

## **DEMOCRATIC REPUBLIC OF CONGO: ARMING THE EAST**

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#### Political names and abbreviations – acronyms

ANC	<i>Armée nationale congolaise</i> , military wing of the RCD-Goma
APC	<i>Armée populaire congolaise</i> , Congolese People's Army, military wing of RCD-ML
DRC	Democratic Republic of the Congo
FAPC	<i>Forces Armées du Peuple Congolais</i> , Ituri militia group
FARDC	<i>Forces Armées de la République Démocratique du Congo</i> , DRC government armed forces. In practice, these forces are drawn from a variety of former government and armed group units and have not yet been fully integrated into a coherent national army.
FDLR	<i>Forces Démocratiques de Libération du Rwanda</i> , Rwandan insurgent force based in eastern DRC and opposed to the current Rwandan government. The FDLR is partly composed of members of the <i>interahamwe</i> and <i>ex-Forces Armées Rwandaises</i> (ex-FAR) which perpetrated the 1994 genocide in Rwanda.
FIPI	<i>Front pour l'Intégration et la Paix en Ituri</i> , Front for the Integration and Pacification of Ituri; Ituri militia.

FNI	<i>Front des nationalistes intégrationnistes</i> , Ituri ethnic militia group
GNU	Government of National Unity (transitional government) of the DRC
<i>Mayi-Mayi</i>	Congolese militia, allied to the DRC government. Now a constituent of the DRC transitional government.
MONUC	<i>Mission de l'Organisation des Nations Unies au Congo</i> , United Nations Organization Mission in the Democratic Republic of the Congo
MLC	<i>Mouvement de libération du Congo</i> , Movement for the Liberation of the Congo, headed by Jean-Pierre Bemba. An armed group previously backed by Uganda and now a major component party of the DRC's transitional government.
PPRD	<i>Parti du peuple pour la reconstruction et la démocratie</i> . Political party of DRC President Joseph Kabila and a major component party of the DRC's transitional government.
PUSIC	<i>Parti pour l'unité et la sauvegarde de l'intégrité du Congo</i> , Ituri ethnic militia
RCD-Goma	<i>Rassemblement congolais pour la démocratie-Goma</i> , Congolese Rally for Democracy-Goma, headed by Azarias Ruberwa. An armed group previously backed by Rwanda and now a major component party of the DRC's transitional government.
RCD-ML or RCD K/ML	<i>Rassemblement congolais pour la démocratie-Mouvement de libération</i> , Congolese Rally for Democracy-Liberation Movement, also known as RCD-Kisangani/Mouvement de Libération, led by Mbusa Nyamwisi. Armed group formerly backed by the Ugandan government before allying itself more closely with the former DRC government. Now a minor constituent of the DRC transitional government
RCD-N	<i>Rassemblement congolais pour la démocratie- National</i> , Congolese Rally for Democracy-National, led by Roger Lumbala. Armed group formerly backed by the Ugandan government. Now a

	minor constituent of the DRC transitional government.
RDF	<i>Rwandan Defence Forces</i> , Rwandan government army. Previously known as Rwandese Patriotic Army
TPD	<i>Tous pour la paix et le developpement</i> , All for Peace and Development, an organization closely linked to the RCD-Goma in North Kivu
UPC	<i>Union des patriotes congolais</i> , Union of Congolese Patriots, an Ituri militia led by Thomas Lubanga
UPDF	Ugandan People's Defence Forces, the Ugandan government army
ZDI	Zimbabwe Defence Industries

## 1. Introduction

Weapons and munitions have continued to flow into the Great Lakes Region and to those forces known to flagrantly abuse human rights in the eastern DRC despite the peace agreements in 2002 between warring groups of the Democratic Republic of Congo (DRC) and between the governments of Democratic Republic of the Congo (DRC), Rwanda and Uganda.<sup>1</sup>

The UN Security Council imposed a mandatory arms embargo on the provinces of North and South Kivu and the Ituri region of the eastern DRC, and also on groups not party to the peace agreement in the DRC, on 28 July 2003. This embargo was considerably strengthened and applied to the whole of the DRC, with certain exceptions, on 18 April 2005. Yet, before and after the imposition of the UN embargo, reports of arms and related deliveries continued.

International arms flows into the region have corresponded to the clandestine supply of military aid by powerful forces in the DRC, Rwanda, and Uganda to their competing client armed groups and militia in eastern DRC who practise banditry and show little or no respect for human rights. Although fighting has subsided since the peace agreements, there have been regular clashes in which civilians have been brutally targeted. The military situation remains tense and civilians still live in fear and continue to be frequently exposed to large-scale human rights abuses. The current shortcomings in the demobilisation process, the easy availability of small arms, and the recent arming of “self defence” militia have also lead to a rapid rise in armed banditry. Bands of gunmen, former rebels and militia fighters still roam the lawless east, looting villages, exploiting mineral deposits and kidnapping civilians to earn cash. These factors together pose a major threat to the observance of the fundamental human rights of the people living in the Great Lakes Region.

In this context, Amnesty International is especially concerned about large-scale arms deliveries to the region. Rwanda imported millions of rounds of small arms ammunition, grenades and rocket launchers from surplus stocks in Albania and the Rwandan Government has recently been ordering even more supplies of such equipment from surplus stocks in Bosnia. Similarly, there have been the large flows of arms mainly from Eastern Europe to the DRC transitional government and to Uganda. Until April 2005, the UN had no agreed mechanism for the governments in the region to restrain or report such large imports, for example by reporting to the UN Secretary General or to the *Mission de l'Organisation des Nations Unies au Congo* (MONUC), United Nations Mission in the Democratic Republic of Congo, which is supporting the peace and military demobilisation process and tasked with enforcing the arms embargo so as to ensure that

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<sup>1</sup> After reaching military deadlock, and under pressure from their aid donors, the governments of Rwanda and Uganda signed two separate “peace agreements” with the DRC government - in July 2002 (in Pretoria) and in August 2002 (in Luanda) - agreeing to the total withdrawal of their troops in the DRC by 5 October and 15 December 2002. On 15 December 2002, the “Global and Inclusive Agreement” on the peaceful transition to democracy in the DRC was signed in Pretoria by the major Congolese parties to the conflict.

such arms are not diverted to armed groups and militia in the eastern DRC. Under the new UN arms embargo there are outreach provisions that could begin to strictly limit arms flows to the Great Lakes region if there is the political will to implement and enforce such provisions.

Meanwhile, the Rwandan authorities have continued to actively support and supply armed groups that have committed grave human rights abuses across the border in eastern DRC, even after the imposition of the UN arms embargo, while the authorities in Kinshasa and Kampala have also allowed arms to be distributed to militia and armed groups who have also committed grave abuses.<sup>2</sup> These arms supplies amplify the danger that the fragile stability in eastern DRC may be broken. The clandestine nature of much of the diffusion of arms in eastern DRC and its linkages to international trafficking and brokering networks, means that only determined and urgent international action will ensure this diffusion does not degenerate into further atrocities and abuses against civilians.

The international community needs to urgently pressure and assist the governments of the DRC, Rwanda, Uganda, and Burundi to adopt comprehensive measures consistent with international law to prevent the proliferation of arms to militia within the region and to ensure that the armed forces in the region are trained to uphold international human rights law and standards and international humanitarian law. Article 51 of the United Nations Charter recognizes that every state has a right to individual or collective self-defence, while Articles 1, 55 of the UN Charter require every member state to “*promote... universal respect for, and observance of, human rights and fundamental freedoms*”. Other relevant principles of international law must be observed.

This report shows how this can be done and why, until concrete measures to this end have been established by each of the three governments, international transfers of these types of arms will continue to be misused by perpetrators of grave human rights abuses in the Great Lakes Region. Such arms transfers should be immediately suspended – at least until each military force and law enforcement agency can demonstrate rigorous operational compliance with international human rights law and standards and international humanitarian law.

#### **Amnesty International’s position on the arms and security trade\***

Amnesty International takes no position on the arms trade *per se*, but is opposed to transfers of military, security or police (MSP) equipment, technology, personnel or training - and logistical or financial support for such transfers - that can reasonably be assumed to contribute to serious violations of international human rights standards or international humanitarian law. Such violations include arbitrary and indiscriminate killing, “disappearances” or torture. To help prevent such violations, Amnesty International campaigns for effective laws and agreed mechanisms to prohibit any MSP transfers from taking place unless it can reasonably be demonstrated that such transfers will not contribute to serious human rights violations. Amnesty International also campaigns for

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<sup>2</sup> UN Security Council Resolution 1493 of 28 July 2003

MSP institutions to establish rigorous systems of accountability and training to prevent such violations.

\* For a general introduction, see Amnesty International and Oxfam, *Shattered Lives: the case for tough international arms controls*, October 2003 (AI index: ACT 30/003/2003)

## 2. Background

According to the latest study, by April 2004 the DRC conflict had cost the lives of nearly four million people, or 31,000 people *per month*, since the outbreak of fighting in August 1998.<sup>3</sup> Unlawful killings have continued almost daily, despite peace agreements reached in late 2002 between the major Congolese parties and between the DRC, Rwanda and Uganda, which were supposed to bring the violent conflict to an end. The Congolese people and their neighbours are exhausted with war and violence. Yet, indicators show that many of these conflicts restart after they have stopped and that one prime factor is the easy availability of arms.

In June 2003 a transitional power-sharing government took office in Kinshasa, made up of the former Congolese warring parties, elements of the political opposition and civil society representatives. The transitional government was tasked with consolidating the peace agreements, restoring security and territorial integrity to the country, demobilising large numbers of weapons-bearers, forming an integrated national army and police force, and paving the way for democratic elections for a new government within a two-year term. In reality, despite limited advancement in some legislative matters, the DRC transitional government has achieved little of substance despite recently agreeing the terms of a new constitution. Its authority and credibility have been steadily eroded by factionalism among the major political forces dominating the transition (the former government, now represented in power by the PPRD, the RCD-Goma and the MLC), and by a succession of military and political crises centred on eastern DRC.

Large areas of the DRC continue to escape effective government control. Alleged coup attempts, mutinies, insurrections and outbreaks of widespread civil disorder have occurred. Internal divisions have also surfaced within the political parties, most noticeably within the RCD-Goma, which has fissured between a faction supportive of the transition, and an element opposed to the transition and which reportedly solicits the continued support of Rwanda to retain a *de facto* separate political, economic and military structure in North Kivu.

Conflicting economic interests, as well as political and military ones, also lie at the heart of the continuing instability. Local actors, with the tacit and active support of the governments of Rwanda and Uganda, partly supported by Burundi<sup>4</sup>, formed, trained

<sup>3</sup> Mortality in the Democratic Republic of Congo: Results from a Nationwide Survey April – July 2004. The International Rescue Committee, July 2004

<sup>4</sup> On 8 October 2003, the Transitional Government of Burundi and the National Council for the Defence of Democracy -Forces for Defence of Democracy (CNDD-FDD) signed the Pretoria Protocol on Political, Defence and Security Power Sharing in Burundi. On 16 November 2003, the parties signed a Global Ceasefire Agreement at Dar-es-Salaam (Tanzania). On 15 May 2005, a cessation of hostilities was signed in Dar es Salaam (Tanzania) between the Burundian government and the FNL



and armed a number of Congolese political groups that split amidst increasing Uganda-Rwanda rivalry.<sup>5</sup> Control of the DRC's mineral and other natural resources and lucrative customs entry points has been a constant underlying driving force of conflict. Leaders of armed groups and political factions in eastern DRC have brokered access to local markets by foreign business operations, some of whom collaborate with those leaders in the provision of arms and related supplies.

The authorities in Rwanda and powerful interests in Uganda, while denying any actions aimed at destabilising the DRC transition, have maintained close links with, and are alleged to provide continued covert military support to, armed groups or factions opposed to the transitional government. The presence inside the DRC of Rwandan, and to a lesser extent Ugandan, armed groups opposed to the Rwandan and Ugandan governments has continued to prove a major source of tension between these states and the DRC. Fighters of the Rwandan Hutu armed opposition group (the FDLR)<sup>6</sup> have themselves perpetrated numerous grave human rights abuses against civilians in eastern DRC. In early December 2004, Rwandan government forces are reported to have mounted an extensive military incursion into North-Kivu province of eastern DRC, ostensibly to engage Rwandan insurgents.

Given the political inertia and the deeply unstable situation in the DRC, national elections have been postponed and the transitional period, which was due to end on 30 June 2005, to be extended (the two-year transitional term may be extended by up to two further periods of six months each). The prospect of internationally-monitored elections are the source of considerable expectation to the Congolese people but considerable uncertainty to the political forces currently holding power, so are likely to be a source of increasing tension and upheaval in the coming months.

### *Cycle of violence and insecurity*

Political instability, acts of organised violence and conflicts over economic resources in eastern DRC have threatened on several occasions to bring about a collapse of the fragile transition. Most of this instability is centred on the two Kivu provinces, bordering Rwanda and Burundi, and on the region of Ituri, bordering Uganda. In these

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<sup>5</sup> The initial group they formed was known as the *Rassemblement congolais pour la démocratie* (RCD), Congolese Rally for Democracy. From 1999 the RCD became RCD-Goma, supported by Rwanda, when it split into mutually hostile factions supported, trained and armed by Uganda. The offshoots of RCD-Goma included *RCD-Mouvement de libération* (RCD-ML) based in Beni, RCD-Liberation Movement, also often known as RCD-Kisangani/ML (RCD-K/ML), and the RCD-National (RCD-N). For several years RCD-ML has formed a political and military alliance with, and received weapons from the Kinshasa-based government. From late 1998, the Ugandan armed forces trained, armed and deployed combat troops to support another armed political group known as the *Mouvement de libération du Congo* (MLC), Movement for the Liberation of Congo.

<sup>6</sup> A large majority of today's FDLR combatants were too young to have taken part in the 1994 Rwandan genocide as ex-FAR or Interahamwe militia. Many joined the FDLR after the Rwandan armed forces attacked and closed down Hutu refugee camps in eastern Congo [former Zaire]. The Rwandan government has said that 10 to 12 per cent of the current FDLR leadership was involved, although it has provided only a few names.

areas attacks by armed forces and militia on civilians have continued on an almost daily basis. The UN peacekeeping force, MONUC, despite reinforcement, a strengthening of its mandate, and a recent reorganization of its command structure, still struggles to contain the violence and to respond adequately to the challenges it faces.

During the conflict to 2003, the RCD-Goma and its ally Rwanda controlled the provinces of North- and South-Kivu. This control remained largely undisputed after the installation of the transitional government until, in February 2004, RCD-Goma soldiers in Bukavu, the capital of South-Kivu, mutinied against the new government-appointed commander of the 10th (South-Kivu) military region, General Prosper Nyabiolwa.

Acting on intelligence, General Nyabiolwa had instituted a series of searches for hidden arms across Bukavu. Arms caches were reportedly discovered in the grounds of the residence of the RCD-Goma Governor of South-Kivu, Xavier Chiribanya, and in property belonging to a number of other RCD-Goma political and military figures in the city. The Governor was suspended from office and fled. Another RCD-Goma officer accused of concealing arms, Major Kasongo, was arrested and flown to Kinshasa. Major Kasongo had already been sentenced to death in absentia by a Kinshasa court for his alleged role in the assassination of former President Laurent-Désiré Kabila. In response, on the night of 24 February, dissident RCD-Goma soldiers, led by the Deputy Regional Military Commander and RCD-Goma Colonel Jules Mutebutsi, attacked General Nyabiolwa's residence, forcing him to flee, and killing two soldiers loyal to the government. Local NGOs also accused Rwandan government forces of taking a direct role in the assault.

In what was widely seen as a government climb-down, in order to defuse the crisis, the Kinshasa authorities subsequently had Major Kasongo flown back to Bukavu. In due course, General Prosper Nyabiolwa was replaced as regional military commander. None of the RCD-Goma dissidents, including Colonel Mutebutsi, were ever charged or sanctioned for the mutiny.

The resulting standoff in South-Kivu lasted until June 2004, when two renegade RCD-Goma forces combined to take control of Bukavu. Colonel Jules Mutebutsi led one force, still headquartered in the city. He was joined by a column of RCD-Goma forces from North-Kivu, led by RCD-Goma General Laurent Nkunda. The renegades claimed to be acting in defence of the minority Tutsi ethnic population in Bukavu, but after chasing pro-government forces from the city, they undertook a systematic spree of killing, rape and looting against the civilian population, including Tutsis.<sup>7</sup> Renegade control of the city, however, quickly buckled under the pressure of international condemnation<sup>8</sup>, the lack of clear political support from the RCD-Goma political leadership, and a renewed government offensive. By the middle of June, Bukavu was firmly in the hands of DRC

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<sup>7</sup> Pro-government forces committed a number of human rights abuses against ethnic Tutsi civilians before and after the June fighting. The larger majority of abuses were however committed by renegade RCD-Goma military during their tenure of Bukavu and subsequent withdrawal north and south of the city.

<sup>8</sup> The Rwandan government is widely assumed to have supported the renegade force, although it denied this. Intense international pressure on Rwanda during this period did, however, coincide with the rapid collapse of the Bukavu insurrection.

government forces, and the renegade forces were fleeing to Rwanda or towards North-Kivu province. As the renegade RCD-Goma fighters withdrew, committing large-scale human rights abuses in the process, South-Kivu province came under DRC government control. Colonel Mutebutsi and a number of his troops found sanctuary in Rwanda. Laurent Nkunda's forces are believed to have rejoined their RCD-Goma units in North-Kivu. The whereabouts of Laurent Nkunda himself are unknown.

North-Kivu has remained the bastion of RCD-Goma military and political power<sup>9</sup>, and acute tensions have continued between the RCD-Goma military and pro-government forces. The province has a sizeable Rwandan-speaking (both Tutsi and Hutu) population and political manipulation by both sides of ethnic tensions has become pronounced. From October 2004 onwards, extremist leaders organised the distribution of arms to Rwandophone civilian communities. International humanitarian aid agencies and Congolese human rights activists were increasingly targets for attack or threats, reportedly by RCD-Goma soldiers or security officials. In November 2004 the Rwandan government threatened to re-launch military strikes into the DRC to combat the FDLR, and the DRC government announced that it would send 10,000 troops to the east to counter this threat. In early December, a Rwandan government force crossed North-Kivu, ostensibly to attack FDLR positions.<sup>10</sup>

In mid-December 2004, DRC government armed forces launched an offensive against RCD-Goma military positions around Kanyabayonga, in Lubero territory in northern North-Kivu, and Walikale in western North-Kivu. It is unclear whether this offensive was aimed at sweeping the RCD-Goma forces from North-Kivu in its entirety, as some RCD-Goma officials allege, or a more limited venture. In the north of the province the offensive quickly disintegrated. The government forces at Kanyabayonga, for the most part second-rate troops from former MLC and *Mayi Mayi* units, were largely untrained, unpaid, unfed and poorly equipped. According to sources interviewed by Amnesty International, some government contingents even fought amongst themselves for the equipment or food they needed. Government forces succeeded in taking control of Walikale territory in the west, but a battalion of FARDC government (*Mayi-Mayi*) forces around Nyabiondo, in Masisi territory, was caught between RCD-Goma forces retreating eastwards from Walikale and an RCD-Goma counter-offensive moving west from Masisi town.

Following a pattern that has become typical of the DRC conflict, the civilian population suffered most from these military operations. Government and RCD-Goma forces around Kanyabayonga were reportedly responsible for numerous rapes and killings of civilians. In and around Nyabiondo, RCD-Goma forces unlawfully killed at least 50 and possibly many more civilians, and committed numerous rapes, in the days and weeks following their capture of the town. Many of the civilian victims were hunted down in the surrounding forest to which they had fled. Civilian property, schools, churches and medical centres in both Kanyabayonga and Nyabiondo and their surrounding villages were extensively looted. At Buramba, Rutshuru territory, also in December 2004, a

<sup>9</sup> At the height of the conflict, RCD-Goma and Rwandan control extended to roughly one third of the country, as far as the major city of Kisangani.

<sup>10</sup> The Rwandan government has denied this incursion.

skirmish between unaligned *Mayi-Mayi* and RCD-Goma fighters left three RCD-Goma soldiers dead. At least 35 civilians and probably many more died in subsequent RCD-Goma reprisals.

Since December, an uneasy stalemate has held in North-Kivu, although tensions in the province remain high. Ultimate political and military control of the province is still an open question, and further overt or covert attempts to contest the current balance of power there could easily trigger a renewed crisis. As national elections approach, the pressures in North-Kivu are likely to intensify.

After the establishment of a the Tripartite Commission between the DRC, Rwanda and Uganda, with US support after the mid-2004 Bukavu crisis, the Joint Verification Commission to help monitor the ceasefire between the DRC and Rwanda, with MONUC participation, was set up in September 2004. However, these bodies have been relatively ineffective so far in reducing military tensions.

On 13 April, the Security Council welcomed the statement issued by political leaders of the FDLR in Rome, on 31 March, in which they condemned the 1994 genocide in Rwanda and renounced the use of force and all offensive operations against Rwanda. The FDLR statement suggested that their return to Rwanda would be dependent on certain unspecified "modalities" and "measures of accompaniment" being negotiated with the Rwandan and DRC governments and the international community. The Security Council called to the FDLR fighters to hand in their weapons to MONUC and return peacefully to Rwanda or be resettled, as well as to assist the International Criminal Tribunal for Rwanda (ICTR).<sup>11</sup> The UN gave the estimated 10,000 relatively scattered fighters of the FDLR until the end of March 2005 to surrender their weapons, but with little result. Some governments have since been calling for international force to be used against FDLR rebels.

The region of Ituri, part of Orientale province, has also remained steeped in violent conflict, despite more robust MONUC operations in the area. Here the violence has become overwhelmingly ethnic in character, perpetrated by various militia formed mainly along ethnic lines. The roots of the conflict in Ituri lie in the cynical inflammation of ethnic tensions by Ugandan, Congolese and Rwandese political, military and economic networks. These same networks have also maintained the proliferation of small arms throughout the region. Rivalry in the resource-rich Ituri District has involved a succession of armed takeovers and splits among factions loyal to Kampala, Kigali or Kinshasa, resulting in massacres of civilians by opposing ethnic forces.<sup>12</sup>

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<sup>11</sup> UN Security Council Statement by the President, SC/8358, 13 April 2005. "The Security Council calls on the FDLR to turn their positive words into action and to demonstrate their commitment to peace by immediately handing all their arms to the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and by taking part in the programme put in place for their earliest voluntary and peaceful return to Rwanda or resettlement, as well as by assisting the International Criminal Tribunal for Rwanda in Arusha to fulfil its mandate, particularly with regard to the arrest and transfer to its custody of indictees who remain at large".

