'Intégrité du Congo (PUSIC) colleagues Chief Kahwa and Chief Kisémbó. Numerous interlocutors informed the Group of experts that both of these armed group leaders passed through Ntoroko regularly on their way to Kampala with the assistance of local Ugandan authorities. Both Kahwa and Kisémbó had last been seen in Ntoroko returning from meetings in Kampala with Ugandan officials the day before the Group conducted its assessment there.

38. Ntoroko has no accredited resident immigration officer. When the Group of experts visited the port, the acting immigration officer, who was in fact from the police force, was on leave. The Group was informed that when Congolese nationals arrive in Ntoroko for travel further inland, they are requested to register in the regional customs office in Fort Portal, approximately two hours drive away. The Group went to Fort Portal to verify this information. It found no mention of either Kahwa or Kisémbu in the registers, which only contained a limited number of Congolese names.
39. Trade in Ntoroko is very much in the hands of the Congolese, to the quasi-exclusion of their Ugandan counterparts. Chief Kahwa has direct business interests in the Ugandan port town. He exports, for example, fish products through Ntoroko and imports liquor and foodstuffs from there into Ituri. Despite claims made by the local customs official that Uganda did not import produce from Ituri, the Group observed the presence of quantities of Congolese beer, Kitindi clothing and timber and was told that they were brought by lake from the DRC.
40. During its assessment of Ntoroko in Uganda and of Tchomia and Kasenyi, the two Congolese ports directly across the lake in the DRC, the Group of experts confirmed that Kahwa had been able to establish a financial and logistical network spanning both sides of the lake to support his political and military agendas. Using his political and business muscle, Kahwa has tried to compel merchants to use Kasenyi port as an entry point into the DRC rather than Tchomio, because if Tchomio was used he would lose out on taxes on imports collected there by Chief Kisémbu. In addition to normal import taxes, a special “Kahwa tax” was levied on merchants trading in Kasenyi.
41. The Group of experts believes that Ugandan complicity in the support given to Kahwa, who has formed part of a network on Ugandan territory, is in violation of the arms embargo, although Kahwa on a tape recorded interview told the Group that he is supplied his weapons by Rwanda.

42. As for Lake Kivu, a number of credible sources report suspicious on-going maritime traffic to and from the Kivus. The traffic reportedly consists of military material and ammunition, recently recruited Congolese returning from Rwanda for active military service within the ranks of mutinous forces in the DRC, and Rwandan government troop movement. Although such claims were persistently reported and are supported by satellite imagery and other surveillance documentation, the Group of experts had insufficient opportunity to independently confirm these allegations but concluded that it was highly likely and should remain a primary target of monitoring. However, MONUC personnel have discovered arms and ammunition caches hidden in the waters of Lake Kivu on the DRC side near areas in Bukavu recently controlled by Mutebutsi's mutinous forces. According to local reports, the weapons and ammunition were brought over from Rwanda (after the Security COUncil arms embargo was imposed) by pirogues at night and dropped in the water with a bamboo stick to demarcate the hiding place. This material was retrieved the following evening by its intended recipients. In one such cache, a relatively new manufactured South African R-5 rifle was discovered. Upon tracing its origin, the Group learned that it was part of an inventory previously supplied to Rwanda from a licensed South Africa purchase.

D. Borders as sources of revenue from Armed Groups.

43. As noted in the case study above, the control of borders is a prized asset for armed groups. They generate necessary revenue to maintain and resupply troops, and provide substantial income to their leaders for ongoing troop payment and purchase of military and logistical supplies in clear violation of the sanctions regime. Like Kahwa, Commandant Jerome, the leader of the Ituri armed group Forces Armees du Peuple Congolais (FAPC) has conspired with Ugandan business and political leaders to put in place a network which generates import and transit tax-related revenue on both sides of the border, and in turn, enjoys on-going political, military and financial ties with Uganda.

The Case of Ugandan Transit Trade and the FAPC

44. The FAPC controls a significant part of the border between the DRC and Uganda with its three prize possessions in regards to border trade: Aru and Ariwara in the North and Mahagi, further south, a port on the northernmost tip of Lake Albert.
45. Commandant Jerome and his men have unimpeded access to Uganda although the FAPC tightly controls its side of the border with the help of Ugandan troops in the DRC as directly observed by the Group of experts. In fact, the Group was later informed that Chantal Tabu Leti and Guillaume Kambale, the local DGM officials, were arrested on 7 July 2004 by the FAPC chief of staff for allowing the Group's entry into Aru.
46. In contrast, Jerome's political and business connections in Uganda allow him freedom of movement and regular trade with partners in Arua. It is apparent from detailed discussions from sources in Arua that Jerome spends most nights in Arua, in various hotels or at the homes of business partners while his own family resides in Kampala. During the Group's visit to Arua, it observed Jerome's vehicle being serviced there and met on different occasions with his "Minister of Foreign Affairs" and Chief of Staff, who were both in Arua conducting their regular business.
47. Commandant Jerome is the principal beneficiary of a somewhat flawed "transit good" system. The DRC, Rwanda and Uganda are all members of the Northern Corridor Customs Agreement which permits transit goods crossing their territories to remain sealed and free of inspection. Although procedures may be in place to inspect paperwork, physical inspections rarely occur, especially if the cargo is declared "in transit." The minimum requirement to curb trafficking is a physical inspection of all transit goods crossing into areas of the DRC under the control of embargoed parties.
48. There is general recognition within the Ugandan Customs services that the transit system is flawed and subject to abuse. It is not uncommon that transit goods entering the DRC from Uganda are offloaded in the DRC and trucked back into Uganda through regular border crossings. The goods are then sold tax free in local markets and profits generated are shared

between Ugandan officials and their Congolese counterparts. Much of FAPC's revenue, in particular from fuel, cigarettes and soft drinks, is generated in this manner. This ensures its leader, Commandant Jerome, sufficient revenue to purchase weapons or build hotels. He is also known to have bartered tax free motorcycles in exchange for SPLA weapons.

49. At the time of the Group of expert's visit to the port of Mahagi, it was reported that Jerome maintained a business partnership to keep a working peace with the Forces Populaires pour la Democratie au Congo (FPDC) and FNI by sharing the revenue generated by imports, with FNI receiving 40%, FPDC 10%, and FAPC 50% .

V. Air Transport and Trafficking

A. General

50. There are more than 450 known airports and airfields in the DRC although less than 2% have paved runway. Others are dirt and grass strips of a very limited dimension that are most commonly used by local airlines for commercial, humanitarian or religious purposes, or by illicit operators violating DRC airspace to transport military equipment or precious commodity cargo to and from areas controlled by embargoed parties. Some of these remote airfields are long enough to accommodate medium weight aircraft, such as Antonov 26 and 28 that carry superior tonnage. Main tarmac and dirt roadways are also used as airstrips as in the case of Walikale and Mubi in North Kivu where the Group of experts witnessed illicit aircraft movements.