<sup>12</sup> Between 1998 and 2002, control of the Ituri district moved successively from the RCD to the RCD-ML, to the *Front pour la libération du Congo* (FLC), Front for the Liberation of Congo, back to the RCD-ML, then to the *Union des patriotes congolais* (UPC), and to the *Front pour l'intégration et la paix en Ituri*

A national Transitional Government programme, supported by MONUC, to disarm and reintegrate Ituri militia members into civilian life began in September 2004<sup>13</sup>. Although the programme made relatively good progress, it still faces considerable hurdles. Among these are the continued resistance of many militia forces to the programme, an at times ambiguous support from the transitional government for the programme, a lack of local organizations able to support a meaningful reintegration of fighters into the community, and the poor coordination of international finance for the programme. It is also clear that large numbers of militia forces remain outside the process. These militia forces continue to mount regular attacks against civilian communities and MONUC forces.

The killing by militia of nine Bangladeshi MONUC peacekeepers during an ambush on 25 February 2005 prompted a vigorous MONUC campaign to convince the remaining militia that their time was up: they should either immediately agree to enter the disarmament programme or face ever more robust MONUC offensive operations against them. By May 2005, however, MONUC troops were still facing serious militia attacks, and thousands of Ituri civilians remained in camps for the internally displaced. Following the ambush, aid was temporarily suspended to three of the six overcrowded camps for internally displaced persons in the areas of Djugu and Irumu because of the danger to MONUC personnel. During that period, 10 people were dying each day in the camps, most of them children, according to UN officials, and ongoing violence in Ituri throughout the six-month period had, by the end of May, forced over 100,000 people to flee their homes.

Despite these attacks, MONUC made progress in improving the dire security environment in Ituri. An integrated DRC government army brigade, made up of troops from various former armed contingents and trained by Belgian military advisors, has also contributed to this improvement. A number of leaders of militia groups have also been arrested by MONUC or the transitional government, but have not yet been brought to trial. Nevertheless, the success of the Ituri disarmament programme remains key to consolidating peace in the region and this will be seriously undermined if new weapons and ammunition continues to flow into the District.

### **3. Arms, atrocities and abuse: the human consequences**

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(FIPI), Front for Integration and Peace in Ituri. All of these groups have been responsible for gross human rights abuses. See Amnesty International, *DRC: Ituri – How many more have to die?* August 2003, [AFR 62/030/2003]

<sup>13</sup> This DRC (*Désarmement et Réinsertion Communautaire*) programme for Ituri is the forerunner of a national demobilization and reintegration programme, and the implications of its eventual success or failure will weigh heavily on the national programme. However, at the time of writing, little attempt seems to have been made to learn the lessons of the DRC programme.

Sustained by the easy availability of small arms, war crimes, crimes against humanity and other human rights violations have been committed in eastern DRC. These violations include extra-judicial executions, unlawful killings of civilians, torture, rape and other sexual violence, use of child soldiers, abductions, destruction and looting of villages, and forced displacement.

*“We had the impression that the soldiers were not fighting each other, but rather the civilian population. Missiles were launched haphazardly, without any thought to civilians. What is this war in which out of 30 people killed only two are military personnel? These people don’t respect the basic rules of warfare. This is a war against civilians and it is always the same!”* - MONUC officer, interviewed by Amnesty International, talking about militia battles in the Ituri region of north-eastern DRC (May 2003).

Among the areas most affected by the violence are the provinces of North and South Kivu, Maniema and parts of the provinces of Kasai-Oriental, Katanga and Orientale (notably the Ituri region), where a multitude of armed groups and militia forces have competed for control of territory and natural resources. The number of civilians killed by arms in the DRC since August 1998, when the latest period of conflict began, probably numbers hundreds of thousands.<sup>14</sup>

Eastern DRC is falling prey to a rapid rise in armed banditry where roaming bands of gunmen, former rebels and militia fighters are looting villages, exploiting mineral deposits, imposing taxes and kidnapping civilians to earn cash. In these areas, arms are being used primarily to kill, rape, torture, maim and terrify civilians. Most so-called military operations are in fact directed against unarmed civilian communities, with the aims of looting, committing rapes and otherwise punishing populations for their suspected allegiance to opposing armed groups. In many cases military activity also coincides with controlling and exploiting the country’s rich mineral wealth: forcing civilians to mine gold, diamonds or other minerals at gunpoint, or extorting money from communities attempting to make a living from the mines.<sup>15</sup> Groups of fighters also regularly use arms to chase civilians from agricultural land and steal their crops or livestock, a phenomenon that has added greatly to food insecurity and levels of malnutrition in the east. The rampant insecurity has sometimes prevented humanitarian assistance from reaching many parts of the east, severely exacerbating disease, malnutrition and poverty.

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<sup>14</sup> The report of the International Rescue Committee (IRC), op cit, based on a series of mortality studies it has conducted, estimates that at least 3.8 million people were killed as a direct or indirect result of the conflict between August 1998 and April 2004, the majority from preventable disease or malnutrition brought about by population displacement or other war-related events. The first IRC study, published in May 2000, concluded that approximately 200,000 people had been victims of direct violence “where the mechanism of death was a man with a weapon”. At that time, women and children constituted 47 per cent of violent deaths.

<sup>15</sup> For an earlier account of this process, see Amnesty International report *DRC: ‘Our brothers who help kill us’ – economic exploitation and human rights abuses in the east* (AI Index: AFR 62/010/2003, April 2003)

The following examples illustrate the link between small arms and human rights abuses in the DRC. They represent only a small proportion of the hundreds of such testimonies received by Amnesty International in the course of its research. The names of survivors have been changed to protect their identities.

### *Armed Sexual Violence*

Tens of thousands of women and girls, and also men, have been raped at gunpoint by weapons-bearers, individually or collectively, in private or in public. The rape of boys is apparently on the increase. The rapes are often accompanied by other acts of extreme violence, including bayonet or gunshot wounds to the genitals of the victim. Many women have testified that they were raped after seeing their husbands and sons gunned down at point blank range: the rapes were then committed next to the corpses of their loved ones. The victims are left physically ravaged and emotionally traumatised, and many thousands suffer devastating long-term effects.<sup>16</sup>

*“My dad told me to hide. When the soldiers came in they shot my mum and my dad before my eyes. I stayed hidden but the soldiers found me and raped me. I don’t know how many of them took part, but they were many.”* -- **Aurélie** (then aged 10) was raped and her family killed in late 2002.

In June 2001, in the Fizi territory of South-Kivu province, a soldier stopped 25-year-old **Corinne** and a female friend as they were on their way to attend a funeral in a nearby village. The soldier ordered Corinne to follow him. After a few metres, he forced Corinne at gunpoint into some bushes and there raped her. Then he shot her in her lower stomach.

*“I didn’t feel anything, perhaps I fainted. After an unknown amount of time, I raised myself and I started to run. My friend came looking for me when she heard the shots. She was led to me by the trail of blood I was losing. We started walking -- at that time I was still able to walk -- through the forest until we reached the village where some kind people took me to the hospital.”*

Corinne’s bladder and uterus had been almost completely destroyed by the gunshots. She was transferred to another hospital in eastern DRC where five surgical operations were made to reconstruct her internal organs. Nine months later, Corinne was still permanently incontinent and in constant pain. Her husband abandoned her and she was evicted from the house where she was staying. Finally, with the assistance of national and international human rights organizations, Corinne was transferred abroad for a further round of surgery that was ultimately successful. However, thousands of other women who have suffered similar injuries after gunshot or knife wounds to their genitals remain in need of reconstructive surgery and other extensive medical care.

Sexual violence by weapons-bearers continues on a daily basis in eastern DRC. On 11 May 2005, a 56-year-old woman was attacked by seven FARDC (*Mayi-Mayi*) fighters

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<sup>16</sup> For more details, please see Amnesty International’s report, *DRC: Mass rape – Time for remedies*, October 2004 (AI Index: AFR 62/018/2004).

in her village in Fizi territory, South-Kivu province. They accused her of being a witch (*féticheuse*). She was beaten across her body with sticks and rifle butts, the majority of blows being directed at her stomach and genitals. She was then raped by three of the fighters. During the rape one of the men forced a piece of wood inside her vagina. The attack caused life-threatening injuries and blood loss, and the partial destruction of her internal organs.

### **Child Soldiers**

In the DRC, tens of thousands of Congolese children, girls as well as boys, some younger than ten years of age, have been recruited to take part in hostilities. Some children have enlisted voluntarily, but many are forcibly recruited, including by being abducted. Children are subjected to beatings and rapes, and are forced into combat and to commit serious human rights abuses.<sup>17</sup> Armed groups also use many children for domestic or sexual slavery.

Military commanders seek out the children because they are plentiful, vulnerable, easily manipulated and often unaware of the dangers they face. Provided with weapons but with only minimal training in their use, the children often pose as much a danger to themselves as to others.

**Christian**, aged 13, was one of these child recruits. In February 2004 the commander of one of the armed groups operating in South-Kivu province convinced him to enrol on the promise of a government payment. Two weeks later he received 5,000 Congolese francs (FC) -- around \$11 US. From this he was forced to give his commander 3,000 FC. He kept 1,000 for himself and gave the remainder to his mother.

A few days later, the commander handed Christian an assault rifle. The weapon was too big for the boy and he struggled with the rifle as the commander tried to show him how to use it. As he fumbled, the rifle went off, wounding Christian in his right arm. Bleeding badly, Christian managed to walk to a hospital, where the doctors decided his arm would have to be amputated. The operation lasted six hours, and Christian spent a further five weeks recovering in hospital. He is now at home with his family and receiving some assistance from a local human rights organization. But given current conditions in the DRC, Christian is unlikely to receive longer-term medical, social or economic support.

Despite peace agreements and the installation of a transitional power-sharing government, thousands of children still remain under arms in eastern DRC, serving with militia and armed groups. The DRC transitional government and international community have so far failed to make significant progress in the disarmament, demobilization and reintegration (DDR) of fighters, including children.

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<sup>17</sup> For further details please see Amnesty International's reports, *DRC: Children at war* (AI Index: AFR 62/034/2003, September 2003) and *DRC: Still under the gun – more child soldiers recruited* (AI Index: AFR 62/009/2004, June 2004).



### ***Unlawful Killings***

Large-scale unlawful killings of civilians by armed forces continue to be committed on a regular basis in eastern DRC, despite peace agreements.

On 26 May 2004 dissident elements of the RCD-Goma opposed to the transitional government<sup>18</sup>, took control of the city of Bukavu in South-Kivu province. During the following days, until 9 June, when government troops retook the city, these dissident forces subjected the civilian population to systematic human rights abuse. More than 60 people were killed and more than 100 women and girls reportedly raped, including 17 girls aged 13 or younger, some of whom were raped as their parents watched helplessly. One of the victims was only three years' old. Extensive looting was also committed. The abusive acts of the dissident forces became known popularly as “*opération TDF*” – “operation [mobile] telephones, dollars, daughters” – because this is what the soldiers demanded at gunpoint after forcing their way into homes.

Many of the killings took place in the course of looting, often after the victims had given all they had to give or simply because, as one informant told Amnesty International, “they didn’t like the look on your face”. On more than one occasion soldiers reportedly levelled their weapons at children’s heads to extort money from householders, demanding dollars for the life of each child. The victims included **Lambert Mobole Bitorwa**, who was shot at home in front of his children on 31 May; a woman **Jolie Namwezi**, reportedly shot in front of her children after she resisted rape; **Murhula Kagezi**, a male student killed at his home on 2 June while his father was in the next room fetching a mobile phone to give to the soldiers; and 13-year-old **Marie Chimbale Tambwe**, shot dead on 4 June on the balcony of her home by a member of the dissident forces, apparently because he believed she pulled a face at him while he was looting in the street below.

In December 2004, fighters of the RCD-Goma armed group were also responsible for the killings of scores of civilians in the centres of Nyabiondo, Masisi territory, and Buramba, Rutshuru territory, both in North-Kivu province.<sup>19</sup> In February 2005, one survivor of the Buramba killings described to Amnesty International how he and a friend, **Théophile Kalilikene**, were both pushed into a hut by an RCD-Goma fighter:

*“There’s only an old and sick man inside. The soldier asks his name and demands money, but the old man has none, so he pushes him down into a corner of the hut. Then Théophile and I are ordered to lie down on the bed,*

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<sup>18</sup> The RCD-Goma, one of the major armed movements in DRC, is signatory to the All Inclusive Peace Agreement and represented in the transitional government, where it holds one of the four vice-president positions and a number of ministries. The movement has increasingly fractured, however, between those members supportive of the transitional institutions and hardliners disillusioned with the transition and anxious to retain RCD-Goma control of the Kivu provinces, North-Kivu in particular. The RCD-Goma armed forces are nominally now part of the DRC government army (FARDC), although genuine attempts to integrate all armed forces into a single national army have only recently got underway.

<sup>19</sup> Testimonies of witnesses to these killings will be included in a forthcoming Amnesty International report on the situation in North-Kivu.

*side-by-side. And I knew then that our moment had come. The soldier shoots several times: at the level of my head, and at the heart. This was at almost point-blank range. By some miracle one bullet grazes my neck and second goes through my arm. Then the soldier goes out, closing the door behind him. This was around midday. Théophile is hit, his body twisted across the bed by the bullets. He was whimpering, then he cries out suddenly and I know that he is dead. I was covered in blood, and lost consciousness.”*

Other armed groups have also been responsible for killings of civilians in recent months. These include militia groups in Ituri district, who have also been responsible for the abduction of international humanitarian NGO staff; *Mayi-Mayi* militia who were also allegedly responsible for a spate of attacks on civilians, and rapes of women, in Katanga province in April and May. Government (FARDC) forces<sup>20</sup> assigned to the east are also known to have committed a number of abuses.

The FDLR, and a splinter group known as “the Rastas”, have been responsible for hundreds of killings, rapes and abductions for ransom in South-Kivu province since mid 2004. Late at night on 2 March 2005, for example, Antoine Zahindu, a farmer from Kalongo village in Walungu territory, and a group of six other civilians, which included his wife and two children aged 12 and 8, were abducted by FDLR or Rasta militia and taken into the forest where they were beaten with wooden batons. Antoine Zahindu was set free and told to find \$300, an inconceivable amount for a rural family in the DRC, for the rest of his family. He borrowed an amount of money from other members of family and was able to secure their release after a few days. Another 35-year-old woman abducted by the FDLR or Rasta on 3 March testified to Amnesty International how she was tortured and raped repeatedly by her abductors, who demanded \$100 cash to free her. After four days, she and three other abducted women managed to escape, naked, from the forest.

Although the east of the DRC bears most of the burden of mass human rights abuse, the misuse of arms in the DRC is not restricted to the east. In October 2002, for example, Amnesty International revealed that dozens of unauthorized civilian miners were being shot dead every year in the diamond fields of Mbuji-Mayi.<sup>21</sup> These killings, by security guards employed by the mining companies or by DRC government security forces, continue. DRC government police and armed forces are also responsible for killing and wounding dozens of civilians on 10 January 2005, when they used excessive force to break up demonstrations. In the current pre-election period, Amnesty International is concerned that government security forces may be used in a partisan fashion to repress legitimate political activities by opposition or civil society groups.

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<sup>20</sup> As noted above, pending genuine integration of the DRC’s various armed forces, the FARDC exists as an entity largely only on paper. FARDC troops in eastern DRC are made up of poorly disciplined, poorly trained and often unpaid troops drawn from former armed groups, who routinely prey on civilians.

<sup>21</sup> See Amnesty International, *Making a killing: The diamond trade in government-controlled DRC* (AI Index: AFR 62/017/2002)

### ***The Lasting Costs***

The injury and trauma caused by small arms will haunt today's generation of Congolese for years to come: the medical needs of the victims are immense and currently far beyond the capacity of the state's ruined healthcare infrastructure or the international medical and humanitarian organizations present in the DRC to address. Moreover, huge amounts of unexploded ordnance including landmines, shells and grenades, litter the Congolese soil and will continue to kill and maim on a regular basis for years to come. Adding insult to injury, the victims' prospects for achieving judicial remedy and reparation are minimal: virtually no-one has ever been brought to justice for serious human rights abuses and war crimes perpetrated in DRC. And even if today's uncertain peace does hold, it is likely that the east of the country will experience years of armed banditry because of easy access to weapons and the culture of gun use and impunity that grips the region.

Finding solutions to these challenges are essential if sustainable security and the rule of law are to be introduced in eastern DRC, and the rights of the victims upheld. It will require a major coordinated national, regional and international effort to stem the flows of arms to unauthorized, untrained and unaccountable persons, the decommissioning and destruction of surplus and illegal arms and ordnance clearance programs, the demobilization and successful reintegration into civilian life of thousands of weapons-bearers including foreign fighters, and the training and operational accountability of all sectors of the DRC government's security forces in human rights and humanitarian law. It will also require the reform and reconstruction of the country's medical and judicial systems, and of its national and local systems of democratic governance. All these measures will also depend for their success on considerable and sustained international donor pressure, assistance and expertise. None of this can be achieved if arms continue to pour into eastern DRC and the surrounding area.

#### **4. The uncertain military reform process in the DRC<sup>22</sup>**

The DRC is in a confused "pre-post"-conflict situation, which could ultimately usher in either a return to widespread bloodshed or more substantive moves toward peace and national unity. Time for the latter, however, is increasingly short as the transitional period runs towards its end without substantial progress.<sup>23</sup> The major problems still facing the DRC are not insuperable, and many of the DRC political elite seem aware of the need to lead the country rapidly away from the possibility of a renewed crisis. Lacking so far, however, is a genuine unity of purpose among members of the transitional government. On all fronts, the prevailing dynamic remains one of mistrust and latent hostility, compounded by entrenched corruption and private economic interests.

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<sup>22</sup> Amnesty International will shortly publish a report on this subject, with detailed recommendations to the DRC state and the international community.

<sup>23</sup> The transitional period should have ended on 30 June 2005. It now will be extended, probably for a further year.

Probably the most important reform that still needs to be undertaken before the country can move to elections is the integration of the various combatant forces into a unified national army and the demobilization of fighters who volunteer to return to civilian life or who are judged unfit, or too young, for further military service. A national plan has been established for a combined integration and demobilization process and a tentative start to the programme was made in February 2005. An important corollary of the process is that all fighters are disarmed on entry to the programme, and the weapons held by MONUC pending their destruction or recycling to the new army units.

The early experience of the programme is not good, however. The various military forces have been reluctant to enter wholeheartedly into the process and have in general kept their best forces away from the integration camps ("*centres de brassage*"). Coordination between the integration process, led by the military, and the demobilization and reintegration process, led by a civilian governmental organization<sup>24</sup> supported by the UN Development Programme (UNDP), has been poor: while the integration camps are open and accepting troops, facilities are absent or not yet operational for those soldiers who choose or are selected for reintegration. Programmes to support the re-entry of demobilized fighters into civilian life are also not yet fully identified or functional. No solution has yet been put forward for the large number of non-combatant women and children that accompany the soldiers, but who are not specifically catered for in the reintegration programme.

On the integration side, most of the *centres de brassage* lack basic hygiene systems or adequate shelter or medical and water supplies. The problem of soldiers' pay – or the lack of it – has not been resolved. These factors leave civilian populations around the camps at acute risk of further human rights abuse. Military commanders are not revealing the real size or roll calls of their units, because they benefit financially from what is presumed generally to be a massive overstatement of the forces under their command. The individual identification of soldiers coming forward for integration is, however, essential to the success of the programme, providing the needed reassurance that, for example, foreign fighters are not entering the DRC's national army<sup>25</sup>. Fundamental human rights protection requirements are also missing: many of those entering the integration process are suspected of committing serious human rights abuses, or have been named as alleged perpetrators, yet no attempt has been made to screen these people out of the process and bring them to justice.

The fact that these very fundamental problems persist raises large doubts as to whether the DRC's political leadership and senior military command are committed to a genuine integration of the armed forces. Yet a failure genuinely and professionally to integrate or to properly support the return to civilian life of demobilized fighters will have serious repercussions for the future of human rights in the DRC. In Amnesty International's view, both the DRC government and the international community, which is deeply involved through its financial and coordination efforts, in moving the DRC's

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<sup>24</sup> CONADER, the *Commission Nationale de Désarmement et Réinsertion*

<sup>25</sup> Rwanda and the RCD-Goma hardliners, for example, have regularly alleged that some pro-government forces contain Rwandan insurgents, and sought to make political capital from this possibility.

transitional process forward, need urgently to address the shortcomings in the DRC's army reform and demobilization programmes. This will certainly help control the transfer of arms and help prevent the diversion of arms to unaccountable weapons-bearers who commit human rights abuses in the region.

## 5. International arms embargoes

On 28 July 2003, the UN Security Council imposed an arms embargo, through Resolution 1493, on the provinces of North and South Kivu and the Ituri region of the eastern DRC, and to groups not party to the peace agreement in the DRC. The Council demanded:

*“that all States and in particular those in the region, including the Democratic Republic of the Congo, ensure that no direct or indirect assistance, especially military or financial assistance, is given to the movements and armed groups present in the Democratic Republic of the Congo;”*

The Security Council decided:

*“that all States, including the Democratic Republic of the Congo, shall, for an initial period of 12 months from the adoption of this resolution, take the necessary measures to prevent the direct or indirect supply, sale or transfer, from their territories or by their nationals, or using their flag vessels or aircraft, of arms and any related materiel, and the provision 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.”<sup>26</sup>*

The UN arms embargo on the eastern Congo did not apply to supplies to MONUC, the Interim Emergency Multinational Force (IEMF) then deployed in Bunia and the integrated DRC national army and police forces; nor to supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance and training as notified in advance to the Secretary-General through its Special Representative. The Security Council agreed to review the necessity of the arms embargo and other measures after 12 months; i.e. around 28 July 2004. This UN arms embargo was also recognised by the European Union on 29 September 2003 through a European Council Regulation 1727.<sup>27</sup>

However, it took until 12 March 2004 for the UN Security Council to decide to establish a Committee to monitor compliance with the arms embargo imposed the previous July.<sup>28</sup> The slow pace of action was disappointing given that the UN Panel of Experts<sup>29</sup> had presented evidence to the Council in October 2003 of the Rwandan, Ugandan and DRC authorities' involvement in providing military support to armed groups in eastern DRC, including Rwandan military supplies to the RCD-Goma forces,

<sup>26</sup> Paragraph 20, UN Security Council resolution 1493, 28 July 2003

<sup>27</sup> The European Union has officially maintained an embargo on DRC (formerly Zaire) since 1993.

<sup>28</sup> UN Security Council Resolution 1533 of 12 March 2004

<sup>29</sup> Throughout this report “UN Panel” means the UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of the Congo

the ANC, Armée nationale congolaise, from August 2003 which directly violated the UN arms embargo. Political differences in the Security Council apparently delayed until April 2004 the appointment of a Group of Experts to monitor the UN embargo.<sup>30</sup> In its resolution 1552 (2004), the Council renewed the arms embargo until 31 July 2005 in view of the failure by the parties to comply with the provisions of resolution 1493 (2003), and renewed, for a period expiring on 31 January 2005, the mandate of the Group of Experts tasked with monitoring the embargo.<sup>31</sup>

On 18 April 2005, following reports by the UN Group of Experts<sup>32</sup>, the UN Security Council through its Resolution 1596 (2005) extended the arms embargo. Condemning the continuing illicit flow of weapons within and into the Democratic Republic of the Congo, the Security Council decided that the arms embargo imposed by resolution 1493 of July 2003 would, from now on, apply to any recipient within the DRC's territory, with certain exceptions. The Council reiterated that the embargo applied to "*supplies of arms and related materiel or technical training and assistance*", that "*assistance*" includes "*financing and financial assistance related to military activities*", and it imposed a travel ban and assets freeze on those violating the embargo.

The UN embargo does not apply to arms for use by MONUC for humanitarian operations or to supplies of arms and related materiel or technical training and assistance intended solely for support of or use by MONUC, or units of the DRC army and police, provided that the units have completed the process of their integration, or operate under the command, respectively, of the *état-major intégré* of the DRC Armed Forces or of the National Police, or are in the process of their integration in the DRC outside the provinces of North and South Kivu and the Ituri district. The Council decided that all future authorized shipments of arms and related materiel consistent with such exemptions "*shall only be made to receiving sites as designated by the DRC Government of National Unity, in coordination with MONUC, and notified in advance to the UN Committee on Sanctions.*" Six sites have since been designated, none in Ituri or the Kivu provinces.

The Security Council decided that the DRC government and those of states bordering Ituri and the Kivus, "*shall take the necessary measures to strengthen, as far as each of them is concerned, customs controls on the borders between Ituri or the Kivus and the neighbouring States*" and ensure that all means of transport on their respective

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<sup>30</sup> Letter dated 21 April 2004 from the Secretary-General addressed to the President of the Security Council. The Expert Group is "*to gather and analyse all relevant information, including information gathered by the United Nations Organization Mission in the Democratic Republic of the Congo in the context of its monitoring mandate, in the Democratic Republic of the Congo, countries of the region and, as necessary, in other countries regarding flows of arms and related materiel, as well as networks operating in violation of the measures imposed by paragraph 20 of resolution 1493 (2003), and to consider and recommend, where appropriate...*"

<sup>31</sup> The mandate of the Group of Experts is, among other things, to examine and analyse information gathered by the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) in the context of its monitoring mandate; to gather and analyse all relevant information in the Democratic Republic of the Congo, countries of the region and, as necessary, in other countries, on flows of arms and related materiel, as well as networks operating in violation of the embargo; to recommend ways of improving the capabilities of States interested to ensure that the embargo is effectively implemented; and to provide the Committee with a list of those found to have violated it.

<sup>32</sup> Two reports of the UN Group of Experts established by paragraph 10 of resolution 1533, dated 15 July 2004 (S/2004/551) and 25 January 2005 (S/2005/30) respectively.

territories will not be used in violation of the embargo measures, and notify MONUC of such actions who, with United Nations Operation in Burundi (ONUB), are requested to provide assistance to this end. All States were requested to provide unhindered and immediate access for the members of the Group of Experts, in particular by supplying them with any information on possible violations, and facilitating access of the Group of Experts to persons, documents and sites it deems relevant to their ongoing investigations.

### ***Focus on civil aviation***

The Security Council requested MONUC and the Group of Experts to continue to focus their monitoring activities in North and South Kivu and in Ituri. In view of the evidence of air cargo violations of the UN embargo, the Council decided that, during the period of enforcement, all governments in the region, and in particular those of the DRC and of States bordering Ituri and the Kivus, must take the necessary measures:

- To ensure that aircraft operate in the region in accordance with the Convention on International Civil Aviation<sup>33</sup>, in particular by verifying the validity of documents carried in aircraft and the licences of pilots;
- To prohibit immediately in their respective territories operation of any aircraft inconsistent with the conditions in that Convention or the standards established by the International Civil Aviation Organization, in particular with respect to the use of falsified or out-of-date documents;<sup>34</sup>
- To ensure that all civilian and military airports or airfields on their respective territories will not be used for a purpose inconsistent with the UN embargo;

The Security Council decided that “*each government in the region, in particular those of States bordering Ituri and the Kivus, as well as that of the Democratic Republic of the Congo, shall maintain a registry for review by the Committee and the Group of Experts of all information concerning flights originating in their respective territories en route to destinations in the Democratic Republic of the Congo, as well as flights originating in the Democratic Republic of the Congo en route to destinations in their respective territories.*” The Council called upon the Government of National Unity and Transition to strengthen the monitoring of the activity of all airports and airfields, in particular those located in Ituri and in the Kivus, to ensure in particular that only customs airports are used for international air service, and requests MONUC, in airports and airfields where it has a permanent presence, to cooperate with the Congolese authorities to enhance the monitoring and control of the use of airports.

The Security Council urged all States to conduct inquiries into the activities of their nationals who operate or are associated with the operation of aircraft or other means

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<sup>33</sup> Convention on Civil Aviation signed in Chicago on 7 December 1944

<sup>34</sup> States in the region must notify the Committee, and maintain such prohibitions until the UN Committee is informed by States or by the Group of Experts that these aircraft meet the said conditions and standards set forth in Chapter V of the Chicago Convention and determines that they will not be used for a purpose inconsistent with the resolutions of the Security Council.

of transport such as aircraft violating international aviation regulations used for the transfer of arms or related materiel in violation of the UN embargo, “*and if necessary to institute the appropriate legal proceedings against them*”. All States must take the necessary measures to prevent the entry into or transit through their territories of all foreign nationals designated by the UN Sanctions Committee as acting in violation of the embargo, and freeze the assets and economic resources of persons designated by the Committee, “*or that are held by entities or controlled, directly or indirectly, by any persons acting on their behalf or at their direction, as designated by the Committee*”, with certain exceptions provided for by the Security Council.<sup>35</sup> The Council will review these measures no later than 31 July 2005.

### ***Arms embargoes on Rwanda***

Also relevant here is the fact that the UN Security Council imposed an arms embargo on Rwanda from 17 May 1994 following the 1994 genocide<sup>36</sup>, urging all member states to ‘*prevent the sale or supply to Rwanda by their nationals or from their territories or using their flag vessels or aircraft of arms and related material of all types, including weapons and ammunition, military vehicles and equipment, paramilitary police equipment and spare parts.*’<sup>37</sup> In addition, the UN Security Council, through Resolution 997 of 9 June 1995, imposed an embargo on arms transferred to the DRC, Uganda, Tanzania and Burundi if the arms were for onward transfer to Rwanda.

Subsequent to recognition of the new Rwandan government, the Security Council in Resolution 1011 of 16 August 1995 decided to terminate restrictions on the supply of arms and related materiel to the Government of Rwanda effective from 1 September 1996.<sup>38</sup> However, two operational paragraphs of this UN Security Council retained aspects of the arms embargo. To help prevent the arming of the Rwandan armed opposition, ex-FAR and *Interahamwe*, the Security Council decided that arms transfers are prohibited “*to Rwanda, or to persons in the States neighbouring Rwanda if such sale or supply is for the purpose of the use of such arms or materiel within Rwanda, other than to the Government of Rwanda...*”(paragraph 9)<sup>39</sup>

<sup>35</sup> Humanitarian and other exceptions to the travel and asset freeze are set out in paragraphs 13, 14, 15 and 16 of Security Council Resolution 1596 on 18 April 2005.

<sup>36</sup> This followed publication of two reports: Human Rights Watch “Rwanda/Zaire: Rearming with Impunity; International Support for the Perpetrators of the Rwandan Genocide”, New York, May 1995, and Amnesty International, “Rwanda: Arming the Perpetrators of the Rwandan Genocide”, London, June 1995. Evidence of the arms supplies is reviewed in Brian Wood and Johan Peleman, “*The Arms Fixers: Controlling the Brokers and Shipping Agents*”, Norwegian Initiative on Small Arms Transfers, Oslo, November 1999, chapter 3.

<sup>37</sup> UN Security Council Resolution 918 (1994) of 17 May 1994.

<sup>38</sup> Source: <http://www.un.org/News/ossg/rwanda.htm>

<sup>39</sup> Paragraph 9 of UN Security Council Resolution 1011 of 16 August 1995 on Rwanda “*Further decides, with a view to prohibiting the sale and supply of arms and related materiel to non-governmental forces for use in Rwanda, that all States shall continue to prevent the sale or supply, by their nationals or from their territories or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary police equipment and spare parts, to*



In addition, the Council decided “*that no arms or related matériel sold or supplied to the Government of Rwanda may be resold to, transferred to, or made available for use by, any State neighbouring Rwanda, or person not in the service of the Government of Rwanda, either directly or indirectly*”(paragraph 10).<sup>40</sup> Thus, no arms intended for delivery to Rwanda should be permitted if there is a clear risk that Rwanda will directly or indirectly transfer any of those arms to government forces or non-government groups in eastern DRC, Burundi or Uganda.

In a significant temporary step until 1 September 1996, the Council further decided in Resolution 1011 that “*States shall notify all exports from their territories of arms or related matériel to Rwanda to the Committee established by resolution 918 (1994), that the Government of Rwanda shall mark and register and notify to the Committee all imports made by it of arms and related matériel, and that the Committee shall report regularly to the Council on notifications so received.*”<sup>41</sup> In order to help achieve this, the Security Council required the government of Rwanda to report to the Secretary General a list of “named points of entry”. The Rwandan government then named: Kanombe airport (Kigali), Rusomo (through the port of Dar es Salaam) and Gatuna (through Mombasa). Although the Council did not renew these particular restrictions on arms transfers to Rwanda<sup>42</sup>, and the Sanctions Committee reports discontinued after December 2002,<sup>43</sup> the UN arms embargo remained in force.<sup>44</sup>

### ***Restrictions on arms transfers to Burundi***

Regarding arms transfers to Burundi, on the recommendation of the UN Special Rapporteur for Burundi, on 18 December 1997 the European Parliament called for an

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Rwanda, or to persons in the States neighbouring Rwanda if such sale or supply is for the purpose of the use of such arms or matériel within Rwanda, other than to the Government of Rwanda as specified in paragraphs 7 and 8 above;”

<sup>40</sup> See Paragraph 10 of Security Council Resolution 1011 of 16 August 1995

<sup>41</sup> See Paragraph 11, *ibid*

<sup>42</sup> Letter dated 1997 from the Chairman of the UN Security Council Committee established pursuant to resolution 918 (1994) concerning Rwanda addressed to the President of the Security Council (S/1997/15) which stated that “Following its consideration of the second report of the Secretary-General S/1996/663/Rev.1 and Add.1), and in accordance with paragraph 8 of resolution 1011 (1995), the Security Council, on 1 September 1996, terminated the restrictions imposed by paragraph 13 of resolution 918 (1994) on the sale or supply of arms and related *matériel* to the Government of Rwanda. Consequently, as of 1 September 1996, no notifications are required to be submitted to the Committee by States exporting arms or related *matériel* to the Government of Rwanda nor is the Government of Rwanda required to notify the Committee of its imports of arms and related *matériel*. However, with a view to preventing the sale and supply of arms and related *matériel* to non-governmental forces for use in Rwanda, all States are required to continue to implement the foregoing restrictions.”

<sup>43</sup> Letter dated 24 December 2002 from the Chairman of the Security Council Committee established pursuant to resolution 918 (1994) concerning Rwanda addressed to the President of the Security Council (S/2002/1406) which noted that “In the absence of a specific monitoring mechanism to ensure the effective implementation of the arms embargo, the Committee would like to recall its previous observation that it relies solely on the cooperation of States and organizations in a position to provide information on violations of the arms embargo. During the reporting period, no violations of the arms embargo were brought to the attention of the Committee.”

<sup>44</sup> As set out in paragraphs 9 and 10 of Security Council Resolution 1011

embargo on the supply of arms to the belligerent parties in Burundi, demanding “*that all EU Member States prevent the sale and supply, by their nationals or from their territories or using their vessels or aircraft, of arms and related material of all types, including weapons and ammunition, military vehicles and equipment and spare parts, whether or not originating in their territory, to Burundi.*”<sup>45</sup> In February 1998, the European Council responded by stating that, although there is no EU arms embargo as such against Burundi, Member States act in accordance with the Common Criteria defined in the conclusions of the European Councils of 29 June 1991 and 26-27 June 1992 (which have since been incorporated into the EU Code of Conduct of Arms Exports agreed by the European Council in June 1998). The Council stated: “*In the case of Burundi, the competent national authorities do not grant licences for arms exports. If arms do reach Burundi from or via a Member State, the case is investigated by the relevant national authorities.*”<sup>46</sup>

## 6. Recent military supplies to the Region

International transfers of arms and related supplies to the DRC, Uganda and Rwanda have not been necessarily in violation of any international arms embargo. However, Amnesty International is concerned that in a region already awash with arms, particularly small arms and light weapons, and widespread abuses carried out with such arms, that poorly controlled inflows of such arms have been contributing to give violations of human rights. Arms transfers are mostly kept secret by the respective governments and so are only occasionally revealed by manufacturers’ markings, export data from government agencies, arms brokers, transporters and recipients in the field.

The following cases illustrate the range of sources, actors, and methods used for recent arms flows. They often involve a complex array of international and local arms brokering syndicates, private air transport, off shore or tax haven money laundering, cheap sources of arms and the collaboration of local actors intent on using military supplies and services to secure profits from natural resources.

### 6.1 Supplies to Rwanda

Shortly after the Rwanda government told the UN Security Council that it had completed withdrawal of its forces on 5 October 2002, massive new quantities of small arms and light weapons from Eastern Europe began arriving in Rwanda. Military-related supplies have been delivered in recent years to Rwanda from a variety of sources with the RCD-Goma being directly supplied through the involvement of power brokers in Kigali.<sup>47</sup> Given the high risk that some of the arms intended for delivery to Rwanda would be

<sup>45</sup> European Parliament Resolution 18 November 1997 on Burundi

<sup>46</sup> Response to written question P-0500/98 by Jaak Vandemeulebroucke (ARE) to the Council, 17 February 1998, (98/C 196/176)

<sup>47</sup> The more recent pattern of supplies to RCD-Goma is reviewed in a later section of this report. It is important to bear in mind the intimate financial and military linkages between power brokers in Kigali and RCD-Goma covering a wide range of goods and services.

directly or indirectly transferred to non-government groups in eastern DRC in contravention of the UN embargo, arms inflows for use by the government of Rwanda should have been open to periodic UN inspection but this was not the case.

On 14 July 2004, Rwanda signed an agreement with the US army on "mutual support" in military logistics, supplies and services. The supply of US arms is not included, but "*this agreement will enable us to access training opportunities, joint military exercises with the US army, and also accessing military equipment for peacekeeping operations,*" said a Rwandan army spokesperson.<sup>48</sup> The US government provided varying amounts of military training and arms to the Rwandan armed forces between 1999 and 2003.<sup>49</sup> On 1 August 2003, the US government had announced that it was lifting its nine-year old embargo on weapons sales to Rwanda.

Also on 5 July 2004, Rwanda signed a memorandum of understanding with South Africa to facilitate cooperation between the armies of the two countries in the areas of training in strategic policy management of the military, education and training opportunities, joint military training, joint military exercises, exchanges of experience in peacekeeping operations and provision of support in the procurement of military equipment.<sup>50</sup> The South African government approved the sale of military equipment to Rwanda in 2002, claiming it was unspecified "non-sensitive" military equipment.<sup>51</sup> However, the UN Group of Experts reported in July 2004 that a "newly manufactured South African R-5 rifle" was discovered in the DRC amongst a weapons cache belonging to a rebel faction of RCD-Goma given support from Rwanda that was "part of an inventory previously supplied to Rwanda by means of a licensed purchase from South Africa."<sup>52</sup> The UN Panel also reported in October 2003 that it had information indicating that some arms of the UPC (*Union des patriotes congolais*, Union of Congolese Patriots), a militia group that has been responsible for grave abuses of human rights in the Iruri District, had originated from the Balkans and South Africa.<sup>53</sup>

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<sup>48</sup> IRIN News Service, Kigali, 14 July 2004

<sup>49</sup> US DSCA, *Foreign Military Sales, Foreign Military Construction Sales and Military Assistance Facts*, as for September 30, 2003; [ww.dscamilitary.com](http://ww.dscamilitary.com); United States Direct Commercial Sales (Companies to government or other companies) 2003: \$25,000; Foreign Military Sales (Government-to-government, actual deliveries): 1999: \$252,000; 2000: \$232,000; 2001: \$31,000; 2002: \$ 0; 2003: \$4,000 International military education and training program (includes military assistance service and emergency draw downs): 1999: \$314,000; 2000: \$164,000; 2001: \$0; 2002: \$0; 2003: \$162,000. Previously, in 1997 the US government had provided military assistance in the form of special operations training with little regard for human rights. See Amnesty International (USA), "*Unmatched Power, Unmet Principles: US training of foreign military and police forces: the human rights dimensions*", Washington, May 2002.

<sup>50</sup> Ibid

<sup>51</sup> See Directorate Conventional Arms Control (DCAC), *Annual Report: South African Export Statistics for Conventional Arms - 1998*, at <http://www.mil.za/SANDEF/DRO/NCACC/ncacc.html>. Africa News Service, *Mandela Stops Weapon Sales to Uganda, Rwanda*, 21 March 1999.

<sup>52</sup> UN Group of Experts established by paragraph 10 of resolution 1533, dated 15 July 2004 (S/2004/551)

<sup>53</sup> The UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of the Congo submitted a confidential supplement to its report to the Security Council's Sanctions Committee on the DRC in October 2003, hereafter referred in this report to as UN Panel confidential report to the Security Council, October 2003. This supplementary report was leaked from the Security Council shortly afterwards and has become widely available.

Rwanda received military weapons from Saudi Arabia during 2002, according to incomplete, official trade data from the UN “Comtrade” data<sup>54</sup> and in November 2002 Turkey reported sending 5,000 rounds of 20 mm “target practice tracer (TPT) training cartridges for use in helicopters or war planes” to Rwanda.<sup>55</sup> Between 1994 and 2001, in addition to the above-mentioned US transfers, Rwanda imported arms, ammunition (either of military or supposedly non-military nature) and defence equipment and services from Belgium-Luxembourg, Canada, China, DRC Congo, France, Germany, India, Kenya, Russian Federation, Romania, Serbia and Montenegro, Slovakia, South Africa, United Kingdom, Uganda, Zimbabwe, and unspecified other areas, including international missions).<sup>56</sup>

### ***Large deliveries from Tirana and Belgrade to Kigali***

Following the signing of the DRC peace accords in the second half of 2002, a series of arms flights were carried out from Tirana, Albania to Kigali.<sup>57</sup> The flights continued until at least June 2003. The government of Rwanda has denied receiving arms

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<sup>54</sup> The U.N. Statistics Division maintains a database (Comtrade) on international trade that includes commercial imports and exports of arms, ammunition and other defence equipment. Importing and exporting states should record the traded goods according to internationally accepted definitions (codes) that form the so-called harmonized record systems. Over time these systems have changed but correlation tables allow for meaningful historical series of trade recorded under different harmonized systems. For example, what in the Harmonized Commodity Description Version 2002 is code 930200 (“Revolvers & pistols, designed to fire live ammunition”) became code 891.14 in the most recent Standard International Trade Classification (SITC, Rev.3). Comtrade data should include details of the destination country, the value (in US dollars) and either the weight or the number of items. Unfortunately, many governments do not provide data on trade in military weapons or provide either incomplete or grossly aggregated data. However, transfers unrecorded by an importing or exporting country can be often detected by resorting to the declarations of trade partners.

<sup>55</sup> According to a Letter dated 24 December 2002 from the Chairman of the Security Council Committee established pursuant to resolution 918 (1994) concerning Rwanda addressed to the President of the Security Council states that: “In accordance with paragraph 11 of Security Council resolution 1011 (1995), on 18 November 2002 the Permanent Mission of Turkey to the United Nations informed the Committee that the Turkish corporation Makina ve Kimya Endüstrisi Kurumu had signed a contract with the Ministry of Defence of Rwanda for the sale of 5,000 rounds of 20 millimetre target practice tracer (TPT) training cartridges for use in helicopters or war planes and intended for the sole use of the Government of Rwanda.”

<sup>56</sup> Last available figures for arms exports to Rwanda show that, in the period between 1994 and 1999, the country imported commercial and government-to-government defense articles and services for about \$90 million (U.S. Dept. of State, *Military Expenditures and Arms Transfers*. Washington, D.C., Bureau of Verification and Compliance, last edition June 2002). As far as commercial sales are concerned, between 1994 and 2001, Rwanda declared to COMTRADE imports of arms, ammunition, and other weapons for a total of only \$120,817 (from Belgium-Luxembourg, DRC Congo, India, Kenya, South Africa, Uganda, and unspecified areas), but in the same period Belgium-Luxembourg, Canada, China, Germany, Russian Federation, Serbia and Montenegro, Slovakia, South Africa, United Kingdom, and Zimbabwe declared to COMTRADE exports to Rwanda for a total of \$3,007,687. In particular, exports by: South Africa (2001, SITC code 89111 “Tanks and other armoured fighting vehicles and parts) totalled \$249,262; by India (1998, code 89111) \$54,700; by Slovak Republic (1997, code 89129 “munitions of war and parts”) \$368,207 and (code 89111), \$360,566; by Zimbabwe (1996, code 89129) \$1,172,947. For exports by Romania see: *Bucharest Evenimentul Zilei*, 13 Mar 2002 p 5, citing documents.