51. The Group of experts conducted its own aerial survey in Ituri traveling to such airfields as Bunia, Fataki, Mahagi, Boga and Beni. In addition, the Group obtained data on 143 of the smaller and out of the way airstrips and more than 60 radio frequencies used by flight missions to the locales. Many of these runways and frequencies have not been identified or registered either by MONUC or the DRC Civil Aviation Authority (CAA). The Group's data includes the condition of the landing areas as well as their respective coordinates from ground positioning by satellite (GPS). It is these remote and unmonitored strips that are allegedly used to deliver illicit

weapons. The Group intends to utilize its data to help CAA gain a useful knowledge of such airstrips and to assist MONUC in its arms embargo monitoring role.

52. In Ituri, the two major aerodromes are Bunia and Beni with monthly aircraft movements averaging 1050 and 750, respectfully. In the case of Bunia, more than 50% of these movements involve MONUC flights. The two major airports in the Kivus are at Goma in the north and at Bukavu in the south with each handling an average of 1550 movements per month. More than 25% of these flights pertain to MONUC aircraft. At some of these airports and elsewhere, MONUC has been assigned its own apron to park aircraft. During the recent military crisis in Bukavu in June 2004, Bukavu's Kavumu airport was the key asset seized by the mutinous forces of General Laurent Nkunda.

53. Due to UN security restrictions, the Group of Experts was not authorized to travel to key airstrips controlled by the Ituri armed groups nor to Aba, a strategic Congolese town bordering Sudan, which is controlled by the SPLA. In these areas, airstrips fall under the control of different armed group leaders and are managed as private commercial businesses. Most of the flights entering these areas come from outside of the DRC, including from neighboring countries. Many of these landing strips are in places where precious commodities are located, and weapons are supplied to the local armed groups to ensure they retain command over their fiefdoms. These landing strips provide ample opportunity for sanctions violations. The Group of experts confirmed a major shipment of weapons to the FAPC under General Jerome's command in July 2003 just prior to the implementation of the arms embargo. The Group received credible reports of flights, including dates and details, originating from Uganda also to Mongbwalu subsequent to the embargo but did not have sufficient opportunity to conclude this investigation.

54. In areas controlled by the TG, a multitude of operators provide air transportation for passengers and cargo both within the DRC and to and from third countries. Approximately 10 companies are registered to operate scheduled flights in the DRC. These companies are in turn connected to an estimated 50 smaller companies through leasing, sub-leasing, chartering or other ad hoc

arrangements. There are a significant number of aircraft flying in and to the DRC which remain registered outside of the DRC, , or are dual-registered in the DRC. However, some also carry other registrations of convenience including from Burundi, Rwanda and Equatorial Guinea. Investigating the identification, multi-registration and location of many of these aircraft is of continued interest to the Group of experts. The Group is also concerned about aircraft leasing procedures, which do not include proper scrutiny of the certificate of air worthiness or of the qualifications of the crew.

B. Irregular Aircraft Practices Are the Norm

55. Abusive or fraudulent practices regarding aircraft registration and identification, flight itineraries, and cargo manifests are commonplace in the DRC owing as much to the lack of State institutional capacity to bring them under proper control as to the deceptive methods used by illicit operators at times with the complicity or active support of their military and political patrons. For instance, in July 2003, an Antonov 26 aircraft landed in Bunia. Once on the apron, the crew was permitted to paint a new registration on the aircraft before its departure. The Group of experts also received numerous reports of air planes without registration identifications or markings mimicking United Nations aircraft operating in the region. Such practices are meant to make it difficult to track or monitor flight patterns and detect irregularities.

C. Inadequacies of Air Traffic Services

56. The lack of technologically advanced communication and radar equipment as well as untrained personnel add to the problem of weak airspace surveillance not only in the DRC but in neighboring countries where aircraft violating DRC airspace are known to originate. In the DRC for example, many airports do not have the basic equipment, like altimeter setting, wind velocity

and direction indicator. Uganda, Rwanda and Burundi do not have radar coverage. In all 4 countries, inter-state and intra-state communication systems are inadequate, and most control units have no recording facilities.

57. The Group of experts assessed a number of airports and airfields currently under the nominal jurisdiction of the TG in Ituri and the Kivus. Air navigation installations were found to be rudimentary, and air transportation services precarious. At certain airfields, inadequate or outdated installations have been set up as a temporary measure. These systems usually lack the most basic equipment required to monitor aircraft movements and to ensure the safe and orderly flow of air traffic. In most units, the only communication equipment available is old HF radios with a very limited range. Some control towers like Goma have antiquated VHF transceivers. Most units do not have wind speed and direction equipment, altimeter setting, and communications with the adjacent air traffic services unit. Additionally, there are no recording machines to register conversations between pilots and controllers.

D. Uncertainty over Control in Ituri and the Kivus

58. The CAA in Kinshasa is officially called the Regie des Voies Aeriennes (RVA). RVA is responsible for providing airport services including apron control but has no control over military parking areas. The extension of the RVA to the rest of the DRC is quite limited, particularly in Ituri and the Kivus. The airports in these Provinces are not answering to the RVA Kinshasa but rather to local authorities. Long serving RVA staff posted to these regions before the ousting of former Zairian President Mobutu are not paid on a regular basis, nor have they had official contacts with their counterparts in Kinshasa for over six years. Most of the more recently appointed RVA officials owe their positions and allegiances to local authorities and many of these adjunct officials are neither properly qualified nor have undergone refresher training for over two decades. These bureaucrats function mainly to ensure that taxation and landing fees are collected for the local administration. Humanitarian agencies and NGOs report that they

have suspended flights to certain key airports, such as Beni, because of high landing fees imposed, which they fear are being funneled back into suspect military activities.

59. In most cases observed by the Group of experts, expertise and motivation to conduct proper inspections is lacking. Local RVA and OFIDA personnel verify civilian flights but have no jurisdiction over flights that are labeled as “military”. At some airports, such as Bunia, where MONUC is present, MONUC military personnel also inspect incoming civilian aircraft.

60. In some cases, the military control all incoming flights. For instance, in Mubi in North Kivu, the local FADRC commander tried to prevent the helicopter the group was traveling in from taking off, arguing that he had not received prior notification from the 8th Military Region Commander (MRC). Similarly, upon landing on the remote grass airstrip of Boga during another aerial survey, the Group of experts was immediately surrounded by FNI/FRPI with AK-47s. The airplane was allowed to take off without incident once its humanitarian relief cargo was unloaded by local people.