<sup>57</sup> Documents and interviews obtained and conducted by Amnesty International, May 2003 to April 2004

supplies from these flights,<sup>58</sup> but according to evidence seen by Amnesty International and to accounts by government officials in Europe, these inter-continental deliveries involved up to 400 tonnes of munitions, and involved companies from Albania, Israel, Rwanda, South Africa and the United Kingdom (UK). The deliveries coincided with the reported dissemination of arms from Kigali to rebel groups in the eastern DRC, as shown in the next section of this report. Amnesty International is therefore calling for public investigations in Albania, Israel, Rwanda, South Africa and the UK into the whereabouts of these deliveries and those involved in them, including the publication of all the transportation documentation.

In addition, Amnesty International has received evidence that these deliveries coincided with Rwandan military support, including arms supplies by air and road, to two Congolese armed opposition groups in the eastern DRC, and also with reports alleging arms movements from Kigali to Burundi.<sup>59</sup> One source alleged that an Air Way Bill seen in Albania contained an instruction that some of the arms cargo would be delivered from Kigali to Goma and Bujumbura.

According to documents and witness statements obtained by Amnesty International, the first series of six flights of arms from MEICO (the privately owned state-controlled Military Export-Import Company of Albania)<sup>60</sup>, took place from Tirana to Kigali in planeloads each carrying over 40 metric tonnes of arms and ammunition from the end of October into November 2002. This included several million rounds of Kalashnikov ammunition. At least one shipment contained grenades and rocket launchers.

Amnesty International has found that three of the companies involved in these five arms deliveries operated from the UK – African International Airways (Crawley, West Sussex), Intavia Ltd (Crawley and Gatwick), and Platinum Air Cargo (Egham, Surrey).<sup>61</sup> According to press reports, Pat Corbin, a former president of the Johannesburg Metropolitan Chamber of Commerce and Industry who is the majority South African shareholder of Africa International Airways, said in early 2004 that AIA had performed the five flights as “government-to-government” transactions.<sup>62</sup> The UK manager of Africa International Airways said his company had performed six flights.<sup>63</sup> UK customs authorities questioned these companies in late 2003 after the UK government was alerted

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<sup>58</sup> Rwandan President Paul Kagame and his officials categorically denied receiving such arms in a meeting on 17 October 2003 in Kigali with the Secretary General of Amnesty International.

<sup>59</sup> See this report further below; reports from Burundi and foreign cargo expert.

<sup>60</sup> See MEICO website: [www.mod.gov.al/eng/industria/meico](http://www.mod.gov.al/eng/industria/meico). See also Bonn International Centre for Conversion report on <http://www.ssr.undp.org.al/download/reports/bicc.pdf>. According to <http://www.cemes.org/current/ethpub/ethnobar/wp1/wp1-d.htm>, “The state arms company, Meico, was sold off in 1994 to the largest privately-owned Albanian company, Vefa Holdings”

<sup>61</sup> AIA freight documents and interviews with company officials, United Kingdom, 2003; African International Airways was established in Swaziland in 1985 and then licensed in South Africa. Intavia Ltd is AIA’s General Sales Agent and is based at the same Crawley address of AIA and at Gatwick. Platinum Air Cargo is an air cargo General Sales Agent, with offices in Egham, Surrey, UK; Ostend, Belgium; Schiphol, Netherlands; Houston and Dallas, USA.

<sup>62</sup> Mail and Guardian, “SA’s war vultures”, Stefaans Brummer, 16 January 2004

<sup>63</sup> Interview with AIA manager, UK, June 2005

to irregularities in the freight shipment procedures.<sup>64</sup> The DC8 cargo aircraft used for the shipments by Africa International Airways was registered in Swaziland and maintained in South Africa. In addition, Amnesty International has testimony from participants pointing to the involvement of other arms brokers and business intermediaries based in Israel, the Netherlands and the Turks and Caicos Islands.<sup>65</sup>

According to a Belgian newspaper, the services of African International Airways were reportedly used for the transport of coltan<sup>66</sup> from Rwanda to Ostend.<sup>67</sup> The manager of a coltan trading company, Cogecom, in Belgium, was reported in April 2001 to have said that: “*Until a few weeks ago, airplanes of African International regularly dropped barrels with black gravel at the airport of Ostend - forty tonnes per cargo, originating from Rwanda. Each cargo was worth approximately 200.000.000 million Belgian francs (about 5.000.000 euro), on its way to German and American processors of coltan ore.*”<sup>68</sup> He said that his trading company Cogecom, based in Brussels, had been active in the coltan trade for ten years.<sup>69</sup>

In addition, during 2003 a company based in Rwanda, Silverback Cargo Freighters, used two DC8 aircraft to carry out another series of ammunition deliveries from Eastern Europe to Rwanda.<sup>70</sup> The two DC-8 operated by Silverback Cargo Freighters were each sold for a symbolic price of US\$10 in a complex deal from the United States and delivered to the company in May 2002.<sup>71</sup>

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<sup>64</sup> UK Foreign and Commonwealth Office, Press Statement, 8 August 2003; “The allegations we received concerned a possible breach of the UN sanctions against Rwanda, whereby arms and ammunition exported from Albania were destined for persons outside Rwanda. The FCO judged that if true, this would be a breach of UN Security Council Resolution 1011(1995) paragraphs 9 and 10. We therefore raised this issue with the governments of Albania and Rwanda with the intention of stopping any activity that may breach UN sanctions.”

<sup>65</sup> Interviews with company officials and UK Customs authorities, 2003

<sup>66</sup> “Coltan” is a contraction of “colombo-tantalite”, the name of an ore combining two rare metals with similar atomic structures: niobium (Nb), also known as columbium, and tantalum (Ta). Coltan is mined in various locations in eastern DRC as well as in a number of other countries and is processed in Germany, the USA, China and Kazakhstan amongst others. Tantalum powder is used to manufacture highly heat-resistant electronic components needed for mobile phones, laptop computers, and play stations. Tantalum is also used in the aviation and atomic energy industries. Niobium is mostly used in heat-resistant steel and glass alloys in the construction industry. For more details, see for example IPIS “Supporting the War Economy”, January 2002.

<sup>67</sup> The principal of AIA did not deny this report when questioned, 2003

<sup>68</sup> Erik Bruyland ‘UN Report on economic plunder of Congo: blood on your mobile?’ Trends, 19 April 2001

<sup>69</sup> For further information on Cogecom, see: Jeroen Cuvelier and Tim Rayermakers, ‘Supporting the war economy in the DRC: European companies and the coltan trade’, IPIS, Antwerp, September 2002

<sup>70</sup> Silverback Cargo Freighters was founded in 2002 and in December was reportedly scheduled to serve the cargo needs of a start-up passenger company called Rwandair Express, based in Kigali, partially State-owned, and operational from December 2002 (*Rwanda, Behind the Headlines*, issue 7, December 2002). Telephone interview with Silverback Cargo Freighters, Kigali, May 2005

<sup>71</sup> According to FAA and industry records, the two DC-8-62 (formerly N990CF – serial number 46068 - and N994CF – serial number 45956) were de-registered from the US registry in early May 2002, just after the last owner, a San Francisco-based company, had notified the FAA that the planes had been bought by an unspecified Rwanda purchaser. The same records show that the last owner company sold the planes on 7 May 2002 to an entity with an address in the financial district of Tortola island, in the British Virgin Islands.

According to Albanian officials, at least four arms flights were carried out to Kigali from Tirana from April to at least June 2003.<sup>72</sup> Albanian officials said these flights involved the shipment of large quantities of ammunition - 3,590,000 rounds of 7.62mm ammunition (for Kalashnikov assault rifles) and 85,000 rounds of 9mm (pistol or sub-machine gun) ammunition. At least one arms flight from Tirana was reported by Albanian officials to have involved “explosives” routed from Belgrade.<sup>73</sup> While a “Delivery Verification Certificate” from the Rwandan Ministry of Defence dated 24 June 2003 confirmed receipt of the 3,590,160 cartridges in Kigali, three “end use certificates” indicate that the Rwandan Ministry of Defence had ordered another one million rounds of 9mm ammunition from Albania.<sup>74</sup> These could have been delivered from Albania or another country. Albanian officials indicated that some 9mm ammunition had been returned from Rwanda.<sup>75</sup> The manager of Silverback subsequently offered to fly missiles and large quantities of ammunition from Poland to Rwanda in October 2003.<sup>76</sup>

A UN official told Amnesty International that, according to several reliable sources, aircraft of Silverback Cargo were used in mid 2004 to transport further quantities of arms to Rwanda from Eastern Europe.<sup>77</sup> Between March and September 2004, Silverback Cargo Freighters leased one of its DC8 aircraft (9XR-SC) to a company called International Air Services (alternatively International Air Express), registered in Liberia but based in the Ras-al-Khaimah Free Zone (UAE). According to international aviation records, from late 2003 to at least April 2005, International Air Services leased two Lockheed 1011-100 Tristars from Ducor World Airlines, a company named in a UN report for flying arms in violation of the UN arms embargo on Liberia<sup>78</sup> and carrying arms through Mwanza to Burundi in late 2002.<sup>79</sup> In November 2003, International Air Services leased a Boeing 707 from Air Memphis, a company registered in Egypt that flew coltan from Goma to Germany in June 2001<sup>80</sup> and continued to operate from Goma in 2003<sup>81</sup>, the year it reportedly founded Air Memphis Uganda.<sup>82</sup>

<sup>72</sup> Transcript of a meeting between the Secretary General of the Albanian Ministry of Defence and his officials with a delegation from Amnesty International, Tirana, 11 August 2003

<sup>73</sup> *ibid*

<sup>74</sup> End Use Certificates received from Rwanda by the Albanian Ministry of Defence, 6 February, 20 March and 15 May 2003, and Delivery Verification Certificate from the Rwandan Ministry of Defence dated 24 June 2003.

<sup>75</sup> Transcript of meeting in Tirana, *op cit*

<sup>76</sup> Sunday Times, “You want missiles? Pick up the phone”, 12 October 2003. Moses Kirunda, Silverback’s commercial director, quoted a price of £48,000-72,000 to transport the munitions from Poland. “We are experienced in the transport of dangerous goods,” Kirunda said.

<sup>77</sup> Meeting with UN official, June 2004

<sup>78</sup> See more on Ducor further below. Ducor World Airlines is registered in Equatorial Guinea and still active after a suspension in 2003

<sup>79</sup> *L’Humanité*, Interview with Hubert Sauper, 5 April 2005. Sauper made an award-winning documentary film entitled “Darwin’s Nightmare” about the fish trade in Mwanza from mid 2001 to mid 2004 during which he observed arms trafficking by foreign cargo planes.

<sup>80</sup> IPIS, “Supporting the War Economy in the DRC”, January 2002. According to documents, *Air Memphis* leased an aircraft belonging to *Tristar Air*. Both *Air Memphis* and *Tristar* are based in Heliopolis (Egypt). The coltan cargo arrived in Ostend on 12 June 2001, with flight number MHS 200 and aircraft registration SU-AVZ. From there, it was transported by lorry to Germany for processing.

<sup>81</sup> Air Memphis aircraft were filmed in Goma and Mwanza.

<sup>82</sup> Aero Transport Database, 2005

The UN Report on Liberia published in June 2004, contains the following information on Ducor World Airlines and its owner: “*The new registry was opened in 2003; to date, only two aircraft have been registered. Both belong to Duane Ugli [sic, the correct name Egli], whom the Panel recognizes as owner of the Ducor World Airline Company. This company has been known to transport arms to Liberia (see S/2002/1115). In Liberia the new company is called International Air Services. Furthermore, the Panel has been informed that the French civil aviation authorities decided not to authorize Ugli's [sic] aircraft to land on their territory.*”<sup>83</sup>

In Rwanda, an airline company with a similar name - Regional International Air Services - was formed in 2003 operating an aircraft from Moldtransavia<sup>84</sup>, a Moldovan company whose operations were suspended after a UN report on violations of the arms embargo on Liberia linking Moldtransavia to the network of arms trafficker Victor Bout.<sup>85</sup> (see the box on Victor Bout below) Two other Antonov aircraft registered in Rwanda to Regional International Air Services were reportedly exported to South Africa in December 2003.<sup>86</sup>

Albanian Ministry of Defence officials claimed that a company based in Israel brokered these arms shipments to Rwanda: “*Verona Commodities is the agent which we have dealt with. It is an Israeli company with a license from the Israeli government – the Albanian embassy in Tel Aviv has checked it with the Israeli government.*”<sup>87</sup> Verona Commodities is a company registered in the British Virgin Islands. Another company referred to by customs officers in the deal is Verona Commodities of Burundi Ltd with a postal address in Kigali. A businessman reportedly working for an Israeli company, Ebony, supervised the offloading in Kigali of arms from Albania, according to sources. Another reliable source said that a freight agent based in Tel Aviv had helped arrange the transport with the above air charter operators based in the UK and South Africa.

### ***Arms procurement by Rwanda in Bosnia and Herzegovina***

On 18 November 2004, the Bosnia and Herzegovina (BiH) government and the US commander of Stabilisation Force (SFOR), the international peacekeeping force deployed in BiH, approved the transfer of surplus ammunition and arms from national stocks to brokers apparently operating on behalf of the Rwandan government. Such a transfer would not by itself be in breach of UN arms embargoes but may contribute to the proliferation of arms. After strong representations by members of the European Union, which with its operation EUFOR/Althea was about to take over from SFOR the main role in peacekeeping operations in BiH, the BiH government decided on 9 December 2004 to cancel the export to Rwanda and duly announced this on 10 December 2004.<sup>88</sup>

<sup>83</sup> UN Report on Liberia, S/2004/396, 1 June 2004, paragraph 73

<sup>84</sup> The aircraft is a TU-154M registered as 9XR-DU.

<sup>85</sup> UN report on Liberia, S/2001/1015

<sup>86</sup> Aero Transport Database, June 2005

<sup>87</sup> Meeting with Albanian officials in Tirana, op cit

<sup>88</sup> As reported in the Bosnian media;



However, on 11 December 2004 an Ilyushin 76 freighter aircraft operated by Vega Airlines of Bulgaria reportedly took off from Tuzla Airport, the planned point of export for the arms and ammunition, with a flight plan filed for Benghazi in Libya, according to European air traffic control observations.<sup>89</sup> Benghazi is a routine fuel stop for aircraft destined for sub-Saharan Africa. Once an aircraft heads south from Benghazi it leaves radar coverage for much of the remainder of the flight. Vega Airlines is one of the four Bulgarian air cargo companies licensed to transport arms in the list of Bulgaria's Inter-ministerial Council.<sup>90</sup>

According to European air traffic and industry database records, the Ilyushin 76 operated by Vega for the flight from Tuzla was registered by an air cargo company, Reem Air, established in Kyrgyzstan during 2004 with a fleet of three such aircraft.<sup>91</sup> The use of Vega as the official operator of the Reem Air's Il-76 was most likely related to the fact that Vega held a license for transporting arms. European air traffic control told the UN they had no record of its arrival in Tuzla, only its departure<sup>92</sup>, so UN and aviation officials suspected that the aircraft may have arrived in Tuzla using "visual flying" methods. The UK company Baseops (a well-known flight support services provider), that submitted Vega's flight plan, stated that the official outward-bound plane had a Kyrgyzstan aircraft registration number of EX-043. Research indicates that on 2 November 2004 Reem Air registered an Ilyushin-76TD in Kyrgyzstan as EX-043 by Reem Air and that it was de-registered on 11 May 2005 and then granted a Libyan registration by the Libyan Civil Aviation Authority.<sup>93</sup>

The consignment approved for export to Rwanda included the following:

<b>Item</b>	<b>Volume</b>	<b>Weight per unit of an average model (in kg)</b>	<b>Total estimated weight (in tons)</b>	<b>Estimated minimum weight with average packaging (in tons)</b>

<sup>89</sup> Documents from Eurocontrol, the centralised European Air Traffic Control organization based in Maastricht, Netherlands

<sup>90</sup> See The South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), *Taming the Arsenal – Small Arms and Light Weapons in Bulgaria*. 15 March 2005. According to the company, Vega is authorized to perform flights to and from the US territory on behalf of the US Government and the National Security Agency. In 2001, it applied for permission to perform flights to and from Bulgaria and the US and from the US to third countries (see US Dept of Transportation, applications filed in August 2001, [dms.dot.gov/general/orders/summaries/0132](http://dms.dot.gov/general/orders/summaries/0132)). Vega has also performed flight for the UK Royal Air Force. See other info on Vega's US DoD contracts below.

<sup>91</sup> Reem Air reportedly operated three Ilyushin-76s registered as EX-039, EX-049, EX-054, the latter operated in early 2005 at the service of the Royal Netherlands Air Force.

<sup>92</sup> Eurocontrol documents, op cit, and information from UN officials

<sup>93</sup> Kyrgyz Republic Civil Aviation Authority records; the plane, an Ilyushin-76TD (c/n 00434-51509, line # 38-08) was previously registered as 5A-DNO (Libyan registry) and belonged to Libyan Arab Air Cargo (based in Tripoli and a division of Libyan Arab Republic Air Force). As 5A-DNO, it was last noted at Ras Al Khaimah (UAE) in January and February 2004. According to Kyrgyz Republic Civil Aviation Authority, after de-registration in Kyrgyzstan, the plane was again re-registered in Libya.

M75 hand grenades	3,000 pcs	0.374	1.1	2.0
M60 rifle grenades	10,000 pcs	0.610	6.1	12.0/14.0
M60 P1 rifle grenades	10,000 pcs	0.520	5.2	9.0
40.0 M57 rocket launcher rounds	2,000 rds	0.250	0.5	1.0
7.62 AR AK-M	5,000 pcs	3.850	19.3	23.0
73.0 mm cartridges PG-9 HEAT	5,000 rds	1.000	5.0	7.0
12.7x108 cartridges DSK	1,000,000 rds	0.044	44.0	47.0
7.62x39 cartridges M67 normal	3,000,000 rds	0.008	24.0	27.0
<b>OVERALL ESTIMATED TOTAL MINIMUM WEIGHT</b>			<b>105.2</b>	<b>130.0</b>

The airlift of such a large quantity of military material would require between three and four Ilyushin IL76 flights, depending upon the actual weight of the packaging chosen, and possibly more, once the hazardous nature of most of the cargo requiring special packaging is considered.<sup>94</sup> BiH and US officials have denied that these arms were exported to Rwanda and claim that the outbound Reem Air flight chartered by Vega Airlines on 11 December did not take place. Further suspicion, according to a UN official, derives from reports of three more flights from Tuzla by Ilyushin aircraft on 14, 15 and 27 December 2004.<sup>95</sup> Although, the destination of all of these three flights was said to be Baghdad and arranged by a broker contracted to the US Department of Defense, some UN officials remained unconvinced.<sup>96</sup> Initially, European air traffic control, Eurocontrol, insisted that the flight did occur, producing a document of the “observed period” for Tuzla airport in which an “actual take off time” of 1.05pm for the Reem Air plane is recorded, although UN officials could not confirm whether any of the arms or ammunition authorised for Rwanda were on the flight.<sup>97</sup> Some weeks later, however, Eurocontrol claimed the flight did not take place.<sup>98</sup>

<sup>94</sup> See for example the indication included in US Department of the Air Force, *Preparing Hazardous Materials For Military Air Shipments - 12 October 2004*. <http://www.e-publishing.af.mil>.

<sup>95</sup> Confidential information

<sup>96</sup> Ibid.

<sup>97</sup> Eurocontrol documents on the flight plan and the observed take off on 11 December 2004, as well as confidential sources, Bosnia, 2005

<sup>98</sup> Eurocontrol claimed verbally on 10 June 2005 that Baseops and Vega had not paid for over-flight charges so the EX-043 flight would not have taken place. ENAC, the Italian Civil Aviation Authority, said that they have no records or applications filed by Baseops for permission to overflight the Italian air space with the EX-043, a practice normally used when the planned cargo includes hazardous materials such as ammunition.

The denial of the flight on 11 December is not entirely convincing. In addition to the document recording the flight departure in the “observed period”, the flight plan submitted by Baseops on behalf of Vega for the 11 December flight is strange. It indicates that the Reem Air plane would avoid Serbia-Montenegro’ and Albania’s air space in favor of a more tortuous route passing through Croatia’s and Italy’s air space, despite being about 172 nautical miles and more than an half hour of flight time longer than the first route, in a total of two hours and half flight time. The average speed indicated in the flight plan was well below the cruise speed of an Ilyushin-76TD (the Il-76 version likely used) and more suited to such a plane travelling with a full payload.<sup>99</sup>

Also, during the same 'observed period' on 11 December, Eurocontrol noted the departure of a smaller Learjet 35 from Tuzla airport, with a destination listed as the Aviano US air base in Italy<sup>100</sup> which is recorded as having taken off just 59 minutes (14:04) after the recorded departure of the Reem Air Ilyushin.<sup>101</sup> The number indicated by Eurocontrol for the Learjet 35 flight (JGO80) identified the aircraft operator as an unlikely Canadian passenger low-cost company that went bankrupt on 11 March 2005.<sup>102</sup> According to industry databases and news reports, the Canadian company never operated Learjets of any type in their fleet.<sup>103</sup> One possible explanation for this could be that the US security authorities were engaged in a covert operation to ferry arms to Rwanda in the face of political opposition from the European Union. Coincidentally, in September 2004, a Bulgarian-registered Antonov 12 cargo plane also operated by Vega Airlines ferrying US military equipment for Nepal allegedly from Baltimore (US, Maryland)<sup>104</sup> was held up at Ahmedabad.<sup>105</sup> Like Rwanda, the US government has provided military and police counter-insurgency assistance programmes in Nepal in the face of criticism that such assistance would contribute to human rights violations.<sup>106</sup>

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<sup>99</sup> Eurocontrol documents, op cit

<sup>100</sup> ICAO airport code: LIPA

<sup>101</sup> Eurocontrol document, op cit, showing “ATOT” meaning “actual time of take-off.”

<sup>102</sup> Using the code JGO, reference to ICAO and Canada’s Ministry of Transport official records, June 2005

<sup>103</sup> The USAIF instead operates several Learjets and has used some of them in the infamous “extraordinary rendition” operations, such as in the case of an Italy-based Egyptian refugee secretly kidnapped in Italy by CIA agents on 17 February 2003. See *Corriere della Sera*, Milan, and Associated Press, 24 June 2005; New York Times and Chicago Tribune, 25 June 2005; Los Angeles Times, 26 June 2005.