E. Differentiating Military from Civilian Flights

61. A key problem which made it difficult for the Group of experts to ascertain illicit from licit flights is the ambiguity over whether flights in the DRC and those coming to the DRC from neighboring countries are of a military or civilian nature. Almost all aircraft within the DRC carrying military troops, weapons and ammunitions are civilian registered and are usually chartered by the military authorities. However, these airlines are also conducting civilian flights carrying civilian passengers and merchandise, making it very difficult to know the purpose of the flight. As standard practice, civilian airport authorities have no jurisdiction over military flights, and at major landing fields, the military flight is instructed to proceed to an area away from the main civilian apron for the offloading of military equipment and troops.

G. Unregulated Internal Movements of Weapons

62. The lack of sufficient differentiation as well as appropriate military and civilian oversight over flights carrying weapons and related material have created a loophole exploited by commercial aircraft using the cover of official military flights. Added to this problem is the failure of key military and political actors in the DRC to notify the appropriate administration and command structures of the TG for the internal transport of military cargo. As a result, the Group of Experts again found itself having difficulty determining whether a suspect internal movement of weapons was in violation of the embargo or a result of internal military build-up, institutional deficiencies, or incompetence. In the case below, the Group learned that an unauthorized internal movement of weapons was part of a strategy by the ex-Mouvement de Liberation du Congo (MLC) to regroup with weapons in an area under its control which negatively impacted confidence-building measures of the TG. It remains unclear to the Group whether these weapons have been properly registered with the new integrated national army.

The Case of the Vice President Bemba and Internal Movement of Arms

63. From 20-22 January 2004, a total of 5 Antonov 26 flights landed at Gbadolite airport from Basankusu on the orders of Mbiato Konzoli, Vice President Bemba's military advisor in Gbadolite, with a considerable amount of weapons, including heavy weapons, and ammunition on board. During this period, access to the airport was denied by ex-MLC troops to both MONUC military observers and civilian personnel in contravention to paragraph 19 of the SC Resolution 1493, except for the inspection of one cargo delivery of weapons by the same plane on 22 January. Notification of the movement of weapons was not given to the HQ of the 3rd Military Region. Mbiato and senior officer Franc Massao, the commanding officer of the airport battalion, at first attempted to deny the weapons delivery to both the MRC and MONUC citing the aircraft was carrying only ex-MLC officers and their families. Subsequently, the ex-MLC senior officers confirmed the weapons shipments.

64. The planes carrying the military material belong to a private aircraft company owned by the Vice President. These planes, which he inherited from the military under the Mobutu administration, are often chartered by the military to transport official military cargo. As Minister of Finance, Bemba controls the military budget and determines the financial assets necessary to sustain air operations and aircraft of a military nature.
65. An official investigation was subsequently launched by the President's Office and the military, which confirms the irregular nature of this internal movement of weapons conducted under the authority of Vice President Bemba. They have yet to receive an adequate explanation of events either by the ex-MLC senior officers or Vice-President Bemba himself.
66. The Group of experts made repeated but unsuccessful attempts to meet with Vice President Bemba, including a formal request.
67. The case cited above raised another issue of concern for the Group of experts. There is a lack of clear direction on the application of the arms embargo to groups which are parties to the Global and All Inclusive agreement and whose military units are being integrated into the new national army but which are stockpiling, procuring and moving around weapons without notifying the TG in Kinshasa.
68. In trying to track sanctions busting, the Group of experts continuously found incidents where there was a lack of proper advanced notification, communication, coordination, and/or paperwork pertaining to internal flights of a military nature. As a result, the Group is still in the process of trying to determine whether certain cases constitute violations. Many of these examples, as noted above, involve the domestic movement of weapons outside of Ituri and the Kivus, thus illuminating the need for the monitoring mechanism to focus on suspect shipments elsewhere in the DRC that may traverse onwards to the embargoed areas of eastern DRC or to recipients elsewhere that are not a party to the Global and All Inclusive agreement as revealed as well in the case example below.

G. The Commander of the Air Force, an Influx of Weapons and Suspect Military Flights

69. The Group of experts received highly credible and eyewitness reports of large quantities of arms and ammunition transiting through Lubumbashi airport on military flights between the months of February and May 2004, under the close supervision of Major General John Numbi, the Commander in Chief of the DRC Air Forces. Most of the flights arrived at night and were handled exclusively by military personnel.

70. One of the planes, 3C-QRF, was reported to be a Libyan aircraft registered in Equatorial Guinea with Romanian crew on board.

71. Irregular flight plan information pertaining to these flights was handed over to the local RVA by military personnel. The information contained the aircraft identification, the type of aircraft and altitude requested but no record of departure or destination. On the daily traffic sheet, the missing information is recorded numerous times as ZZZZ (see annex). After takeoff, the aircraft climbed to the requested altitude without giving any indication of route or direction and without submitting the normally compulsory progress report upon leaving Lubumbashi control airspace. Such practices not only engender suspicion but create an obvious hazard to other aircraft.

72. The Group met with General Numbi for clarification on the flights. According to Numbi, the suspect plane belongs to Jetline Co. out of Equatorial Guinea and has been previously chartered for the President of the DRC. Numbi stated that he was aware of only one such aircraft movement with the same crew on board transiting Lubumbashi from Durban for Kinshasa on 12 April 2004 carrying 20 passengers, including senior government officials. He stated that he had carried out his own investigation and had found the crew to be traveling with false passports. The Group has not found the flights recorded on the daily traffic sheets and will continue to follow through with its current investigation.

H. Lack of Proper Coordination and Need for Modalities

73. While the Group of experts was in the sub region, there was considerable troop movement related to the on-going integration of various forces as well as the re-deployment of already formed FARDC units mainly from Kinshasa to the eastern DRC in the wake of Colonel Jules Mutebutsi and General Laurent Nkunda's mutiny. Much of this troop movement garnered suspicion from many quarters, including MONUC, other UN agencies, and local and international NGOs due to a lack of communication between the TG and relevant partners. To this end, the Group of experts met with the Commandant des Forces aeriennes to discuss internal military flights and a need for modalities in the spirit of cooperation pursuant to the mandate of MONUC and the arms embargo monitoring mechanism. Upon its request, the Group was provided copies of all flights pertaining to troop movements. The Group recommends that modalities for better communication and coordination between MONUC and the TG be established in the future.

74. In another instance, the Group of experts tracked a suspect delivery of weapons back to a case involving the importation into the DRC of foreign arms for MONUC military personnel. While the Group is still investigating questions surrounding the movements and activities of the relevant aircraft and its crew, the Group concluded that MONUC procurement, delivery and notification procedures need to be tightened to prevent any opportunity for abuse. Furthermore, modalities and communication channels pertaining to such flights also need to be established between MONUC and the TG.