<sup>104</sup> See “The Tribune”, 29 September 2004

<sup>105</sup> This incident was commented upon fairly widely in the Indian and Nepali news media (see, for example The Hindu, The Tribune, Times of India, Nepal News, 29 and 30 September 2004). After an intervention by the US Embassy in India, the Vega Airlines plane carrying counter-insurgency equipment from the US Defence Department to Nepal was released. According to the US Embassy spokesperson in Kathmandu, Constance Codling Jones (Nepal News, September 29) “The delivery consists of training equipment and it is part of the (US government’s) regular training assistance to the Nepal Police... The US has already provided assistance worth \$22 million to Nepal in the last three years to fight terror but as far as today’s delivery is concerned, it is not military assistance.” However, the US Department of Defense statistics report that Nepal received military equipment worth \$6.7 million in 2003 and had sales agreements with the US DoD for \$15.3 million (US DSCA, *Foreign Military Sales, Foreign Military Construction Sales and Military Assistance Facts*, September 30, 2003. [www.dscamilitary.com](http://www.dscamilitary.com)).

<sup>106</sup> Amnesty International, “*Nepal: Military assistance contributing to grave human rights violations*”, 15 June 2005; concern about IS military and security aid to Rwanda and Nepal has been expressed in the US Congress.

Other large cargo planes operating in the DRC and Great Lakes have appeared in Iraq.<sup>107</sup> Reem Air itself has been recently advertising for cargo flights from the UAE to Mwanza via Khartoum.<sup>108</sup> The largest receivers of Bosnian ammunition exports in recent months appear to be Canada and South Africa, followed by Cyprus, Serbia-Montenegro and China.<sup>109</sup>

Dyncorp and another US company, Pacific Architects and Engineers (PA&E) Government Services, were contracted in late 2004 by the US State Department to provide logistic and other services for Rwandan and Nigerian troops participating in the African Union ceasefire monitoring operation in Sudan.<sup>110</sup> Neither company is accused of violating arms embargoes but their role is relevant to US policy and actions on the Great Lakes region. An open-ended contract with the US government capped at \$100 million for each company allows the two US firms to be deployed anywhere in Africa so in the year to October 2004 was used to buy \$67 million worth of services from both companies in Burundi, Sudan and Liberia.<sup>111</sup> PA&E worked in the DRC in support of the UN through contracts in 2001 and 2003<sup>112</sup> and was mentioned in a dispute over a loan it made with a partner company in May 2004 to the owner of Showa Trade, a cargo company operating in the DRC and Uganda that has been involved in military supplies (see further below).<sup>113</sup>

The company that filed the flight plan for the Vega/Reem flight from Tuzla on December 11 was Baseops<sup>114</sup>, a flight support services provider based in Crawley (UK),

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<sup>107</sup> For example, in January 2004 an Antonov-12BP (r/n 9L-LEC and c/n 4341803), was seen operating in Baghdad to ferry the old and new Iraqi currencies out and in Baghdad after having served in Central Africa, firstly by Trans Air Congo (Congo-Brazaville) as 3C-QQL (Equatorial Guinea registry) and then by Uhuru Airlines (DRC), as 9L-LEC (Sierra Leone registry). The Kinshasa military authorities used Uhuru Airlines to ferry arms to an armed group in the DRC during 2003. In addition, Ilyushin 76 cargo planes, registered in Moldova under the fleet of Airline Transport, which fly regularly from Europe to Mwanza in Tanzania, were in Sharjah on 12 January 2005 with two large transport planes that arrived from the US.

<sup>108</sup> Aviation source, May 2005

<sup>109</sup> P. Klincov, "B-H arms exports increase six times", *Nezavisne novine*, 23 June 2005, which refers to official data on exports.

<sup>110</sup> US Department of State Press Briefing, 28 October 2004. US companies have allegedly contracted to provide military services to Rwanda but the US government will not comment on commercial contracts – see Amnesty International (USA), op cit. Air Scan, another US private military company reportedly lost a light aircraft in the DRC in 2001, see <http://home.tiscali.nl/~ti019223/files/scramble295-english.pdf>. In 2005, the US government proposed a \$100 million program for military and anti-terrorist training in East Africa, and a \$200 million pledge to train and restructure Liberia's military forces. The first \$35 million of this amount has been committed to a training program run by DynCorp, a private US military company with a record of operations in Afghanistan, Bosnia, Colombia, and Iraq. See "U.S. Weapons at War 2005: Promoting Freedom or Fuelling Conflict – U.S. Military Aid and Arms Transfers Since September 11", World Policy Institute Special Report by Frida Berrigan and William D. Hartung, with Leslie Heffel, New York June 2005

<sup>111</sup> "Darfur Diplomacy: Enter the Contractors" by Pratap Chatterjee, Special to CorpWatch, 21 October 2004, who interviewed the US State Department about the contracts.

<sup>112</sup> *Financial Mail*, South Africa, 13 February 2004

<sup>113</sup> Interview with Sam Engola of Showa Air, 2004; see also "Engola sued over Shs17m debt", *The Monitor*, 16 March 2005

<sup>114</sup> The SITA code of Baseops-Europe, LGW003Y, appears on the flight plan submitted to Eurocontrol. In the same document the identifier of the originator of the message is indicated as EGKKXBOO.

whose parent company is World Fuel Services Corporation, based in Miami, and whose subsidiary World Fuel Services Inc., sharing the same address of the parent, has been a customer since March 2001 of the US Defense Energy Support Center (DESC).<sup>115</sup> The mission of DESC is to provide energy solutions in support of the Department of Defense and the operations of other US government agencies. Vega Airlines itself had access to the same DESC service with a contract dated 12 January 2004.<sup>116</sup> During 2004, contractors with the US Department of Defense and the UK Ministry of Defence chartered some aircraft used in Bout's network.<sup>117</sup>

Amnesty International does not claim that the possible arms transfers to Rwanda referred to above necessarily occurred or have been transferred in violation of the UN arms embargo but is concerned that the willingness to approve such transfers and make arrangements for their delivery may form part of a process of proliferation or diffusion of arms in the region and seriously endanger the protection of human rights.<sup>118</sup> The organisation is therefore calling for a UN investigation in Bosnia, Rwanda, Bulgaria, Kyrgyzstan, Libya, the UK and the US into the whereabouts and safe keeping of these Bosnian arms and those involved in shipping them, including the publication of all the relevant transport documentation from Tuzla airport and the Reem Air aircraft.

Mystery also surrounds a Kyrgyzstan-registered aircraft that was impounded in Kigali on 25 March 2005 for violations of its airspace en route to Bukavu (DRC) after requesting an "emergency landing". Rwandan authorities and Interpol, that has taken over investigations of the plane, discovered that the Antonov-28 had no flight plan and forged flight documents: two insurance policies and two aircraft registration numbers: EX 28811 from the Kyrgyzstan civil aviation registry and 9Q-CES from the DRC civil aviation registry, the latter used by the crew to request another "emergency landing" in Entebbe on 21 April 2005. According to media accounts, the plane arrived in Entebbe on 21 March from Dubai (UAE) with six people on board, left Entebbe on 25 March en route to Bukavu and landed in Kigali with eight people and cargo that included two Antonov used

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<sup>115</sup> See DESC, Commercial Purchase Agreement Customers, DODAAC Database, 13 May 2005, contract TB 1238.

<sup>116</sup> Ibid. contract number TBBU01. Other companies were granted similar contracts by DESC, among them British Gulf International, a company that media reports have linked of Victor Bout's network, and companies that have been associated with US Central Intelligence Agency "extraordinary rendition" activities to secretly abduct and transport individuals to places of foreign detention where some have been tortured such as Aero Contractors, Premier Executive Transport Services, and Steven Express Leasing. Other companies on the DESC list include those with an history of servicing CIA special operations such as Evergreen International Airlines, Southern Air, and Tepper Aviation.

<sup>117</sup> See Financial Times, "US seeks to protect weapons trafficker" by Mark Turner at the United Nations, and Mark Huband and Andrew Parker in London, FT.com site, 16 May 2004 and also on 17 May. See also Newsweek, "Iraq: Government Deal With a 'Merchant of Death'?" Michael Isikoff, 20 December 2004; Los Angeles Times, "Air Bas subcontractor for the US", Stephen Braun, 18 December 2004 and; "Blacklisted Russian tied to Iraq deals", Stephen Braun, 14 December 2004; AFP, Britain helps US protect weapons trafficker, London, 17 May 2004; IPS Paris, "Wanted in Africa, Needed in Iraq", Julio Godoy, 21 May 2004; and for UK Government's use of such planes, see UK: Exemptions issued under Regulation 25(3)a of the Aeroplane Noise Regulations 1999 from 1 January 2003.

<sup>118</sup> Arms transfers could, if delivered to Rwanda and not monitored to ensure they remain in Rwanda with the armed forces of Rwanda, constitute a violation of the UN arms embargo on the DRC as well as paragraph 10 of UN Security Council resolution 1011 on Rwanda insofar as it still applies.

engines and spare parts. The eight people on board in Kigali were detained, including two Congolese nationals -- a man and woman – and six from Kyrgyzstan.<sup>119</sup>

### ***Rwandan resources for arms procurement***

It is unclear exactly how the government of Rwanda could finance such arms purchases. The government in Kigali is dependent on international donor aid from a few countries and has military cooperation agreements with South Africa and the USA. In addition UN reports have indicated that the illicit exploitation of natural resources in the DRC, including diamonds, gold and coltan, generate income for Rwanda and its RCD-Goma ally in eastern DRC. The Rwandese military campaign in the eastern DRC was believed to be self-sufficient.

According to the UN Panel, Rwandese army officers and business people with connections to the Rwandan military or government were reportedly directors or shareholders in most of the *comptoirs* in Goma and Bukavu, including *Grands Lacs Metals* (Great Lakes Metals) and *Rwanda Metals*. They colluded with the Rwandan government's "Congo Desk" in the direct export of coltan and other minerals (cassiterite, diamonds and gold) to Rwanda and the international market. According to UN officials, the RCD-Goma effectively rented arms from the Rwandan authorities using resources from the eastern DRC traded through the Congo Holding Development Company, a diversified company that has been involved in the mining and marketing of gold, diamonds, coltan and cassiterite which was registered in Goma in 1998.<sup>120</sup> A preliminary agreement was signed in September 2001 between Explore Trade Commerce Ltd, a company based in Kigali and run by an Antwerp diamond trader, and the Congo Holding Development Company, a company based in Kisangani and Goma in 2003, whose Deputy Director-General was married to a special advisor to the Rwandan President Paul Kagame.<sup>121</sup>

Prices for coltan and associated minerals such as cassiterite have recently been increasing again, a factor that contributed to confrontations in September and December 2004 between fighters loyal to the DRC Transitional Government and armed units of the RCD-Goma to control deposits and trade, for instance around Walikale where the Great Lakes Business Company has been active.<sup>122</sup> Until the official withdrawal of the Rwandan armed forces in late 2002, direct army transfers of coltan from eastern DRC

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<sup>119</sup> See Kampala Monitor (Uganda), April 2, 2005 and The New Times (Kigali), April 17, 2005. The plane (former CCCP-28811, originally belonging to the Syktyvkar-based KomiAvia, Russia, Komi Oblast), was exported in Kyrgyzstan May 22, 2001 (Soviet Transports, Fourth Edition, 2004). According to sources interviewed by the New Times, it was de-registered from Kyrgyzstan October 16, 2004. Two photographs of the plane clearly show that the registration 9Q-CES (spotted in Dubai) was painted on the EX-28811 not later than March 11, 2005.

<sup>120</sup> UN Panel confidential report, October 2003

<sup>121</sup> International Peace Information Service, "Ranjivan Ruprah – US Government letters", Antwerp, 13 October 2003.

<sup>122</sup> See later in this report. See also Mail and Guardian "Gold keeps war in the DRC on the boil", Johannesburg, 7 March 2005

reportedly continued on a significant scale, despite the fall in coltan prices. According to the UN Panel of Experts report in October 2002:

*"The bulk of coltan exported from the eastern Democratic Republic of the Congo, as much as 60 to 70 per cent, has been mined under the direct surveillance of RPA mining détachés and evacuated by aircraft from airstrips near mining sites directly to Kigali or Cyangugu. No taxes are paid. Rwandan military aircraft, Victor Bout's aircraft and small airline companies are used in the evacuation of the coltan.... The Congo Desk's contribution to Rwanda's military expenses would therefore have been in the order of US\$320 million. The activities funded by revenues generated by the Congo Desk strongly shape Rwanda's foreign policy and directly influence national decision-making in a number of domains. These transactions are, however, hidden from the scrutiny of international organizations."*<sup>123</sup>

Financial transactions from Kigali are kept secret but it is reported that the *Banque de Commerce, de Développement et d'Industrie* (BCDI) in Rwanda, made loans and transactions for companies operating in eastern DRC.<sup>124</sup> The bank's director general, Alfred Kalisa, was in 2004 listed as a director of a British Virgins Island company - African Finance Systems and Management - with co-directors in Liechtenstein and registered in South Africa.<sup>125</sup> The BCDI allegedly helped channel funds for the Rwandan army and RCD-Goma military activities in eastern DRC.<sup>126</sup>

It is not clear, however, who paid for the Albanian arms or how much they cost. Albania appears to receive income from the sale of surplus stock as well as international donor funds to collect, safeguard and destroy surplus arms (see box below). Albanian officials told Amnesty International that their government is trying to modernize its armed forces by selling off or scrapping its outdated military equipment, much of it Chinese and Russian, but also comprising small arms and ammunition that have been locally made. The arsenal dates from the 1950s and 1960s, and not all of it is in working order. The Ministry of Defence of Albania claims that it does not export weapons to countries under UN embargo or involved in regional conflicts. Albania no longer manufactures weapons but appears to manufacture small arms ammunition.<sup>127</sup> The Albanian Ministry of Defence conducts arms exports and imports through MEICO, the

<sup>123</sup> Report of the UN Panel of Experts on the DRC, October 2002 (S/2002/1146), p. 15.

<sup>124</sup> RCD-Goma Department of Finance schedule of payments, 19 December 1998, showing credit lines from the BCDI and another Rwandan bank, including to "Victor" and the Rwandan Ministry of Defence

<sup>125</sup> African Finance Systems and Management Ltd incorporated in the British Virgin Islands was listed as active in South Africa in April 2004 and was registered as enterprise number 2001/02406/10 on 16 October 2001.

<sup>126</sup> According to the report of the UN Panel on the DRC in November 2001, paragraph 94, a BCDI loan deal for the RCD-Goma controlled company Sonex helped channel extra-budgetary funds to the RPA's war effort and was handled by Major Dan, chief of the Congo Desk. Kalisa is allegedly related to Emmanuel Kamanzi, former head of RCD-Goma's Finance Department, who organised payments for the arms trafficker Victor Bout and others – see below.

<sup>127</sup> Government of Albania written statement to United Nations Biennial Meeting on the Illicit Trade in Small Arms and Light Weapons, presented by Permanent Mission of Albania to the United Nations, 8 July 2003

only company allowed to trade in weapons. The government told the UN that: *“Verification and authorizations of end-use certificates are conducted by our embassies in receiving countries. The identification of end-users is always requested and verified by the embassy... Arms and ammunition are only transported by the army under secure conditions.”*<sup>128</sup>

However, such conditions did not apply to the arms deliveries described in this report. Established in 1992, MEICO can sell export items as functioning products or scrap to whomever it sees fit under a general export licence and is not required to obtain an export license for each international transaction. Its only restrictions have been to observe UN arms embargoes for which the Ministry of Foreign Affairs provides a list of relevant ‘forbidden’ destinations. A committee establishes the minimum price for the sale of surplus government equipment, and MEICO is allowed to keep 10 percent of the proceeds from sales while the rest goes to the government.<sup>129</sup> Amnesty International is calling on the Albanian government to urgently review its system of arms export control to ensure that no arms are transferred or diverted to any armed forces likely to use such arms for serious human rights violations.

Given the significant international aid donations and direct assistance to the Albanian government for the collection and destruction of surplus arms [See box below], Amnesty International is also urging that the aid donor authorities and the Albanian government review controls in these programs to ensure that there are no leakages of arms to users likely to commit human rights violations.

#### **Box : Donor Aid for Albanian weapons collection and destruction**

During the riots in 1997, following the collapse of pyramid investment schemes, up to one million weapons were looted from army barracks in Albania. Under a United Nations weapons collection programme two years ago, some 100,000 weapons were handed back.

Albania is among nine countries in Central and Eastern Europe hoping to join NATO later this year, and is keen to show willingness to modernise its armed forces. US military experts are helping the country with its military reforms. According to a 10-year plan, the Albanian army will be reduced from 65,000 to 50,000 by the end of 2010. The Albanian government claims that full records are kept on weapons holdings, use, expenditure and disposal of weapons and that records and inventories are kept for a period of 10 years. In July 2003, the Albanian government told a conference of the United Nations that: “All the collected weapons have not been destroyed due to lack of funds.”<sup>130</sup>

International donor agencies and governments have contributed to small arms collection and destruction in Albania. From December 1998 to February 2005, this aid commitment is estimated to be about \$US 20.6 millions. International donor agencies involved in small arms collection and destruction in Albania include the United Nations Development Program (UNDP), the

<sup>128</sup> Ibid

<sup>129</sup> Bonn International Centre for Conversion, op cit. Scrapped weapons were sold to a Greek company.

<sup>130</sup> Government of Albania statement to the United Nations, op cit, July 2003



European Union (EU) and the North Atlantic Treaty Organization (NATO).<sup>131</sup> Individual donor governments have included: Austria, Belgium, Canada, Finland, Germany, Hungary, Luxembourg, Sweden, The Netherlands, Norway, Switzerland, Sweden, the UK and the USA.

NATO<sup>132</sup> members, through the Partnership for Peace (PfP) Trust Fund, have also contributed funds for arms destruction programs in Albania.<sup>133</sup> In July 2003, agreement was concluded to fund the destruction of 11.6 thousand tons of small arms and light weapons at an estimated cost of \$7.3 million, again sponsored by Canada and funded by Austria, Belgium, Canada, Hungary, Luxembourg, the Netherlands, Norway, Switzerland, United Kingdom.<sup>134</sup>

In October 2003, the South Eastern Europe Clearing House for the Control of Small Arms and Light Weapons (SEESAC) published a report analyzing the effectiveness of the collection programmes.<sup>135</sup> The report noted that: "it is not clear what policy, if any, determines the disposition of the surrendered ordnance". Major Papadima of the Ministry of Defence was quoted as saying that the Albanian government has made contradictory statements and signed contradictory agreements on keeping, selling or destroying the items.

Amnesty International is extremely concerned that the internationally funded and supported security sector reform process in Albania does not include a clear agreement by the Albanian government and the donor governments to prevent any arms transfers to third parties that may be used or diverted for use in committing human rights violations or war crimes, such as those committed in the eastern Congo and neighbouring areas.

On 9 December 2003, an unauthorised flight was made from Johannesburg, South Africa, to Kigali by a company involved in military transport operations.<sup>136</sup> Volga Atlantic Airlines, a company run by Russian national, Yuri Sidorov, and his South African partner Fred Rutte, had leased a large Ilyushin 76 aircraft, with Sudanese

<sup>131</sup> The EU and OSCE have also been involved in wider security assistance such as customs training, police training and security sector reform, which have not been included in the above estimates as this was not specifically focussed on the collection and destruction of small arms and light weapons per se and it is difficult to extract the OSCE financial data.

<sup>132</sup> NATO Partnership for Peace (PfP) trust fund donors to weapons collection destruction and management in Albania. See <http://www.nato.int/pfp/trust-fund.htm> for more details

<sup>133</sup> Albania is also an active member of all regional agreements that deal with illicit arms trafficking, such as the Stability Pact, SECI (South Eastern Europe Cooperation initiative), BSEC (Black Sea Economic Cooperation Organization), CEI (Central European Initiative). It has concluded negotiations with Germany, Greece and Italy to establish an International Anti Trafficking Center in Vlora, Albania. The Albanian government claims to have supported public awareness by NGOs, international agencies and state institutions to raise awareness of the consequences of illegal trafficking.

<sup>134</sup> NATO press release, 31 July 2003, available online at <http://www.nato.int/docu/update/2003/07-july/e0731a.htm>

<sup>135</sup> Extracted and reduced from SEESAC report (South Eastern Europe Clearing House for the Control of Small Arms and Light Weapons), "You have removed the devil from our door: An assessment of the UNDP SALW collection project in Albania", 30 October 2003

<sup>136</sup> South African Department of Transport, letter to Volga Atlantic Airlines, 10 December 2003. According to the South Africa Department of Transport, the plane was operated by GST Aero and a Volga Atlantic call sign was used for the 9 December 2003 flight, but "neither Volga Atlantic nor GST Aero had permission to operate this flight."

registration ST-AQY<sup>137</sup> to “offload a consignment of +-31,000 kg in Kigali having first landed in Bujumbura to pick up spares.”<sup>138</sup> When questioned the following day by the South African Department of Transport, Rutte wrote that Volga Atlantic had been offered a deal through V.K (Pvt) Ltd in Johannesburg for ten charter flights from Johannesburg to Kigali via Bujumbura and had flown the first flight free of charge to demonstrate “the level of service we offer”, but did not clarify the nature of the cargo.<sup>139</sup> Bank account and other details show that Volga Atlantic had been flying supplies to the South African peacekeeping forces in Burundi and the DRC mainly through a military procurement company, Marvotech, but that the flight to Kigali was apparently not for this purpose.<sup>140</sup> The South African authorities launched an immediate inquiry into the affair but it has yet to report publicly.

## 6.2 Supplies to the DRC government forces

Since 2003, no state has reported to the UN an authorized export of arms to the DRC, yet there is no shortage of arms and ammunition arriving in the DRC. The UN Panel reported in October 2003 that they had information indicating that the Kinshasa-based transitional government forces received between 10 and 15 containers of small arms and light weapons from Jordan, shipped via ocean cargo to the Port of Matadi and from there to Kinshasa by train.<sup>141</sup> In July 2004, the UN Expert Group on the DRC reported that they had:

*“received highly credible 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 Democratic Republic of the Congo Air Force. Most of the flights arrived at night and were handled exclusively by military personnel. One of the planes, a BAC 1-11, registration number 3C-QRF, was reported to be a Libyan aircraft nominally registered in Equatorial Guinea but based in Sharjah (United Arab Emirates), with a Romanian crew on board. General Numbi told the Group that this aircraft could transport two tons of cargo.”*

<sup>137</sup> The Il-76TD (c/n 00334 48404) – after being operated by several other companies – was registered as ST-AQY under the fleet of Trans Attico, a company registered in Sudan and operating from Sharjah (See ATD, June 2005). Since October 2001, the plane was recorded under the fleet of the Sierra Leone-registered Aerolift (JP Airline-Fleets International, 2004/2005) and was re-registered in Kazakhstan as UN-76008 in 2004 by the company GST Aero (JP Airline-Fleets International, 2005/2006). ST-AQY was in Johannesburg and Kindu in September and November 2003, respectively.

<sup>138</sup> Volga Atlantic Airlines, letter to the South African Civil Aviation Authority, 10 December 2003

<sup>139</sup> Volga Atlantic, op cit, and Letter from V.K (Pvt) Ltd in Johannesburg to Volga Atlantic, 8 December 2003

<sup>140</sup> Volga Atlantic, op cit, Questions in the National Assembly, South Africa, 29 August 2003 and This Day newspaper, 26 February 2004.

<sup>141</sup> UN Panel confidential report to the Security Council, October 2003.

Jetline Inc, also listed as Jetline International<sup>142</sup>, whose fleet includes various aircraft from the former companies under the effective control of Russian businessman Victor Bout<sup>143</sup>, operated the BAC1-11 aircraft registered as 3C-QRF.

In recent years, the DRC government has had agreements with arms suppliers in Eastern Europe (Czech Republic, Bulgaria, Georgia and Ukraine)<sup>144</sup>, the People's Republic of China and with the state-owned company, Zimbabwe Defence Industries (ZDI), based in Harare, which produces ammunition and some small arms, including landmines, and has brokered deals from other countries including Russia, North Korea and China.<sup>145</sup> An Australian company, Q-MAC Electronics, had reportedly supplied high frequency hopping radio systems to the DRC armed forces.<sup>146</sup> Prior to the UN arms embargo on certain entities in the DRC, the government imported fairly large quantities of small arms from Western Europe according to UN Customs data - 30,000 pistols and revolvers from Germany in 2001, US\$570,000 of small arms ammunition from Italy in 2001-2002 and US\$250,000 of munitions from France in 2000-2001 - but since the July 2003 UN arms embargo, there appear to have been no entries in the UN Customs data.<sup>147</sup> Between May 2004 and May 2005, Belgium, Germany and Hungary donated small arms and police equipment to the new DRC integrated police.<sup>148</sup> Such supplies do not appear to violate the UN embargo, but European Union officials have been worried about the potential use in human rights violations of arms and related supplies to the untrained armed forces and law enforcement agencies in the DRC.<sup>149</sup>

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<sup>142</sup> Jetline International is listed under the Equatorial Guinea registry and based in Ras-al-Khaimah (UAE) and in Tripoli (Mitiga). The company – whose fleet mix VIP aircraft at the service of the governments of the Community of Sahel Sahara SIN-SAD and Russian cargo planes – is also listed as Jetline Inc in Sharjah's Airport Free Zone (PO Box 7933, SAIF Zone, 2002 Directory) as a brokering, chartering and leasing of aircraft company. Jetline is a different entity from the Moldova-based Jet Line International which is listed in the SAIF Zone (PO Box 7931) as a brokering, chartering, ground supervision, and aviation services company. The SAIF Zone was set up in 1995 with the supervision of Richard Chickakli, who acted as its Commercial Director. Chickakli, based in the USA, has been the financial arm of Victor Bout and is named, along with the companies he directed, in the US Treasury list of Specially Designated Nationals and Blocked Persons (Office of Foreign Assets Control, Changes to the List since January 1, 2005).

<sup>143</sup> Victor Bout has been named in several UN investigative reports for his involvement, and that of his business associates, in the violation of UN arms embargoes on the Angolan rebel UNITA movement, DRC, Liberia and Sierra Leone- see box concerning his involvement in the DRC, Rwanda and Uganda in this report and further cases described below.

<sup>144</sup> UN Register of Conventional Arms, UN Comtrade and other sources show large arms deliveries to the DRC from the Czech Republic, Bulgaria, Georgia and Ukraine from the late 1990s to 2001.

<sup>145</sup> See for example, The Daily News, Harare, 2 June 2003, citing from a court case of a former ZDI employee, and Amnesty International, Terror Trade Times, May 2003; For China, see also statement by Georges Bergehezan, GRIP, to the Belgian Senate Commission on the Great Lakes Region, Brussels, 5 July 2002

<sup>146</sup> Janes Defence Review, 1/2002

<sup>147</sup> UN Comtrade data for the period 2000-2002

<sup>148</sup> Belgian Parliament, Question n° 446 of 25 November 2004, QRVA 51 078, 17 May 2005, page 13038-13041

<sup>149</sup> If there is a "clear risk" that the supply of arms or security equipment would be used for internal repression and the violation of internationally recognised human rights, then under the EU Code of Conduct on Arms Exports (June 1998) Member States must refuse to issue export licenses for such supplies.

The DRC has used sympathetic neighbours in the region for arms procurement. In 2001, ZDI entered into a joint venture with a DRC company, Strategic Reserves, to form the Congo-Duka company to facilitate the shipping of arms and foodstuffs.<sup>150</sup> A document dated 3 February 2000 speaks of a meeting between the Congolese general and a Czech company, Arms Moravia, about the sale of 6 RM70/122mm rocket launchers, 1,000 RPG-7s (rocket propelled grenades), and 500 machine guns for a total value of US\$1,128,500.<sup>151</sup> Arms Moravia submitted two documents dated 19 January 2000 to the Czech Ministry of Industry and Trade. One handwritten document lists the Zimbabwe National Army as client, while the other typed document lists the *Ministère de la Défense de la République du Congo*, but both refer to the sale of 1,000 RPG-7s.<sup>152</sup>

The director of Thomas CZ, a Czech arms company, reportedly acknowledged in June 2004 that his company had traded with the DRC and that prior to the 2003 UN arms embargo on the DRC his company had carried out business in the DRC.<sup>153</sup> On 28 June 2001 the *Président Administrateur-Délégué* of MIBA in Brussels, had received instructions from a senior DRC official, Augustin Katumba Mwanke, to transfer US \$588,300 to a bank account of *Thomas CZ*.<sup>154</sup> In February 2003 the government in Kinshasa attempted to procure 50 T-55 tanks, 20 armoured personnel carriers and approximately 34 million rounds of ammunition from Thomas CZ and a Slovak company.<sup>155</sup> Although this order was not necessarily in violation of the UN embargo, it was an extremely large arms order and serious irregularities were noted in the procurement process. In mid-2003, an End-User Certificate of the Namibian government was presented to the Czech and Slovak authorities, but agencies of both governments were apprehensive about the final destination of the arms and did not approve its

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<sup>150</sup> The Sunday Mirror, 29 June 2001, quoting the head of the ZDI.

<sup>151</sup> *Kupní smlouva c.* 3 February 2000

<sup>152</sup> "Zadost. o udeleni vyvozni/licence vojebnskeho materialu", C.j. 19 January 2000, 3 February 2000 and 13 March 2000

<sup>153</sup> IPIS telephone interview with the manager of Thomas CZ, 16 June 2004. He said he sold radios to the DRC but refused to give any further facts. In June 2003, the manager told Czech television that he has been in the DRC and conducted business but also refused to give any details. See transcript from the Klenavice programme, Czech Television 1, broadcast on 15 June 2003, reported by Jaroslav Kmet and Dalibor Bartek

<sup>154</sup> *République démocratique du Congo, Ministère à la présidence de la république, A Monsieur le Président Administrateur-Délégué*, 00032/MIN/PRESIREP/2001.

<sup>155</sup> The end-user certificate lists: 50 T-55 MBT tanks, 2 T-55 Commander tanks, 4 VT-55A recovery tanks, 20 BMP1 vehicles, 20 million 7.62 x 39 rounds, 10 million 7.62 x 54 rounds, 2 million 12.7 x 108 rounds, 1 million 14.5 x 114 rounds, 1 million 30mm anti aircraft twin barrel cannon, 6000 122mm HE rounds for RM-70 MPRL.

export.<sup>156</sup> This was an instance of a real End User Certificate used in an apparently fraudulent way by procurement officials of the DRC.<sup>157</sup>

The Belgian Senate Commission on the Great Lakes Region noted in its final report of 20 February 2003 that it had received documents that implicated MIBA in money transfers to ammunition and arms companies on commission of the Congolese government.<sup>158</sup> On 3 June 2004, an international warrant of arrest was issued in Belgium by the investigative judge Michel Claise against Jean-Charles Okoto former chairman of the DRC state diamond company *Minière de Bakwanga* (MIBA) on charges of money laundering<sup>159</sup> in relation to diamond and arms trading.<sup>160</sup> MIBA is 80% state owned and 20% owned by Belgian interests. According to the Belgian investigating authorities, around \$20 million was allegedly used to buy “heavy weapons” in Ukraine and the Czech Republic for delivery to the DRC.<sup>161</sup> President Kabila had dismissed Okoto in November

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<sup>156</sup> End Use Certificate Ref. 408/19, Lt. Gen. D.S. Hawala, Ministry of Defence, Republic of Namibia, Attn. of: Technopol International, Mr. Kooecany. The original order was placed with Thomas CZ, but when the Czech government refused to issue an export licence, the order was placed with Technopol International in the Slovak Republic as an intermediary. Thomas CZ then attempted to obtain an export license to deliver the materiel to Slovakia, while Technopol requested an export licence to Namibia, but both these requests were also refused. IPIS interviews with Thomas CZ and Technopol as well as with officials of both governments during 2004, and transcript from the Klenavice programme, Czech Television 1, broadcast on 15 June 2003, reported by Jaroslav Kmet and Dalibor Bartek. The manager of Thomas CZ blamed the television journalists for stopping the order.

<sup>157</sup> All Party Parliamentary Group on the Great Lakes Region and Genocide Prevention (APPG) Report, “Arms flows in eastern DRC”, 24 December 2004: pages 29-30

<sup>158</sup> *Verslag Onderzoekscommissie Grote Meren*, 20 February 2003, p. 214

<sup>159</sup> Money laundering charges were also brought against the *Banque Belgoise* by judge Michel Claise, but in a press communiqué of 4 June 2004 the bank “challenges all the charges brought against her” (press communiqué *Banque Belgoise*, 4 June 2004).

<sup>160</sup> The Belgian investigative judge made a public statement on 3 June 2004 that was widely reported, e.g. ‘Mandat d’arrêt de la justice belge contre un ex-ministre de Kabila’, *Jeune Afrique*, 4 June 2004; ‘La banque contre-attaque’, *La Dernière Heure*, 5 June 2004. The UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the DRC in October 2002 accused Okoto of illegal dealing in DRC natural resources.

<sup>161</sup> According to the *La Libre Belgique* (‘Inculpations à la Belgoise’, 4 June 2004) US\$ 20 million was paid from the MIBA account of *Banque Belgoise* for arms supplies from the Czech Republic and Ukraine. Details of the payments and deliveries remain confidential, but documents obtained by the International Peace Information Service in Antwerp show the initial involvement of MIBA in arms purchases for the DRC government from two eastern European arms companies, the Ukrainian *Ukroboronservice* and the Czech *Thomas CZ*. Instructions were given for a money transfer of US\$ 1.5 million from MIBA to *Ukroboronservice* on 20 November 1999, but annulled two days later by the MIBA office in Mbuji-Mayi. An alternative was found by transferring the money to a Swiss bank account of the *Banque Centrale du Congo* (BCC) which would handle final disbursement, as set out in a fax from MIBA (Mbuji-Mayi) to *Banque Belgoise*, 22 November 1999. *Ukroboronservice* has acknowledged in a fax to IPIS on 3 March 2004 that the Congolese Ministry of Defence transferred US \$1.5 million on 24 November 1999 as a prepayment for arms that were delivered in January 2000. On 28 June 2001 the *Président Administrateur-Délégué* of MIBA in Brussels, received instructions from Augustin Katumba Mwanke to transfer US \$588,300 to a bank account of *Thomas CZ* at the *Zivnostenska Bank*. Katumba Mwanke is close to President Kabila. He was dismissed after the UN Report in October 2002 when he was Minister of Presidency and Portfolio, but by Decree 04/07 of 11 January 2004 he became “*ambassadeur itinérant du Président*” for President Kabila.

2002 following the UN Panel's Report in October 2002<sup>162</sup>. Jean-Charles Okoto has publicly denied all charges brought against him.<sup>163</sup>

In September 2003, the DRC Minister of Mining, Eugene Diomi Ndongala, publicly opposed a monopoly contract organized by Secretary General to the Government, Augustin Katumba Mwanke, and the Deputy Minister of Mining, Jean Kitshunku, which assigned the exclusive marketing rights of most MIBA diamonds until 2007 to a single company, Emaxon Finance International.<sup>164</sup> His officials claimed a \$10 million consignment of diamonds had mysteriously disappeared.<sup>165</sup> In October 2003, the UN Panel described Emaxon as an entity controlled by Israeli diamond traders Chaim Leibovitz and Dan Gertler,<sup>166</sup> a principal of Israeli Diamond Industries (IDI), a company granted a monopoly on DRC diamonds in 2000-01 under former president Laurent Kabila. The UN Panel report in 2001 stated that this diamond monopoly was created “*first, to have fast and fresh money that could be used for the purchase of needed arms, and address some of the pending problems with the allies. Second, to have access to Israeli military equipment and intelligence given the special ties that the Director of International Diamond Industries, Dan Gertler, has with some generals in the Israeli army.*”<sup>167</sup> IDI denied this allegation and the UN Panel reported that, “according to different sources, IDI paid only \$3 million instead of \$20 million and never supplied military equipment.”<sup>168</sup> Emaxon has an address in Montreal, Canada, and is registered in the offshore haven of Panama.<sup>169</sup> A copy of the MIBA-Emaxon contract, signed for MIBA on 13 April 2003 by Michel Haubert, its managing director, and Gustave Luabeya Tshitalla, its chairperson, shows that the Emaxon signatories are Chaim Leibovitz and Yaakov Neeman.<sup>170</sup>

### BOX Surplus arms from Ukraine, Czech Republic and Slovakia

When the Soviet Union collapsed, former republics that were desperate for hard currency sold off weapons. It is estimated that roughly \$32 billion of large- and small-scale weaponry simply disappeared and Ukraine became a significant source of supply in arms-trafficking underworld.<sup>171</sup>

<sup>162</sup> ‘Kabila suspend trois ministres’, *La Libre Belgique*, 12 November 2002.

<sup>163</sup> ‘Droit de réponse à Jean-Charles Okoto’, *Jeune Afrique*, 11 July 2004.

<sup>164</sup> UN Panel, confidential report, op cit. Mail and Guardian, 3 October 2003 and DRC press reports

<sup>165</sup> Mail and Guardian, op cit, and DRC news reports

<sup>166</sup> UN Panel confidential report, op cit. In October 2003, Leibovitz was scheduled to make a joint presentation to Deutsche Bank to secure a credit line to finance the Emaxon deal with Dan Gertler, according to IPIS and the Mail and Guardian, op cit.

<sup>167</sup> UN Panel report, 2001 (S-2001/357), paragraphs 150-152

<sup>168</sup> UN Panel report, 2001, op cit

<sup>169</sup> Emaxon Finance International Inc. gives its address as Suite 2900 at 1000 de la Gauchetiere West, Montreal, Canada; it does not have a publicly listed telephone number. The majority shareholder in Emaxon is FTS Worldwide Corporation whose business address is stated to be that of a firm of lawyers, Mossack Fonseca & Co in Panama City.

<sup>170</sup> Under the contract Emaxon will grant Miba loans totalling \$5-million in 2003, and a further \$10-million subsequently. In exchange, Emaxon will have rights to 88% of Miba's production at a discount, formally, of 5%.

<sup>171</sup> Peter Landsman, “Arms and the man”, *New York Times* magazine, 17 August 2003

The DRC received large quantities of weapons from Ukraine in 2000.<sup>172</sup> In addition, fifty miles up the Dniester River from Odessa, in neighboring Moldova, the breakaway province of Trans-Dniester fell under the overlapping control of Ukrainian and Russian organized crime syndicates, and became a significant supplier of surplus arms. One base of operations for Victor Bout's arms trafficking network has been in Moldova.<sup>173</sup>

Pressures to make sales are such that the government often intervenes to market the surplus wares of its military.<sup>174</sup> According to official data, from 1999 to the end of 2002 Slovakia sold Angola 205 battle tanks, thirty-eight large-calibre artillery systems, and twenty-five combat planes. Most were direct exports of surplus weapons from Slovak stocks, but a considerable number were re-exports by Slovak companies of weapons from the arsenals of Bulgaria and the Czech Republic.<sup>175</sup>

Between the end of 2000 and the beginning of 2001, the Czech Ministry of Interior started selling significant quantities of surplus small arms and light weapons to selected Czech firms that wanted to export the weapons abroad. The arms, which belonged to the old Interior Ministry troop arsenals, included hundreds of machine guns, tens of thousands of submachine guns and 40 bazookas.<sup>176</sup> In the recent past the Czech government has licensed the transfer of surplus conventional arms to governments with poor human rights records. For example, in addition to transfers to the Great Lakes region described elsewhere in this report, the government of Zimbabwe received a consignment of six ex-Czech army RM 70 122mm multiple rocket launchers in 2000.<sup>177</sup>

In March 2004, Zimbabwe Defence Industries again came under the spotlight. An Antonov-12 cargo aircraft left Malabo Equatorial Guinea on 17 February 2004 with a destination to Harare, Zimbabwe, in order to collect arms for the DRC. Due to technical difficulties the plane never made it to Harare and was forced to land in Ndola, Zambia.<sup>178</sup> In a subsequent court case, ZDI was found to have made a controversial sale of weapons

<sup>172</sup> UN Register of Conventional Arms, 2000

<sup>173</sup> In April 2005, the US Treasury Department froze the assets of a number of companies used by Victor Bout and his close associates, including Moldtransavia SRL, Aeroport, Chisinau MD-2026, Moldova. See Press Release, Office of Foreign Assets Control, US Department of Treasury, 26 April 2005. A Moldtransavia aircraft shipped arms to Liberia in violation of the UN embargo, according to a UN report in 2000. Other Moldovan companies, closely associated with Victor Bout, are Zori or Zory Air (later Air Zory), named in the US Treasury document, Renan (owned by the Chechen brothers Mutaliev), and Aerocom that also shipped arms to Liberia, according a UN report in 2002. Aerocom aircraft have been used by Jet Line International of Moldova. Aerocom's operating licence was cancelled on 6 August 2004 by the Moldovan civil aviation authorities.

<sup>174</sup> See, for example, "Slovak arms producers offer Indonesia armoured vehicles, know-how," *TASR*, via WNC, June 20, 2002; "Slovakia offers T-72 tanks, artillery equipment to [Malaysian] army," *SME*, via FBIS, March 17, 2000.

<sup>175</sup> UN Register of Conventional Arms, 1999- 2002. (As cited in *Ripe for Reform*, op cit)

<sup>176</sup> "Interior Ministry is selling machine guns," *Pravo*, 21 February 2001, p3, sources: David Isenberg's Weapons Trade Observer & Saferworld Arms Production, Exports and Decision Making in Central and Eastern Europe, June 2002

<sup>177</sup> *Jane's Defence Weekly*, 19 July 2000, 'Sri Lankan Army inspects Czech main battle tanks.'

<sup>178</sup> Email from the Civil Aviation Authority, Zambia, on 17 August 2004, and telephone conversations with lessor of plane 27 & 28 August 2004

of war to Logo Logistics, a UK-based offshore company with a South African subsidiary that recruited 70 suspected mercenaries from South Africa who were captured in Harare landing a Boeing 727 plane on 7 March 2004.<sup>179</sup>

During the initial remand hearing for the suspects, the ZDI was officially named as the supplier of a large consignment of arms to the group.<sup>180</sup> State lawyers said ZDI sold arms to the alleged mercenaries without an end-user certificate in order to trap them.<sup>181</sup> The state prosecutor said ZDI sold the alleged mercenaries 61 AK-47 assault rifles and 45,000 rounds of ammunition; 300 hand grenades; 20 PKM light machine guns and 30,000 rounds of ammunition; 50 PRM machine guns and 100 RPG anti tank launchers and 1000 rounds of ammunition. ZDI is also alleged to have sold 5,080 60mm mortar bombs, two 60mm mortar tubes and 500 boxes of 7.62 by 39mm ammunition. ZDI received an initial deposit of US\$90,000 for the arms that cost US\$180,000 in total.

In his sworn statement to the Zimbabwean police, the leader of the captured men claimed that some of the arms were bought for an unidentified rebel movement in Katanga DRC.<sup>182</sup> In the end, these arms were never handed over as the alleged mercenaries were arrested first, but the accused men claim that they were on their way to protect a mining concession in the eastern DRC and South African Aviation authorities said that the plane's flight plan from Petersburg, South Africa, was to Bujumbura.<sup>183</sup>

There also appears to have been collaboration between arms traffickers in the DRC and Liberia. In 2002, Ducor World Airlines of Bulgaria sent a request to the DRC civil aviation authorities to fly a military cargo from Serbia to Kinshasa.<sup>184</sup> The DRC authorities told Ducor that the address in the DRC that Ducor used for military services was wrong. Ducor re-submitted its request to fly the cargo but, after the DRC aviation authorities apparently gave no response, the cargo was said to remain undelivered. However, on 13 March 2003, the DRC embassy in Serbia and Montenegro told the Serbian Ministry of Defence that a DRC End User Certificate was indeed genuine. The Serbian government reported this to UN officials investigating eight illegal arms flights by Ducor brokered by a Belgrade company, Temex, to Liberia between June and August 2002 using false end user certificates of Nigerian origin.<sup>185</sup> Efforts by the UN to confirm with the Kinshasa authorities the authenticity of the end user certificate remained

<sup>179</sup> Mail and Guardian, South Africa, 19 March 2004. Logo Logistics bought the Boeing 707 aircraft, registration number N4610, according to the Aircraft Bill of Sale, 3 March 2004, from a company in the USA. The plane was de-registered by US Federal Aviation Authority on 12 March 2004 because it was "exported to South Africa."