75.

76. After subsequent negotiations between Uruguayan commanders, MONUC, DPKO, the 9th MRC and TG officials in Kinshasa, the airplane was released and the military equipment unloaded. The weapons along with Russian trainers were sent onward to Ituri for use by the Uruguayan Battalion. The Group of experts is still investigating the whereabouts of the plane during its three day delay as well as other irregularities.

77. In neighboring Uganda, the Group of experts also tracked suspicious flights alleged to originate from within Uganda and involved in trafficking across the DRC border into areas controlled by embargoed parties in Ituri. In following such allegations, the Group also found it difficult to distinguish between UPDF military flights and civilian chartered aircraft.

78. UPDF also charts civilian planes, which are mainly of Russian registration, for military purposes, and these planes use only the military apron at Entebbe airport. The Group of experts was informed that Ugandan Customs has no jurisdiction over these aircraft and that their movements are controlled by the military authority. As Uganda lacks a radar system which would allow it to track the flight path of aircraft leaving the airport, civilian authorities have no oversight over their destinations. The Group attempted to meet with Ugandan military authorities in Kampala and has submitted a written questionnaire on this issue as requested by them. They have yet to reply.

79. After there was considerable complaint from the Congolese authorities that aircraft coming from Uganda were violating DRC airspace and landing in areas not controlled by TG officials, the Ugandan authorities prohibited all incoming civilian flights from the DRC into Uganda with the exception of MONUC and civilian flights chartered by the military. It was not until early May 2004 that civilian flights resumed from Uganda to DRC when a Memorandum of Understanding was signed. The Group of experts recommends continued follow up with Ugandan officials and investigation of suspect aircraft operating from Uganda, whether military or civilian.

VI. Aiding and Abetting

A. The Case of Rwandan Support to Mutebutsi and Nkunda's Mutinous Forces

80. As a front-line State, Rwanda's role was considered by the Group of experts to be decisive for the effective implementation of the arms embargo. In accordance with its mandated tasks, the Group sought to determine what measures had been taken by Rwanda to prevent its territory from being used to aid and abet armed groups or militias in the DRC. Shortly after the military confrontation between FARDC and dissident military forces of suspended Deputy 10th MRC Jules Mutebutsi in Bukavu in early June 2004, the Group traveled in two teams at different intervals to the Rwandan border area of Cyangugu and directly witnessed and documented Rwanda's noncompliance with the sanctions regime.

81. The Group of experts concluded that Rwanda's violations involved direct and indirect support, both in the DRC and in Rwanda, to the mutinous troops of Jules Mutebutsi and Laurent Nkunda during their armed military operations against FARDC. Rwanda has also exerted a degree of command and control over Mutebutsi's forces. It became apparent to the Group of experts during interviews with persons directly involved that certain businesses, as well as financial and political targets in Bukavu, were spared on direct orders by Rwandan officials.

82. Bordering Bukavu, Cyangugu has been used strategically by Mutebutsi's forces as a rear base for military operations, including recruitment drives, inside the DRC. The Group of experts also documented that his forces have been given safe passage into Rwanda on at least two occasions during the recent crisis, once during the height of military confrontation in Bukavu for regroupment purposes, and a second time as a rear retreat. Mutebutsi informed the Group that he sought protection from Rwanda. From the safety of his Rwandan camp, Mutebutsi informed MONUC who visited him there that he would "return to DRC whenever he pleased."

B. Rwanda as a rear base for regroupment

83. On 8 June, 157 of Mutebusi's troops, including 12 officers, crossed into Cyangugu from Bukavu, in small groups, at a regular border crossing known as Ruzizi 1. After being registered by Rwanda as refugees, the 12 officers were taken to the Rwandan military camp of Ntedezi, some 30 kilometers inland, while the others were installed in the UNHCR transit center of Nyagatare. Although credible eyewitness sources informed that Mutebutsi himself crossed into Rwanda on the same day, the group was not able to independently confirm the allegation. Wounded soldiers were hospitalized by the Rwandans both in Cyangugu and further inland in Butare.
84. After a lull in military activities, Mutebutsi and his troops redeployed to Kaminyola, to the south of Bukavu, in an area directly bordering Rwanda. After Mutebutsi and his troops forcibly occupied the Congolese border town and opened fire on a MONUC patrol, MONUC riposted forcefully. Subsequently, Mutebutsi and his forces fled back into Rwanda, regrouping in Bugarama, which is located a few kilometers away, on the Rwandan side of the border. On 21 June, the Rwandan military reported taking Mutebutsi's forces into custody before escorting them on Rwandan military trucks to Ntedezi military camp. The Group of experts attempted to visit Bugarama where the RDF maintain a military base, but was denied access to the actual border by Rwandan military personnel.
85. At the time of its multiple visits to Cyangugu, the Group of experts observed that Mutebutsi had not disbanded his troops. Approximately 300 of them, in uniform, remained in a coherent command structure, under the protection of Rwandan troops. The Group concludes that these troops remain a latent threat to the DRC. Mutebutsi's forces remained in uniform in the camp. The Group documented the freedom of movement that Mutebutsi's troops enjoyed both inside the camp, which was not fenced or cordoned, and for travel outside. One key officer, Col. Mukalay (T3 Ops) admitted to having left the camp, traveled to Goma, and returned to the camp, at a time when the Group was denied permission by Government of Rwanda to cross the border into the DRC as it was temporarily sealed off. It is also indicative that the Government of

Rwanda has permitted Mutebutsi to speak to the press openly about his military ambitions and has aided in his propaganda campaign.

86. The Group of experts is concerned that the regroupment within a Rwandan military camp where Rwandan officers, trainers and other troops are located affords immediate and unchecked access to military advice, training, and logistical support on the part of Rwanda. Based on recruitment patterns it had already documented, the Group was concerned that the military camp, based within 10 meters of a large educational institution, afforded a substantial pool of potential youth for recruitment.

C. Recruitment

87. Between 5 and 6 AM on 18 June 2004, Rwandan military entered the premises of the UNHCR transit camp in Cyangugu, rounded up 30 young men and forced them into one of their trucks. Some of the young men interviewed by the Group of experts described being successively taken to a police compound and then to a Rwandan military compound where they were asked to enter into military service on behalf of Mutebutsi's forces inside the DRC. Those interviewed believed that they were being forced into service and were only returned to the UNHCR transit camp after UNHCR and family members exerted pressure on the Rwandan authorities to release them. On the same day, Rwandan military also rounded up young Congolese men, some forcibly, in and around Cyangugu market.
88. In a separate incident, Rwandan officials along with representatives from Congolese-based dissident forces made an appeal to demobilized soldiers based in Cyangugu to return to active military service inside the DRC. Some of those interviewed by the Group of experts were offered monetary compensation by Rwandan officials, worth the equivalent of USD 100, or mobile phones to join Mutebusi's forces in Kamanyola. Such financial support from Rwanda is critical in helping Mutebutsi sustain payment of troops for military operations. It may be recalled that from

approximately 2-9 of June, Mutebutsi's and Nkunda's forces systematically looted areas of Bukavu, including between 1-3 million dollars from the Central Bank, giving them ample cash for further recruitment as well as payment and supply of troops.

89. The Group of experts is aware that the recruitment drives led to active incursions from Cyangugu into Bukavu at a time when Rwanda had reinforced its own borders.

D. Mutebutsi's Weapons

90. Mutebutsi informed the Group of experts that the weapons that he used during his military confrontation in Bukavu and Kaminyola were from supplies and stockpiles previously belonging to FARDC. When Mutebutsi was the Deputy Commander of the 8th Military Region, arms and ammunition collected by MONUC during cordon and search activities were handed over directly to him for safekeeping. Mutebutsi retained these arms as his personal arsenal even after his suspension.

91. When MONUC first cantoned Mutebutsi's forces in Bukavu on 29 May after the initial ceasefire was obtained, it did not disarm the mutinous troops. Following the quick retreat and rerouting of Mutebutsi's troops from Bukavu to Kaminyola, MONUC collected approximately 382 light and heavy weapons, 399 mortar shells, and more than 100,000 rounds or half a ton of ammunition. The weapons abandoned by the fleeing troops were found for the most part in Bukavu town or the cantonment area of Camp Saio.

92. When Mutebutsi fled to Rwanda from Kamanyola, the GoR claims it disarmed his troops. During its visit to Cyangugu, the Group of experts was denied permission to view Mutebutsi's weapons by the Rwandan regional commander. MONUC had reported that Mutebutsi's weapons consisted of AKs, LMG, 12.7mm and 7mm MGs, RPG 7s, a few 81 and 120 mm mortars and 2 vehicles mounted with 80 mm mortars. Upon the completion of the Group's investigations, Mutebutsi's heavy weaponry was still unaccounted for though it is highly likely that they are in storage in Rwanda.

E. Special Protection

93. The Group of experts believes that the special protection provided by neighboring countries to the relatives and cohorts of the leaders of dissident forces and uncontrolled armed groups constitutes a form of support. As long as they feel that their own families are safe, these forces enjoy a psychological advantage. At the very onset of fighting, Mutebutsi relocated his family from Bukavu to Cyangugu where they stayed at the Hotel du Lac on 28 and 29 May. According to credible eyewitness sources, Mutebutsi was also seen there on 28 May. Shortly after, his family relocated elsewhere in Rwanda for added safety.

F. Preparations for Military Activities inside the DRC

94. Prior to the outbreak of the Bukavu conflict, GoR officials lent their support to Brig. General Nkunda and 10th MRC Obedi on recruitment drives inside Rwanda, including within Congolese refugee camps. Such actions affect the civilian nature of the camps and are in blatant violation of the 1951 convention relating to the status of refugees.

95. The Group of experts visited the Gihembe refugee camp in Byumba, Rwanda, administered jointly by the UNHCR and GoR authorities. The Group was able to confirm that Rwandan government officials, including military soldiers in army vehicles, and high ranking Congolese leaders based in North Kivu and loyal to Nkunda visited the camps in an attempt to recruit forces for military service inside the DRC. While the first visit occurred in December 2003, more recent attempts were made on 2 March, 14 April and 3 May 2004. On both 2 March and 14 April, in the presence of Rwandan officials, Nkunda personally requested that refugees enroll and conveyed to them that the time had come to continue warfare inside the DRC.

96. Highly credible reports and documentation indicate that the same activities were carried out in the Kiziba refugee camp in Kibuye, which the Group of experts did not have the time to independently verify.
97. Rwandan officials along with Nkunda and other Congolese officials used intimidation tactics to further the recruitment aims. During the recruitment drives, refugees were threatened with the loss of their Congolese citizenship and told that Rwandan hospitality was exhausted. When certain members of the refugee population resisted Nkunda's solicitation, they were directly threatened by Rwandan officials.
98. From its interviews with refugees in Byumba camp, eyewitness sources and humanitarian organizations, the Group of experts concluded that Rwanda's refusal to provide the refugees with the appropriate documented refugee status or identity cards was a tool used to pressure the refugees into military service inside the DRC on behalf of dissident forces.

G. Forced Recruitment In Support of Nkunda's War Preparations

99. The Group of experts was able to interview young men who were forcibly recruited by Rwandan officials on Rwandan territory after having been through the DDRRR process. The youth interviewed had left military service in April, after which they entered a demobilization camp in Goma. In May, they were repatriated to Rwanda through the border town of Gisenyi. Upon their arrival in Gisenyi, five were detained by local Rwandan officials, including the Police, and were forcibly driven back across the border into the DRC with the complicity of Rwandan immigration officers. Those detained believed they were selected because they were the fittest or best trained for renewed military service. During this episode, they were told that they would join the "RCD military". Those who refused were beaten and jailed under harsh conditions until they escaped into MONUC custody.

100. Based on its direct observations and assessments in the Rwandan border towns of Gisenyi and Cyangugu as well as the neighboring towns of Goma and Bukavu in the DRC, Rwandan officials, including the Police, are abusing the DDRRR programs within Rwanda and are subjecting those who return to forced recruitment, intimidation and physical abuse.

VII. Foreign Forces Involvement – The Case of Rwanda

C. The Negative Forces of the FDLR

101. The presence of negative forces in the DRC continues to play a destabilizing role, jeopardizing good neighborly relationships in the eastern DRC. The Group of experts was able to confirm military activities by the FDLR elements in North Kivu and their incursions into northwestern Rwanda in April 2004. Interviews with the local population, the Ruhengeri Prefect and medical personnel as well as the limited increase in the number of local funerals in the region during that period, reveal that the size of the invading FDLR forces and their impact in this instance were modest.

102. Nonetheless, in interviews with North Kivu based FDLR combatants which have recently been captured or entered into DDRRR programs, the Group of experts learned that formal command structures and organization remain steadfastly in place, and that the FDLR have good communications with their leadership based in foreign countries. According to highly credible sources and former FDLR combatants, the FDLR were able, during a recent raid, to acquire Rwandan mobile phone transmitters enabling them to illicitly make international as well as local calls for coordination, resupply and tactical purposes. The FDLR also claimed to benefit from a new arms supply chain activated by FDLR representatives in Europe and allied Ugandan officials and trucked overland in “transit good” trucks over normal border crossings.