<sup>180</sup> Mail and Guardian, 26 March 2004

<sup>181</sup> Prosecutor Mary Zimba-Dube told a makeshift court at Chikurubi Maximum Security prison, where the suspects were being held and tried, that ZDI sold "dangerous weapons" to the alleged mercenaries. She alleged, however, that the deal was part of a trap to net the suspects who were facing six charges relating to the possession of weapons and of plotting a "violent coup" against Equatorial Guinea President Teodoro Obiang Nguema Mbasogo.

<sup>182</sup> Sworn statement of Simon Mann, Harare, 5 March 2004

<sup>183</sup> The Times, London, 10 and 11 March 2004, Pretoria News, 15 March 2004, The Independent 13 March 2004, Mail and Guardian, 19 March 2004 and numerous other media reports in March 2004

<sup>184</sup> Report by the Panel of Experts on Liberia, 2 October 2003 (S/2003/937)

<sup>185</sup> Previous Report by the UN Panel on Liberia, July 2003 (S/2003/498)



unsuccessful by the time the UN Report on Liberia was issued<sup>186</sup> but the chief executive officer of Ducor World Airlines, Duane Egli, was placed on a UN travel ban list in October 2004.<sup>187</sup> The other main transporter of arms from Serbia to Liberia named by the UN in 2002 was Aerocom, a company closely associated with the trafficking network of Victor Bout.<sup>188</sup> Ducor World Airlines, previously Liberia World Airlines, has reportedly supplied military equipment to Burundi using the Tanzanian town of Mwanza over the past few years.<sup>189</sup>

On 1 June 2004, the UN Panel on Liberia reported several illegal flights containing arms and ammunition were sent to Liberia in 2003, mostly using circuitous routes from Ukraine through Iran (Teheran), with stopovers in Libya (Sirte and Benghazi).<sup>190</sup> The Panel wrote that: “*when flight ACP 802 arrived on 15 June 2003, and after the arms were unloaded, the Liberian authorities asked the crew to fly to the Democratic Republic of the Congo for another shipment. The aircraft left Monrovia for Kinshasa at 4.35 p.m. on 16 June and returned at 7.35 a.m. on 18 June. The crew members were taken to the Royal Hotel because the aircraft was to be unloaded after nightfall.*” The Panel also reported that an aircraft which had belonged to Liberian President Charles Taylor, was “*now in the Democratic Republic of the Congo and belongs to the Vice-President of that country.*” The Boeing-707 9G-LAD used on 15 June 2003, as well as for another arms shipment on 7 August, was at that time in the fleet of First International Airways, a company registered in Aruba and managed from Ostend airport that jointly operated the plane with Johnsons Air.<sup>191</sup> However, the UN Panel Report found evidence that the real operator of most of those flights to Liberia was another company, Gatewick Aviation Services that used fraudulent documents to carry out the shipments.<sup>192</sup>

### 6.3 Military supplies to Uganda

The Ugandan government has also continued to import quantities of small arms and munitions despite the peace agreements in mid-2002, partly to counter the Lords Resistance Army (LRA) in Northern Uganda, where grave abuses of human rights have been perpetrated by both sides, but more so by the LRA. Incomplete UN Comtrade<sup>193</sup> data shows that during 2002 Uganda imported small arms and light weapons from Slovakia, Croatia, the People’s Republic of China, Israel and South Africa. This data

<sup>186</sup> UN Report S/2003/937, op cit.

<sup>187</sup> Duane Egli, a US national, was placed on the UN travel ban list 4 October 2004 for delivering arms illegally to Liberia in August 2002 in association with Serbian businessmen and Aerocom, a company linked to V Bout – see [http://www.un.org/Docs/sc/committees/Liberia3/1521\\_list.htm](http://www.un.org/Docs/sc/committees/Liberia3/1521_list.htm)

<sup>188</sup> Ibid

<sup>189</sup> “Arms Fish Trade”, *L’Humanité*, 5 April 2005, an interview with Hubert Sauper, film director who spent four years in and around Mwanza making an award-winning documentary film “Darwin’s Nightmare” during which time he interviewed air crew from foreign cargo planes.

<sup>190</sup> UN Panel on Liberia, July 2003 (S/2003/498)

<sup>191</sup> Johnsons Air was registered in Ghana and held the Airworthiness Operating Certificate under which First International Airways flew its planes. See JP Fleets 2002/2003, AeroTransport Database, May 2005

<sup>192</sup> UN Report, July 2003, op cit;

<sup>193</sup> For an explanation of United Nations Comtrade data, see footnote 54 above.

shows that the government of Uganda failed to report to the United Nations its large imports of small arms and light weapons ammunition from Croatia (\$578,094) and Slovakia (worth \$309,586), and over \$200,000 of military weapons and pistols from Slovakia. This data would not have recorded imports of heavy military equipment, such as the 52 military vehicles reportedly donated to the Ugandan armed forces by the People's Republic of China.<sup>194</sup>

The Ugandan government did, however, report to the UN its imports of US\$64,000 worth of munitions, including bombs, grenades, and ammunition from Israel in 2002, although this was not reported to the UN by the Israeli government<sup>195</sup> In January 2003, President Museveni spent three of the five days of his visit to Israel touring the arms supply companies, including Israel Aircraft Industries (IAI) and the Soltam plant in Yokneam. An Israeli arms dealer, Amos Golan of the company Silver Shadow, who has in the past represented IAI and other Israeli arms suppliers in Uganda, reportedly arranged the trip.<sup>196</sup>

On 23 October 2003, it was reported that the US government had resumed US military assistance to Uganda.<sup>197</sup> In June 2003, President Bush announced the United States would spend \$100 million on “anti-terrorism aid” to Kenya, Ethiopia, Tanzania, Uganda and Djibouti.<sup>198</sup> On 28 January 2004, the Russian helicopter production company, Rostvertol, announced that it was to supply modernized Mi-24PN military attack helicopters to Uganda. The company did not specify the value of the contract or the number of helicopters to be supplied but said that the contract would be fulfilled in the first half of 2004.<sup>199</sup>

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<sup>194</sup> Jane Defence Weekly, 14 August 2002, “China donates military trucks to Uganda” A Belgian national attempted to sell 60 Swedish-made trucks to the Ugandan armed forces, according to a report in the New Vision newspaper in January 2002. Uganda was a recipient of arms from the import-export company of two Belgians who traded and brokered from South Africa in weapons originating in Eastern European countries such as the Czech Republic and Hungary. See De Morgen, “Belgians involved in arms smuggling to Central Africa”, 11 May 1998. The one Belgian, Geza Mezosy, was arrested in South Africa in 1999. Mezosy is a Belgian of Hungarian origin who had already received a three-year sentence *in absentia* in Belgium for arms smuggling from Eastern Europe to Central Africa, via Belgium. For background information on Geza Mezosy's arms trading, see Brian Wood and Johan Peleman, “*The Arms Fixers*”, Norwegian Initiative on Small Arms Transfers, Oslo, November 1999, chapter 4.

<sup>195</sup> According to the Comtrade data for 2001, Uganda imported almost US\$200,000 worth of small arms and light weapons from the Peoples Republic of China, plus \$164,000 from Croatia. Smaller amounts of arms were also imported during 2001 from Brazil, Czech Republic, South Africa, the UK and the USA.

<sup>196</sup> Xinhua General News Service 15 January 2003: Ugandan president visits Israel for arms deal.

<sup>197</sup> AFP, 27 October 2003

<sup>198</sup> Washington Times, 2 October 2003, which quoted US and Ugandan officials

<sup>199</sup> Interfax 28 January 2004 and Russia and FSU Business report Weekly, 3 February 2004. The company's General Director Boris Slyusar made the announcement. According to testimony to the Ugandan Commission of Inquiry into the Purchase of Helicopter Gunships, Ugandan military officers said helicopters had been imported for use in the DRC. Air Alexander used a helicopter to exploit natural resources from the DRC, according to the Porter Commission (see footnote below). An extract of such testimony was published on 1 June 2001 by New Vision newspaper. Uganda already has a number of MI 24 helicopters, according to the Africa News Service, 20 May 2004, “How Does the Ugandan Army Spend?” and has used them to fight the Lords Resistance Army during which it is alleged that MI 24 helicopters were use to kill and injure civilians, Asia Africa Intelligence Wire, 27 August 2002, ‘Gunship Kills Civilians in LRA Attack.’

On 1 December 2003, Lt-General Salim Saleh<sup>200</sup> resigned following a cabinet decision in November to prosecute him for a multi-million dollar corruption scandal in the Ministry of Defence in which he was alleged to have taken a US \$800,000 bribe to buy two second-hand attack helicopters from the former Soviet Union which later turned out to be overpriced and deficient. The helicopters and the resultant lengthy dispute is estimated to have cost Uganda – one of the world's poorest countries – around US \$13 million.<sup>201</sup> In May 2002, Saleh was found guilty of setting up ghost companies as a cover for illicit trafficking in timber and minerals by the Ugandan Parliament-appointed Judicial Commission of Inquiry (the Porter Commission, named after the expatriate judge David Porter), which studied the United Nations allegations.<sup>202</sup>

The Ugandan government admitted in 2003 that an eastern European business network was very active in the arms and natural resource trade and that Lt-General Saleh had continued his interest in Air Alexander International contrary to the President's directive.<sup>203</sup> Lt-General Saleh and Major-General Kazini, former chief of staff of the Ugandan People's Defence Forces (UPDF), were accused by the UN Panel on the DRC of facilitating international companies in eastern DRC to illicitly exploit the DRC's natural wealth - including diamonds, gold, timber, ivory and coltan - while commanding Ugandan forces there. Saleh, his wife and Kazini were linked in the UN report to a company called *La Société Victoria* (the Victoria Group).<sup>204</sup> The most prominent foreign businessman identified by the Porter Commission as being involved with senior UPDF officers was Russian national Victor Bout who is accused in various UN reports of trafficking arms to UN embargoed destinations from Bulgaria, Slovakia, Ukraine, Kyrgyzstan and other countries (see the box on Bout below).<sup>205</sup>

In October 2003, evidence emerged in a Ugandan court that an arms and munitions factory run by the Ugandan armed forces at Nakasongola in central Uganda, had sold arms and ammunition to private buyers.<sup>206</sup> A speciality at Nakasongola, which

<sup>200</sup> The Ugandan President Yoweri Museveni's younger brother – Reserve Force commander and former army representative in parliament

<sup>201</sup> IRIN News, 1 December 2003

<sup>202</sup> Judicial Commission of Inquiry into the Illegal Exploitation of Natural Resources and other forms of Wealth of the DRC on the 23 May 2001 (Legal Notice No. 5/2001) under the Chairmanship of Justice David Porter.

<sup>203</sup> Government of Uganda, White Paper Response to the Porter Commission, 2003, which accepted the Porter Commission findings that Maj. Gen. Kazini, Col. Mayombo, Lt. Col. Mugenyi, Maj. Sonko, Maj. Kagezi and Lt. David Okumu of the UPDF were involved in the exploitation of resources in the DRC, and that there was a diamond smuggling ring through Uganda to Belgium. The latter involved Maj. Gen. Kazini, Jovial Akandwanaho and Khahil through the Victoria Group.

<sup>204</sup> Report by the UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the DRC, submitted to the UN Security Council, October 2002.

<sup>205</sup> It was reported that Uganda imported over 100 tanks from Bulgaria in 1999 and 2000, but the delivery of these was delayed, and very large quantities of arms from Ukraine that were delivered aboard a Greek-registered cargo ship to the port of Dar es Salaam. New Vision "Museveni Probes Tank Purchase", 2 January 1999; *Post of Zambia*, "Uganda Buys Arms", 2 February 1999

<sup>206</sup> Grace Matsiko, *UPDF Ammunition Factory Goes Commercial*, New Vision (Kampala), 30 September 2003; *Ugandan army ammunition factory reportedly selling arms to private firms*, BBC Monitoring Service, 30 September 2003; , Xinhua News Agency, 30 September 2003

also produces armoured personnel carriers for the Ugandan army, is the refurbishing of small arms, especially the ubiquitous Kalashnikov, AK-47. South African technicians, reportedly provided some assistance to run various works at the Nakasongola factory, in particular for anti-mine armoured vehicles and the assembling of the towed gun howitzer manufactured by a subsidiary of South Africa's arms company, Denel. The export of parts for armoured personnel carriers (APCs) is recorded in South Africa arms export data, as well as the export of APCs themselves in 2002.<sup>207</sup> Senior staff at the factory contradicted army leaders and admitted that small arms and ammunition had been sold to private companies and that considerable quantities of ammunition had been shipped to neighbouring countries, but refused to say which countries.<sup>208</sup> Nevertheless, MONUC found at least one consignment of small arms and ammunition from the factory was delivered in 2003 to Beni in the eastern DRC intended for an armed group in the Ituri district (see below). The factory, established in 1995 with the assistance of Chinese companies, trades under the name of Luweero Industries and is a wholly owned subsidiary of the National Enterprises Corporation. The uncontrolled arms supply to the region is a real source of insecurity in Uganda. Surprisingly, even the US government expressed its concern that Uganda's current military stance might cause an arms race in the Great Lakes region and lead to instability if no action is taken.<sup>209</sup>

#### The role of Victor Bout and associates– arming both sides

The activities of Russian businessman Victor Vassilyevich Bout and his associates shed light on the process of arms trafficking into Central Africa. Bout has been linked to the arming of members of the DRC government alliance, as well as various armed opposition groups supported by Rwanda and Uganda.<sup>210</sup> Since the early 1990s, Bout has overseen the development of a complex network of over 50 aircraft, several airline companies and freight-forward companies operating in many parts of the world, and he has been under investigation by police agencies and the UN for suspected involvement in sanctions-busting activities in Sub-Saharan Africa.<sup>211</sup>

UN officials have accused Victor Bout of using the United Arab Emirates as a permanent base but using many "flags of convenience" and sub-contracting arrangements for his aircraft to facilitate illegal arms and diamond smuggling activities, particularly in Africa. Victor Bout's aircraft were

<sup>207</sup> The Indian Ocean Newsletter, "Not Quite the Fifth Cavalry", 8 February 1997; "Weapons Sold to Uganda Reportedly End Up in Sudan", The Sunday Times Independent (Johannesburg), 3 March 1997; Crespo Sebunya, "South Africa Arms Uganda", *New African*, May 1997, page 32, quoted in Human Rights Watch Arms Project, *Stoking the Fires: Military Assistance and Arms Trafficking in Burundi*, 8 December 1997; GRIP, *Burundi, Trafics d'armes et aide militaire*, Human Rights Watch Arms Project, Les Rapports du GRIP 97/3); Georges Berghezan, Félix Nkundabagenzi, *La Guerre du Congo-Kinshasa, Analyse d'un Conflit et Transferts d'armes vers l'Afrique Centrale*, GRIP 99/2. The South African Government's National Conventional Arms Control Committee, report for 2002 indicates the export of armoured personnel carriers to Uganda and Uganda is named as destination for South African exports in 1997 and 1998 for categories of equipment that could be armoured vehicles parts.

<sup>208</sup> New Vision, op cit, Xinhua, op cit, and BBC Monitoring Service, op cit, on 30 September 2003

<sup>209</sup> Concern reported by Ugandan media; see for example The Monitor, June 26 2004.

<sup>210</sup> Tim Raeymaekers 'Network war: an introduction to Congo's privatised war economy', International Peace Information Service, September 2002: page 28.

<sup>211</sup> See Peter Landesman, "Arms and the Man", New York Times Magazine, 17 August 2003

allegedly used to take coltan and cassiterite out of DRC; to bring supplies into mining sites in DRC; and to transport military troops and equipment. However, he has never been prosecuted for arms trafficking because of the inadequate laws of most states to regulate arms brokering and arms transporting activities.

### **Arms to Uganda and its allies:**

After being forced to leave South Africa because of his arms trafficking to the Angolan Unita rebel movement, Victor Bout was reported in 1999 to be chief instructor of several Israeli pilot trainers for the Ugandan Air Force.<sup>212</sup> The Porter Commission in Uganda wrote in its final report, which was published in November 2002, that 97 outbound flights from Entebbe to the DRC took place in the period between 1998 and 2002 involving aircraft belonging to Victor Bout, whom it described as an "international criminal".<sup>213</sup>

A Belgian journalist, Dirk Draulans, had 'the rare privilege' of meeting Bout in 2001, when the latter was working together with Jean-Pierre Bemba, the leader of the *Mouvement pour la Libération du Congo*. During that time, Draulans saw two planes of Victor Bout, carrying the registration numbers 9T-ALC and MLC – both unknown to international aviation authorities.<sup>214</sup> A Belgian researcher was able to verify that the above-mentioned aircraft had been flying between Uganda and DRC at least until November 2001.<sup>215</sup> A letter issued by the Ugandan People's Defence Forces on 11 January 2001 asked for the release of 600 Slovakian rifles to Ituri province in north-eastern DRC. This request coincided with a particularly brutal episode in the DRC conflict.

### **Arms supplies to Rwanda and RCD-Goma:**

The April 2001 UN Report on the illicit exploitation of natural resources from the DRC stated that – according to several sources – Victor Bout had been in touch with James Kabarebe, chief of staff of the Rwandan Patriotic Army. It was alleged that the two men had been discussing the lease of an Ilyushin 76 that was used to transport Congolese coltan to Kigali.<sup>216</sup>

In February 2002, Sanjivan Ruprah was arrested in Belgium on charges of counterfeiting and carrying a false passport. According to his lawyer in Belgium, he had been trying to sell diamonds in Antwerp on behalf of the Rwandan President, Paul Kagame. A press communiqué of Ruprah's lawyer in Belgium stated that the Rwandan presidency still owes Victor Bout several million dollars. UN officials investigating the arms trafficking of Victor Bout also found a money transfer from the Rwandan Ministry of Defence to San Air.<sup>217</sup> The Belgian authorities issued an international arrest warrant for Bout in February 2002 charging him for money laundering but the Russian authorities where Bout has resided refused to act on the warrant.

<sup>212</sup> The Indian Ocean Newsletter, No 853, 10 April 1999.

<sup>213</sup> Porter Commission, op cit

<sup>214</sup> Dirk Draulans - "Handelaar in Oorlog", published by "Atlas", 2003, ISBN 90 450 10380

<sup>215</sup> Tim Raeymaekers, op. cit.: p. 28.

<sup>216</sup> Report of the Panel of Experts on the illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of Congo, S/2001/357, 12 April 2001: § 91.

<sup>217</sup> Paul Salopek, Chicago Tribune, 8 July 2001, investigated arms trafficking to eastern Congo and reported that Victor Bout had a large house in Uganda but was seen mostly in Kigali and the UAE.

In October 2002, the UN Panel reported that Victor Bout's planes were used for various purposes in eastern DRC such as the transport of minerals, the transport of supplies to mining sites and the transport of military troops and equipment.<sup>218</sup> One of the air companies flying in eastern DRC when Victor Bout maintained good relationships with RCD-Goma and their Rwandan allies was 'Bukavu Aviation Transport', on which the UN Panel recommended the placing of financial restrictions.<sup>219</sup> In April 2005, the US Department of Treasury froze the assets of 30 companies and four individuals linked to Victor Bout's violation of the UN arms embargo on Liberia, including Bukavu Aviation Transport and Business Air Services, both of the DRC.<sup>220</sup>

The activities of two aviation companies based in Goma also have links to the Victor Bout trafficking network: the *Compagnie Aérienne des Grands Lacs* (CAGL), and the Great Lake Business Company (GLBC). A local Congolese businessman linked to RCD-Goma, manages the GLBC, but closer investigation has revealed that a Russian businessman runs the company. He in turn is allegedly linked to Victor Bout.<sup>221</sup> The UN report of January 2005 claims that these two businessmen also run the CAGL (see section in this report further below).<sup>222</sup>

### **Arms to the government based in Kinshasa:**

In 2000, the company San Air, which mainly used Boeing 707 and Ilyushin-76 aircraft, supplied arms from Bulgaria to the DRC government.<sup>223</sup> In February and May 2004, Jetline International, an aviation company based in Ras al Khaimah (UAE) and Tripoli-Mitiga (Libya) whose fleet includes planes formerly operated by Bout's companies leased a cargo aircraft for arms deliveries to the DRC government.<sup>224</sup> Another company, the Moldova-based Aerocom, already involved in illegal arms shipments to Liberia,<sup>225</sup> has reportedly based an Antonov-26 (ER-AWN) aircraft at Kinshasa airport since September 2003<sup>226</sup> Aerocom's operating licence was cancelled on 6 August 2004 by the Moldovan civil aviation authorities<sup>227</sup> and Aerocom's activities were taken-over by the Ukraine-based Asterias Commercial.<sup>228</sup>

<sup>218</sup> Final (second) report of the Panel of Experts on the illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of Congo, S/2002/1146: § 72.

<sup>219</sup> Ibid: annex I. Airstrips in the mining zones were created or extended to accommodate larger aircraft. Army helicopters and contracted airfreight companies regularly transported coltan from Walikale, Punia, Lulingu, Lugushwa and other locations in DRC to Rwanda, where state-owned facilities were reportedly used to warehouse the material. Return flights brought in arms and equipment. See *Our Brothers*, op cit

<sup>220</sup> US Department of Treasury, Executive Order 13348, 26 April 2005

<sup>221</sup> UN Group of Experts report, 25 January 2005, (S/2005/30), paragraphs 67-69, and APPG report, 24 December 2004: pages 21-22

<sup>222</sup> UN report, January 2005, S/2005/30: page 19

<sup>223</sup> According to an intelligence document obtained by the International Consortium for Investigative journalists

<sup>224</sup> UN Expert Group report, 15 July 2004, paragraphs 55 and 56, and international aviation records.

<sup>225</sup> UN Report of the Panel of Experts on Liberia S/2003/498

<sup>226</sup> Aerotransport Database 2005

<sup>227</sup> Republic of Moldova, Status of Air Operating Certificate 031, Aerocom, 8 August 2004.

<sup>228</sup> Aero Transport Database and JP Fleet records show the transfer of aircraft from Aerocom to Asterias Commercial.