103. Until October 2003, these FDLR units received weapons in Shabunda from DRC government deliveries which then had to be ported overland taking one to two months to reach certain units. According to one senior FDLR officer, these weapons were delivered as part of an agreement in

exchange for natural resources between the DRC government and the Democratic People's Republic of Korea. They were flown into Shabunda on aircraft often manned by a Russian crew.

104. In South Kivu, the Group of experts received information from highly credible sources that a few elements of the FDLR and armed Hutu previously inserted into Mayi-Mayi units spontaneously rallied to assist in the fighting against Mutebutsi's forces. Even though this appears to have had minimal impact, the Group is concerned that the FARDC and Mayi-Mayi might again reactivate such units if another serious military confrontation occurs.

105. Since the imposition of the embargo, there have been a number of high-ranking FDLR defections. Defectors have returned to Rwanda outside of normal DDRRR processes and official TG channels, indicating that the GoR has significant communication channels within the FDLR hierarchy. The GoR has not cooperated with either the TG or MONUC during the repatriation of these FDLR defectors. Enhanced communication and cooperation around such issues may ensure more successful DDRRR programs.

106. Despite the FDLR defections and DDRRR mechanisms in place, demobilization of the remaining FDLR forces is not imminent and remains a security concern for Rwanda. In carrying out its field investigations on both sides of the border between North Kivu and Rwanda, the Group of experts concluded that the FDLR presence in that area and its limited cross border incursions did not justify the level of Rwandan troop deployment inside the DRC.

B. Rwandan Forces Inside the DRC

1. RDF Encroachment into the Congo's National park

107. The Group of experts received highly credible reports from eyewitness sources and persons directly involved that from mid-May to June 2004, Rwandan troops had instigated the clear cutting of a southern sector (Mikeno) of Virunga National Park, a World Heritage Site, inside the DRC.

108. To investigate such claims, the Group conducted a site visit to the area on the Rwandan side of the border and interviewed villagers living adjacent to the park and other people involved in the land conversion activities. The villagers informed the Group that an order had just been issued for all conversion activities, within the DRC, to cease. The Group concluded that the order was issued in anticipation of its visit. When the Group arrived, the RDF had withdrawn to a defensive position on a nearby hill overlooking the Park boundaries. Still the Group was able to observe smoldering fires and freshly cut bamboo shoots. A follow up visit was made to adjacent areas in Virunga in the DRC.

109. The Group of experts was able to confirm that in conjunction with local leaders in and around Kibumba in the DRC, Rwandans were instructed by the RDF to deforest the area in exchange for firewood. The RDF had deployed to the area, to accompany the movement of the local Rwandan population during its clear cutting operations inside Virunga. Allegedly, RDF officers also put parts of the deforested area in the DRC up for sale.

110. While there were active incursions of the FDLR into Rwanda from some of these areas, the limited impact did not appear to justify the RDF's actions. Clear cutting of brush along one's border perimeter is a common practice to repulse such incursions, but the activities instigated by the RDF advanced considerably beyond any acceptable range. Destruction of large parts of the Park's natural habitat endangers the Congo's mountain gorilla population, which is a vital asset for tourism development.

111. Rwanda's deployment into the southern sector of Virunga Park echoed reports that the Group of experts had received about the presence of the RDF in and around northern parts of the Virunga National Park, and which it subsequently investigated.

2. Rwandan Troop Deployment in remote areas in North Kivu

112. The Group of Experts conducted a site visit to the Congolese border town of Bunagana and its surroundings, which are in the Virunga National Park. The Group received reports from highly credible sources inside both Rwanda and the DRC indicating that the RDF had maintained semi-

fixed positions in the region since at least October 2003. This information was corroborated with satellite imagery showing fixed heavy weapons encasements.

113. Inside Bunagana, the Group of experts carried out a number of independent interviews with a variety of sources and learned that the RDF often visit the local markets in the area for their regular provisions. They are tolerated by local officials and troops. Some interviewees could name local people forcibly recruited by soldiers or who had fled the country for fear of reprimand for having refused military service. The Group did not sufficiently confirm whether this resulted from local RDF or FARDC recruitment activities.

114. The Group also obtained the names of the sites where the RDF troops were said to be deployed most recently: Runyoni, Jomba Park, Kabonero, Lushabanda, Ruginga , Nchanzu as well as Virunga National Park. The areas also matched information, including satellite imagery, collected elsewhere.

115. The Group then traveled to Runyoni, approximately 40 km outside of Bunagana. On its way there, the Group inquired several times about RDF presence. Most interviewees mentioned the regular presence of Rwandans on Runyoni hill. Upon arrival there, the Group talked to the local village population. Local leaders confirmed that the Rwandan troops had departed the day before the Group's visit but that they were otherwise stationed there.

116. Based on its interviews and field investigation, the Group is highly confident that RDF troops have been deployed in the region for a considerable period of time complimenting new deployments in other parts of the Virunga National Park that it was able to independently verify.

VIII. Military Alliances with Uncontrolled Armed Groups

117. Inside the DRC, the Group of experts noted that political and military alliances of convenience could be construed as violations of the arms embargo in giving direct or indirect support to groups not a party to the Global and All Inclusive agreement or an uncontrolled armed group operating out

of Ituri and the Kivus. The ambiguity of interpretation of the embargo and to whom it should apply should be clarified.

A. Support to Dissident Proxy Forces

118. As previously cited, the Group of experts was able to document the collaboration between Nkunda and DRC officials in recruitment drives within Rwanda, including for example, MP Emmanuel Kamanzi.

119. During its visit to Goma in North Kivu, the Group of experts interviewed several demobilized Congolese soldiers who were forcibly recruited by the staff of Governor Serufuli directly from a demobilized camp situated adjacent to the South African Task Force One base. The demobilized soldiers were sent to Katindu military camp under the control of the 8th MRC and were instructed that they would soon be fighting as part of Nkunda's troops. None of these new recruits were from the Kivus or wanted to fight with forces opposed to the Kinshasa government.

120. The Group also interviewed FARDC soldiers who were previously stationed in Beni but had been transferred to Goma under 8th MRC command during a recent unification exercise. According to these soldiers, a subsection of their unit was transferred to Minova in May. At the Minova camp, they were resupplied with ammunition brought over on boats by Rwandan civilians and were met by Nkunda troops also coming by boat from Rwanda. Soon after, the sub unit, now fully integrated into Nkunda's troops, was instructed to travel to Bukavu to guard the airport for the impending visit of Vice President Ruberwa. They are in fact sent to Bukavu to secure the Airport in aid of Nkunba's forces. After the mutiny was put down by the FARDC, some of these troops returned to Goma on a boat called General Mulamba with 15 other wounded soldiers that were subsequently treated in Goma hospital. Given the various and independent testimonies corroborating the same information,

the Group of experts believes that it is high likely that Obedi seconded these troops directly to Nkunda and facilitated their onward movement from Goma to Beni.

121. The Group of experts also identified other boats carrying some of Nkunda's retreating forces back to Goma. As in the case of Rwanda's support to Mutebutsi's receding forces, it appears that civilian and military officials in Goma provided a safe refuge for Nkunda's retreat from South Kivu. Nkunda's withdrawn troops not only continue to enjoy safe refuge on the territory of the 8th MRC but there has been no intervention by North Kivu authorities to halt the considerable military build up underway in that area which the Group of experts was able to independently verify and corroborate with reconnaissance imagery. Nkunda's retains his command and control structure and weapons supplies.

B. Alliance of Convenience

122. One of the difficulties that the arms embargo regime faces in the particular case of the DRC is that it shares borders with nine countries, many of which are experiencing on-going conflicts or are in a relatively recent post-conflict transitional phase. Their own weak border controls allow for readily available weapons to flow into the DRC where they are recycled. The Group found evidence to suggest that weapons used by the Sudanese rebel group SPLA are being passed on to one of its military allies in the DRC, Commandant Jerome's FAPC in exchange for such commodities as motorcycles.

123. In this connection, it is worth noting at the time of the Group of experts' field mission, the SPLA not only controlled some areas in the northernmost reaches of the DRC but also occupied such Congolese localities as Aba, thus facilitating the illegal movement of arms into the DRC. The SPLA commander of Aba, Hassan Daud, frequently traveled to Aru and Ariwara for supplies and to hold strategic meetings with the FAPC. The Group confirmed his presence in Aru from 21-24 April 2004. When the Group of experts met with the FAPC chief of staff, he confirmed that the FAPC and SPLA

had entered into a joint security arrangement, including joint military patrols, along their common borders.

124. A similar security arrangement had previously been struck between the SPLA and the District Commissioner of Haut-Uele and its allied military commanders which was subsequently codified in a written agreement signed on 6 October 2003 (see annex). The agreement acknowledges that SPLA is safeguarding Garamba National Park, a World Heritage Site. Other documentation and interviews with international and local conservation groups tend to indicate that this is not the case. In exchange for the military services provided by the SPLA, the local authorities agreed to compensate SPLA, through the payment of \$10,000 for every 125 soldiers and \$5000 for combat rations. SPLA was also allowed to maintain its representation in Aba.

IX. Recommendations

125. In light of the findings and incorporated observations presented above, the Group of experts wishes to impress on the Committee the following recommendations.

A. Border Control and Customs Measures

1. Regional and International

126. Governments party to the Northern Corridor Agreement should consider making necessary amendments to the agreement to enable it to physically inspect transit trade goods enroute to areas under the exclusive domain of uncontrolled armed groups and other embargoed parties.

127. As a robust measure to prevent all forms of assistance to the Ituri armed groups, tightly control all inter -state trade with such groups as well as all commercial flights that are not of a humanitarian nature until such time as MONUC is able to deploy to these areas or the State is able to extend its authority there.

2. Uganda

128. The Group is aware that Uganda's security concerns may limit its ability to deploy immigration and customs agents to some of its border areas. However, by providing adequate protection to these agents, the Government of Uganda can improve its border monitoring and control capabilities, with particular emphasis on the more remote border areas it shares with the DRC. Strengthening marine patrol capacity, including adequate fuel supplies, on Lake Albert and Lake Edward would also act as a deterrent to traffickers of illicit cargo.

129. In particular, Customs and Immigration procedures at border crossings with areas controlled by Ituri armed groups should be enhanced, through added manpower, the permanent presence of accredited agents, tighter procedures pertaining to the declaration of goods both to and from DRC, improved physical inspection and screening of goods entering areas controlled by Ituri arms groups as well as immediate and systematic registration for individuals exiting and entering Uganda. The Group also recommends that measures be taken to prohibit all nocturnal movement of trucks across borders, particularly of a military nature and over immediate borders with Ituri armed groups.

130. Measures to be considered in immediate border areas with Ituri armed groups include a restriction on movements or safe residence within Uganda of leaders and high-ranking representatives of Ituri armed groups, unless they are traveling specifically for international peace negotiations.

131. In addition, the Group recommends enhanced Government scrutiny over, or interdiction of, business partnerships and relations with Ituri armed groups. The Government of Uganda should consider investigating localized complicity or involvement of Ugandan authorities and agents in certain border areas, and restrict the provision of armed escort, official transport and other advantages to official visits to Uganda of Ituri armed group leaders unless in the framework of international peace negotiations.

3. Rwanda

132. The Group recommends the restoration of civilian oversight and monitoring of activities along Rwanda's borders with the DRC, including on Lake Kivu. The Government of Rwanda should also consider restricting immigration, safe residence and freedom of movement, in Rwanda, to dissident

or mutinous forces and other individuals or officials in alliance with such forces, unless within the framework of international peace negotiations. The Joint Verification Mechanism agreed to during the 25 June Abuja summit between Presidents Kabila and Kagame should be established as soon as possible to ensure that the allegations of the two sides are adequately addressed.

4. DRC

133. With the extension of the transitional authority throughout the national territory as a prerequisite, the effective and unified control by the Transitional Government over the DRC's national borders is essential to stem the flow of arms and other illicit commodities into the DRC. In this connection, an effective customs administration can contribute significantly to enhancing the Transitional Governments financial assets, including through higher tax revenues and the reduction in smuggling. Customs and Immigrations agents would benefit greatly from training, both in their areas of expertise and pertaining to work ethics, as well as from installation of basic equipment.

B. Effective Air Traffic Monitoring and Control

134. In order to tighten the control of movements in the air and on the ground, in coordination with RVA, establish an independent air traffic services unit to provide air traffic control and establish airport procedures, such as the acquisition and dissemination of flights plans and the coordination with Customs. ICAO should be asked for assistance in this area.

135. The DRC should be provided with the relevant assistance to improve air control facilities with the minimum required equipment in order to improve the monitoring and control of aircraft movements as a deterrent to illegal activities.

136. The DRC should be assisted in restructuring the unit responsible for the registration of aircraft and personnel licensing of crew in order to tighten control over illicit arms trafficking activities by air.

C. Aiding and Abetting

1. Recruitment

137. The Group of experts reaffirms the need to respect, at all times, the civilian nature of refugee camps, in particular by abstaining from conducting voluntary and forced recruitment within them. It also calls on the Government of Rwanda to prohibit recruitments drives, especially in refugee camps, take due action against Rwandan civilian and military officials known to have been involved in, or to have facilitated, these drives, and expel and prohibit future freedom of movement, to Congolese who have conducted them. On humanitarian grounds, the Group strongly encourages relevant authorities to take necessary steps to provide refugees in Gihembe and other refugee camps with appropriate refugee status.

138. The DDRRR mechanism in the DRC would greatly benefit from the establishment of a donor funded external verification mission to follow up on the status of demobilized soldiers after their return to Rwanda. With the assistance of the Government of Rwanda, this verification mission could, in particular, ensure that demobilized soldiers are not forcibly or voluntarily being recruited to fight in the DRC. The Group of experts also reminds the Government of Rwanda of its pivotal role in preventing incursions from Rwanda into the DRC by demobilized soldiers, Congolese nationals and other entities intent upon attacking DRC soil.

139. As regards Mutebutsi's troops, or troops fleeing across borders in general, the Group of experts strongly recommends that they be disarmed, that an accurate and complete inventory of the arms be readily available for verification by MONUC, that MONUC have access to the arms storage area, that the individuals seeking asylum hand over their military attire, and that the troops be properly cantoned, in cordoned or fenced camps, prohibiting freedom of movement out of the camp. The Group further underlines the need to remove combatants seeking asylum from Rwandese military camps, and prohibit military counseling, advice and training in cantonment areas.

140. The Transitional Government and the GoR should reach an agreement, based on international law and with respect to due process, on the fate of Mutebutsi and his troops. An inquiry should also be opened into Mutebutsi's role in the looting of the Central Bank in Bukavu.

141. Family members of senior dissident troops fleeing into Rwanda should be properly registered as refugees.

2. Foreign Forces Involvement and States Cooperation

142. In the interest of confidence building and to improve border security, the Group of experts supports the principle of Joint Verification mechanisms, which may include representatives of the African Union, MONUC and other relevant parties.

143. For constructive engagement on issues pertaining to the Security Council arms embargo, the DRC, Rwanda and Uganda should appoint appropriate focal points for the arms embargo monitoring mechanism.

D. Enhancing MONUC Capability

144. Essential to improving MONUC's monitoring and interdiction capacity is the need to be provided with the appropriate maritime patrol and air surveillance capabilities, including appropriate nocturnal, satellite, radar and photographic assets.

145. In addition, consideration should be given to a more robust deployment of MONUC troops in respect to its monitoring mandate at key airports, areas under the control of the Ituri armed groups, Idjwi Island and key flashpoints along the DRC-Rwanda border.

146. Provide relevant MONUC personnel with specialized training, including guidelines on how to monitor and track illicit air movements .

E. Continued monitoring

147. In light of all of the above, the Group of experts recommends the renewal of the arms embargo in the DRC for a period covering MONUC's next mandate. Monitoring of the arms embargo is also essential to enhance its effectiveness.

Annex I**Abbreviations**

ADF	Allied Democratic Forces
CAA	Civil Aviation Authority
DCR	Disarmament and Community reintegration
DDR	Disarmament, Demobilization, Reinsertion
DDRRR	Disarmament, Demobilization, Repatriation, Reintegration, Resettlement
DGM	Direction Generale de la Migration
DPKO	Department of Peacekeeping Operations
DRC	Democratic Republic of the Congo
FAPC	Forces Armees du Peuple Congolais
FARDC	Forces Armees de la Republique Democratique du Congo
FDLR	Forces de Liberation du Rwanda
FNI/FRPI	Front des Nationalistes and Integrationnistes
FPDC	Forces Populaires pour la Democratie au Congo
GoR	Government of Rwanda
GPS	Global Positioning System
Group	The Group of experts
IEMF	International Emergency Multinational Forces
MLC	Mouvement de Liberation du Congo
MONUC	United Nations Mission in the Democratic Republic of the Congo
MRC	Military Region Commander
NGO	Non Governmental Organisation
PUSIC	Parti pour l'Unite et la Sauvergarde de l'Integrite du Congo
OFIDA	Office de Gestion des Douanes et Accises
RVA	Regie des Voies Aeriennes
SPLA	Sudanese Peoples Liberation Army
TG	Transitional Government
UPDF	Ugandan Peoples Defense Forces

Annex II: Countries visited and representatives of Governments, organizations and other entities interviewed

The following list is incomplete in deference to the wishes of those who requested anonymity.

Democratic Republic of the Congo

Government officials

Office of the President
Minister of Interior
Commander in Chief of the Congolese Airforce
9th Military Region Commander
President of the Ituri Pacification Committee
Ituri Interim Administrator
Agence Nationale du Renseignement
Direction Generale des Migrations
Institut congolais pour la conservation de la nature (ICCN)
Office de Gestion des Douanes et Accises (OFIDA)
Police Nationale Congolaise
Regie des Voies Aeriennes

Representatives of armed groups

Leader of FPDC
Former and current leaders of PUSIC
FAPC Chief of Staff and Ministry of Foreign Affairs

Representatives of States

Belgium
France
Great Britain
Republic of South Africa
Spain
United States of America

United Nations agencies and offices

MONUC
ICAO
ICC
OCHA
UNHCR

Other

ECHO
ICG
Reuters
Civil Society and NGOs

Kenya

Representatives of States

France

International organizations

FAO
IATA
IRIN
OCHA

Office of the Special Representative of the Secretary-General for the Great Lakes Region

Other

ICG

Rwanda

Government officials

Minister of Foreign Affairs

Special Envoy of the President for the Great lakes

Ministry of Foreign Affairs

Ministry of Interior

Ministry of Defence

Ministry of Infrastructure

Prefect of Ruhengeri

Regie des Aeroports du Rwanda

Cyangugu Military Commander

Customs Commissioner

Immigration

National Police

Small Arms conference focal person

Representatives of States

Belgium

Burundi

Canada

France

United Kingdom of Great Britain and Northern Ireland

United States of America

United Nations agencies and offices

MONUC

International Criminal Tribunal for Rwanda

UNHCR

ICRC

ICRC

NGOs

Uganda

Government officials

Office of the President

Civil Aviation Authority

Ministry of Defence

Ministry of Foreign Affairs

Ministry of Internal Affairs

Chief of Staff of UDPF

Chief of Intelligence

Director of Internal Security

Small arms focal point

Police

Interpol

Immigration

Customs

Representatives of States

Belgium

France
United Kingdom of Great Britain and Northern Ireland

International Organisations

MONUC
UNICEF

Media

New Vision

Others

Heritage Oil