## 7. Military aid to armed groups and militia

The regulation of cargo into and out of the eastern part of the DRC suffers from a severe lack of state authority and resources, compounded by the prevailing insecurity at many border towns, including Ariwara, Aru, Mahagi, Goma and Bukavu. The deplorable state of surface transport means that much internal passenger and freight traffic moves by air – especially the movement of larger arms cargoes. The DRC is a vast territory the size of Western Europe with porous borders and has more than 60 airports and airfields, as well as 150 landing sites.<sup>229</sup>

Despite the acute policing and customs problem this presents, it was only in March 2005 that the Air Traffic and Navigation Services Company (ATNS) of South Africa was contracted by the DRC government and UN to design the global navigation satellite system for the control of aircraft movements at ten DRC airports located at Bukavu, Bunia, Goma, Kalemie, Kananga, Kindu, Kinshasa, Kisangani, Lubumbashi, and Mbandaka<sup>230</sup> This system will take time to be effective. Key airports such as the one at Beni in North Kivu, as well as key border posts, will need to be strictly controlled by fully trained and accountable DRC government officials, backed up by strong political will for the rule of law and respect of human rights, before the UN arms embargo can be made effective, as the following examples make clear.

### 7.1 Rwanda supplying “armed groups”

The Rwandan government has repeatedly denied any military involvement in eastern DRC and maintains that all its forces have been withdrawn from DRC since October 2002 and that it has ceased arming and aiding rebel groups in eastern DRC following the signing in December 2002 of the peace agreement with the DRC government. But the RCD-Goma second vice-president and Governor of North Kivu, Eugène Serufuli, acknowledged in a meeting with Amnesty International in February 2003 that he was still receiving arms and uniforms directly from Rwanda<sup>231</sup> and other evidence shows that the Rwandan military authorities repeatedly provided arms and military support to at least two armed opposition groups in eastern Congo, and continued to supply arms to the RCD-Goma from December 2002 to at least August 2003, in apparent breach of the UN arms embargo.

Units of the Rwandan army have reportedly been militarily active in eastern DRC since their official withdrawal in October 2002.<sup>232</sup> The Rwandan government also reportedly created a rapid reaction force that can be redeployed as needed into eastern

<sup>229</sup> See <http://www.monuc.org/Aviation/>

<sup>230</sup> Sunday Times, Johannesburg, 31 March 2005

<sup>231</sup> *DRC: Children at War* (AFR 62/034/2003, September 2003), p20

<sup>232</sup> MONUC and other reports, January and February 2004. For background see Amnesty International, ‘Democratic Republic of Congo: Children at War’, September 2003 (AI Index: AFR 62/034/2003) and Amnesty International, *DRC: On the precipice: the deepening human rights and humanitarian crisis in Ituri*, March 2003 [AFR 62/006/2003]

DRC to answer any military threats to Rwanda's security from armed groups operating from the eastern DRC. Rwandan military advisors and soldiers were reportedly integrated into the ranks of the RCD-Goma.<sup>233</sup> From mid-2003, leaders of the RCD-Goma in North and South Kivu were actively creating local militia with the help of Rwandan military authorities. It is therefore relevant to recall that, on 13 October 2002, Rwandan President Paul Kagame told a delegation of United Kingdom members of parliament in Kigali, referring to the withdrawal of Rwandan troops a few days earlier, "*Just because we are out today, I am not sure we won't be going back tomorrow.*"<sup>234</sup> As noted above, in early December 2004, a Rwandan government force crossed North-Kivu, ostensibly to attack FDLR positions.

### ***To the RCD-Goma in Kivu and Maniema***

Following the official withdrawal of the Rwandan Defence Forces (RDF) in October 2002, the RCD-Goma continued to control much of the territory of eastern DRC in the provinces of North Kivu, South Kivu and Maniema, through its military wing, the *Armée nationale congolaise* (ANC), but during 2004 it lost its control of all but parts of North-Kivu province.

Rwandan political, military and business leaders have helped supply the RCD-Goma forces with most of their arms and training. Arms in the possession of RCD-Goma armed forces include rocket launchers, armoured cars, machine guns, light artillery, mortars and landmines, manufactured in a wide range of countries, including China, North Korea, Russia, USA, Belgium, France, the former Yugoslavia, Germany, Switzerland, and Bulgaria.<sup>235</sup> Even after the Rwandan withdrawal from eastern Congo, a heavy RDF military presence was reported in the offensive of the RCD-Goma against the RCD-ML in June 2003. According to RCD-Goma personnel, helicopters and Antonov aircraft have been used both in RCD-Goma and Rwandan army operations in eastern DRC and also to import arms and export timber and minerals. Such aircraft are reportedly piloted by Ukrainians or Russians hired by companies with financial stakes in the coltan and diamond trade.<sup>236</sup>

In late 2003, command and control functions carried out by the RDF in eastern DRC were accomplished, for example, through several Rwandophone officers who are ANC brigade commanders and the liaison officer in the office of the ANC Chief of Staff, who coordinated with the RDF.<sup>237</sup> The RDF allegedly had responsibility for engineering and intelligence training of the ANC using camps in the DRC and also in Rwanda at Kami near Kigali, Cyangugu and Gisenyi<sup>238</sup> - as one Rwandan leader reportedly explained: "*we have shown MONUC our deployment positions inside Rwanda. We have*

<sup>233</sup> UN has a list of Rwandan officers integrated in the ANC. It is however not an official doc

<sup>234</sup> Amnesty International, March 2003, op cit, footnote 15

<sup>235</sup> Data based upon serial numbers of weaponry and munitions collected by MONUC and reported to AI

<sup>236</sup> "*Our Brothers who help kill us*", op cit

<sup>237</sup> UN Panel confidential report, October 2003

<sup>238</sup> Ibid.



*told them to go and arrest any Rwandan who is away from the deployments we have shown them.”*

### ***Rwandan arms to Bukavu:***

Copies of documents viewed as authentic by UN officials detail arms and ammunition transfers from the RDF base in Cyangugu, Rwanda, to the ANC base in Bukavu, eastern DRC, and show that these transfers occurred at least between December 2002 and August 2003 under the authority of senior Rwandan commanders. The transfers included many cases of ammunition for sub-machine guns (including AK47 and South African R4 assault rifles) and ammunition for machine guns, as well as mortar shells, rocket-propelled grenades and 107mm artillery shells. These consignments were passed to various ANC units in eastern DRC. Senior officers signed documents authorising the arms transfers during December, April, July and August 2003, the latter in direct violation of the UN arms embargo on the eastern DRC.<sup>239</sup>

At the time of the RCD-Goma offensive on Lubero, and also during the RCD-Goma's attack on the *Mayi-Mayi* strongholds of Bunyakiri in South Kivu during the week of 11-18 July 2003, and also Shabunda in South Kivu during the week of 19-25 July 2003, weaponry was apparently regularly smuggled from Rwanda into the eastern DRC across the “Ruzizi-I” border post on the Ruzizi plain, leading to Bukavu. This smuggling was said to have taken place at night, and also during daytime. The content of these shipments was always reported to be a mixture of AK47, mortar and RPG ammunition.<sup>240</sup>

### ***Rwandan aid to the North Kivu Local Defence Militia***

The UN Panel on the DRC obtained a letter dated 30 June 2003 from the North Kivu Governor, Eugène Serufuli, to RDF Chief of Staff General James Kaberebe, which describes the deployment of RDF personnel in North Kivu and refers to the operational links between Serufuli's Local Defence force and the Rwandan army. In it he stated “*I also support your good idea raised in your letter of 27 June 2003 with regards to security and good interethnic cohabitation in our province of North Kivu by the deployment of your elements throughout the entire province and the imposition of our policy in the territory of Lubero and Beni.*” Moreover, he stated “*the Popular Local Defence force that we have created under your guidance today counts 18,000.*”<sup>241</sup>

Hand-held Motorola radios supplied from South Africa in 2003 were allegedly used for recruiting new members of Serufuli's Local Defence Force in Goma, Bukavu and Lodja.<sup>242</sup> The report of the All Party Parliamentary Group on the Great Lakes Region and Genocide Prevention (APPG) on arms flows in eastern DR Congo noted a serious

<sup>239</sup> Ibid. Amnesty International has viewed these documents.

<sup>240</sup> Confidential interview in Bukavu, October 2003

<sup>241</sup> Information from UN officials, October 2003

<sup>242</sup> When interviewed by the Mail and Guardian newspaper, a South African businessman said he had sold 50 two-way Motorola radios to a company in Uganda in 2003 and did not know the end user was in eastern DRC - see Mail and Guardian “SA's War Vultures”, 16 January 2004. The UN Panel of Experts reported in October 2003 that these radios were being used by Local Defence Forces in eastern DRC.

discrepancy in the procurement of the 50 radios. MONUC was able to confiscate all the radios.<sup>243</sup>

Governor Serufuli oversees an NGO, *Tous pour la paix et le développement* (TPD), originally established to assist Congolese refugees in Rwanda to return to the DRC and now to help Rwandans return from the DRC. Sources have described the TPD as the political wing of the parallel structure presided over by Governor Serufuli and have claimed that it is used to distribute arms to local RCD-Goma militia and systematically replace traditional community leaders in North Kivu with its own members or others loyal to the Governor.<sup>244</sup> In February 2003, when Serufuli was the 2nd Vice President of the Rwanda-backed RCD-Goma, he acknowledged to Amnesty International that he was continuing to receive arms from Rwanda.<sup>245</sup>

When a man dared to ask Governor Eugene Serufuli a question about the presence of Rwandan troops in the area, during a public meeting on 9 January 2004, he was told that the soldiers were “Rwandaphone”; after the meeting he was reportedly arrested and tortured.<sup>246</sup> One man who was forcibly recruited said: “*I was at home. All the chiefs were called that morning to a meeting by ...the battalion’s commander in Kavunderi. When we arrived, we were asked to go and get all the local defence people who had been trained, and go for training in a new ideology. They told us that whoever doesn’t want to go is against the RCD revolution. We were told by the instructors to obey Laurent Nkunda and not Mufukyiana. Those who invited us were local soldiers but the trainers were from Rwanda.*”<sup>247</sup> Mufukyiana was the local commander appointed by the transitional government in Kinshasa. The witness claims there were about 70 Rwandan instructors at the camp in Kihonga and many Congolese Hutus. They had new 60 mm and 80 mm mortars, new Kalashnikovs and other weapons.<sup>248</sup>

In an interview with Amnesty International in February 2003, Governor Serufuli maintained that the local defence forces had been disbanded, with members integrated into the ANC or disarmed. However, an ANC officer in Masisi territory reported to AI that several villages in the territory still contained armed LDF.

### ***Arms distribution to civilians in North-Kivu***

Amnesty International is particularly concerned about apparently large quantities of small arms<sup>249</sup> that were distributed to Rwandophone (Hutu and Tutsi)<sup>250</sup> civilians in

<sup>243</sup> “Arms flows in eastern DR Congo”, APPG, December 2004: page 34

<sup>244</sup> Ibid and information from local residents in July 2003

<sup>245</sup> Amnesty International, report on child soldiers, 2003, pages 23-24

<sup>246</sup> Interviews with local residents, December 2003, and report by ASPD, ibid

<sup>247</sup> Interview, December 2003

<sup>248</sup> Ibid

<sup>249</sup> According to some reports the arms included personal firearms, assault rifles and smaller quantities of RPGs and mortars, together with ammunition. One official interviewed by Amnesty International spoke of one rifle and 60 cartridges being distributed to each recipient.

<sup>250</sup> The bulk of the Rwandophone community in Masisi originates from the movement of thousands of Rwandan Hutus and Tutsi to Masisi between the 1930s and 1950s, encouraged or transplanted by the Belgian colonial administration to provide labour for agricultural or mining concerns in the territory. The

numerous villages in Masisi territory, North-Kivu from October 2004. The provenance of the arms is unclear and although some Rwandophone community leaders have been named by Congolese NGOs as the alleged local organizers of the distribution, the true authors and major organizers remain unidentified. According to some sources, the arms distributions were continuing, although on a smaller scale, at the time of an AI visit to Masisi in February 2005. Sources also allege that arms depots and arms training centres were established as part of the operation. Many Rwandophone civilians appear to have been coerced into accepting the arms, and AI has received reports of civilians who were beaten or chased from their villages after refusing to take the arms.

The distributions have contributed significantly to a rise in ethnic tensions in the province.

Masisi territory, particularly in its rural areas, is predominantly Rwandophone, although in overall terms the Rwandophone community is in a minority in eastern DRC and popularly associated with the Rwandan RDF “agressors”. Rwandophone extremist leaders have justified the arms distribution as necessary for the protection of the Rwandophone community from FDLR attacks but also from what they allege are threats to “exterminate” them or drive them from North-Kivu by the Kinshasa government and the FARDC. Other ethnic groups in the area, principally Hunde, have, however, expressed fears that the arms will be used against them. These fears were given added focus by the massacre by ANC soldiers of dozens of Hunde civilians at Nyabiondo in December 2004. Some survivors of the killings alleged to AI that they saw armed Rwandophone civilians with the ANC at the time of the main ANC attack on 19 December. The deliberate inflammation of these tensions by political leaders of different communities, through radio broadcasts, public meetings and street tracts or demonstrations, is itself intimately related to the question of who will hold ultimate political and military control over North-Kivu.<sup>251</sup>

According to a local police official interviewed by Amnesty International, the arms distributions have also added considerably to insecurity in the province. He noted a rise in armed robberies and ambushes on the roads in his area, and a generally more aggressive stance towards the police, many of whom originate outside North-Kivu, by the Rwandophone community.

Revelations of the arms distributions by Goma civil society and NGOs led to a spate of death threats against them and a number were forced to flee the DRC. On 6 January the Director General of the human rights organization *Action Sociale pour la Paix et le Développement* (ASPD), fled Goma after spending several days in hiding. He had received anonymous threatening phone calls and a visit to his home by security agents. He was reportedly told: “*You have become a politician. Be careful because you*

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question of their nationality, as of the *Banyamulenge* (Congolese Tutsi) of South-Kivu province, has always been a contentious issue.

<sup>251</sup> Ethnic tensions are also intertwined with questions of land ownership, and the maintenance of “traditional” chieftaincies (primarily Hunde) that have been replaced by a political administration that the RCD-Goma has ensured is overwhelmingly Rwandophone.

*risk paying dearly.*" On 29 December an attempt was made by unknown assailants to force the door to his house.

Another human rights defender, the Director General of the *Centre de Recherche sur l'Environnement, la Démocratie et les Droits de l'Homme* (CREDDHO) also fled after receiving repeated threatening phone calls. One of these calls reportedly warned him in stark terms: *"If you think you are protected you are wrong. We have a programme to kill you"*. On 3 January three men, believed to be local military intelligence agents, had visited his neighbourhood asking to be shown his house. A third activist and spokesperson for a collective of human rights organisations was forced to flee after receiving repeated threats. One phone call threatened, *"We will shut you up for good"*. His home was visited on 31 December, while he was away, by three armed men who demanded to know his whereabouts.

On 5 April 2005, MONUC officials reportedly intercepted a blue Datsun van in Goma belonging to the administrative division of the province of North-Kivu with registration number 0047.<sup>252</sup> The vehicle had allegedly just crossed into the DRC from Rwanda carrying bags of beans in which were concealed arms and ammunition. A chauffeur of the North-Kivu administrative division reportedly drove the van and parked it in the enclosure acting as a garage for vehicles of the Public Administration. When MONUC were deployed to search the small van, they found in the presence of the Military Police a large quantity of ammunition, some light weapons and a heavy mortar. The driver said he was told to transport the arms to the towns of Kichanga and Nyamitaba and its surroundings, within the territory of Masisi.

### ***Compagnie Aérienne des Grands Lacs and the Great Lake Business Company***

The activities of two aviation companies based in Goma need close attention: the *Compagnie Aérienne des Grands Lacs* (CAGL), and the Great Lake Business Company (GLBC). A local Congolese businessman linked to RCD-Goma, manages the GLBC, but investigation by the UN Group of Experts has revealed that a Russian businessman runs the company as well as the CAGL and that he in turn is allegedly linked to Victor

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<sup>252</sup> Le Potential newspaper, DRC, April 2005; International Crisis Group report, op cit, based on telephone interview with MONUC official, 22 April 2005, and other reports.

Bout.<sup>253</sup> The UN Group of Experts also claims that Russian business interests have used a Cypriot company in dealings with the GLBC.<sup>254</sup>

An Antonov plane with Liberian registration EL-WVA has been used during 2004 by both CAGL and GLBC.<sup>255</sup> On 30 November 2000, the Transavia Travel Agency, a company based in Sharjah, U.A.E, sold the Antonov with manufacturer's serial number OG 3440 to CAGL for "*and in the consideration of the sum of USD1.00 only and other valuable considerations*".<sup>256</sup> The Transavia Travel Agency is considered to be a company belonging to the Victor Bout trafficking network and as such its assets were recently frozen by the U.S. Department of Treasury.<sup>257</sup> This aircraft, EL-WVA also belonged to Bout's company AirCess and it was reportedly used to deliver arms from Kigali to the Rwandan army in Kisangani in March 2000.<sup>258</sup> Research also reveals that during 2003 the same Antonov with serial number OG 3440 was being flown between Uganda and DRC by two other companies, Showa Trade and Santair Cargo Ltd, under an Equatorial Guinea registration number: 3C-QQE.<sup>259</sup>

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<sup>253</sup> The activities of two aviation companies based in Goma need close attention: the Compagnie Aérienne des Grands Lacs (CAGL), and the Great Lake Business Company (GLBC). A local Congolese businessman linked to RCD-Goma, manages the GLBC, but investigation by the UN Group of Experts *indicates* that a Russian businessman named Dimitri Popov runs the company as well as the CAGL and that he in turn is allegedly linked to Victor Bout. The UN Group of Experts reported that: "*Numerous sources interviewed by the Group noted that the aircraft operated by those two companies were linked to the network of internationally renowned arms broker Viktor Bout through one of his frontmen, Dimitri Popov...Businessmen interviewed by the Group, who hire Mr. Mpano's aircraft for cargo transport, volunteered that Mr. Popov was integral to the management of GLBC and CAGL operations and that they often negotiated directly with Mr. Popov on matters pertaining to the hiring of GLBC planes, even when he was in the United Arab Emirates or the Russian Federation.*" UN Group of Experts report, 25 January 2005, (S/2005/30), paragraphs 67-69, and see also APPG report, 24 December 2004, op cit: pages 21-22.

<sup>254</sup> UN report, January 2005, S/2005/30: page 19. "The Group obtained documents concerning the Antonov 12 aircraft registered 9Q-CGQ that indicated that the plane had been insured jointly, on 11 November 2004, in the name of Great Lakes Business Company, with the address listed as P.O. Box 315, Goma, and Ilex Ventures Ltd, with the address listed as Cassandra Centre, Offices 201 & 202, 2nd floor, 29 Theklas Lyssioti Street, P.O. Box 58184, 371 Limassol, Cyprus. The Group contacted the company in Cyprus by phone and was told that it could not release information to the Group until it had checked with representatives in Moscow. The Group subsequently received a fax from the Cyprus director, Petros Livanios, who stated that Ilex Ventures did not have any joint projects with GLBC and did not operate any aircraft jointly with GLBC in the region or elsewhere. Instead, Mr. Livanios noted that Ilex Ventures contacts with GLBC were "limited to several supplies of aircraft spare parts and units and [sic] single deal in resale of aircraft". The Group will continue to investigate the related activities of Ilex."

<sup>255</sup> Data from Goma airport, 2004; note that the same aircraft with Liberian registration was stored in Sharjah, UAE, from February 2001 to March 2002 and then appeared with the new Equatorial Guinea registration 3C-QQE.

<sup>256</sup> Bill of Sale 30 November 2000

<sup>257</sup> U.S. Department of Treasury, Treasury designates Victor Bout's arms trafficking network, 26 April 2005

<sup>258</sup> Aircess provided transport aircraft for the RCD-Goma and Rwandan army and had a branch in Rwanda. See also APPG report, page 22; the arms transported by EL-WVA for the RPA from Kigali to Kisangani are detailed from documents referred to in *The New Vision*, 4 April 2000.

<sup>259</sup> Letter from Antonov, Aviation scientific & technical complex, 4 June 2003

In July 2004, an aircraft using the old EL-WVA registration was spotted at Kongolo airport in the DRC transporting arms and ammunition.<sup>260</sup> Previously, on 31 July 2002 an Antonov 8 with the same registration overran the runway at Kalemie airport in Katanga, DRC.<sup>261</sup> On 22 January 2005, the same plane appears to have crashed at Kongolo on a flight from Goma via Bukavu and Kindu. The operator was allegedly CAGL.<sup>262</sup> All “EL” aircraft registrations under the Liberian Civil Aircraft Registry were revoked in 2001 as a result of the UN investigations into the violation of the UN arms embargo on Liberia, and the Liberian registry updated, therefore the use of the registration EL-WVA has been illegal.<sup>263</sup>

A Mi-8 helicopter, operated by GLBC, with registration number 9Q-CQM crashed on 10 May 2004 while flying from Walikale to Goma. However, according to the DRC aircraft registry, 9Q-CQM belongs to a DC-8 aircraft. Sources in Kinshasa revealed that 9Q-CQM was previously registered as 3C-QQM in Equatorial Guinea under the name of CET Aviation, another company reportedly in the Victor Bout arms trafficking network.<sup>264</sup> In mid-2003 the helicopter had been seen supplying RCD-Goma with arms and ammunition.<sup>265</sup>

Another cargo plane used by GLBC is also considered to belong to the Bout arms trafficking network: the Antonov-32 with Equatorial Guinea registration 3C-QQT (m/n 1407). The plane, formerly registered in Russia as RA-48974, was sold and re-registered as 3D-RTB in 1997 to Air Pass – based in South Africa and Swaziland and owned by Bout’s brother’s Air Cess/Cessavia (based in Sharjah but registered in Liberia) and by Norse Air of South Africa.<sup>266</sup>

Between 1999 and 2000, this Antonov 32 was illegally registered as TL-ACH (Central African Republic) under two of Bout’s connected companies, Centrafican Airlines and the Sharjah-based San Air General Trading.<sup>267</sup> Due to its illegal activities, Centrafican was compelled to close. Its assets passed in 2001 to CET Aviation and then the plane was again re-registered, this time as 3C-QQT (Equatorial Guinea), operated by the GLBC.<sup>268</sup> In June 2004 the US State Department circulated a list of nine air companies linked to Victor Bout. The list names nine companies including Air Bas, Air Cess, and Jet Line.<sup>269</sup> However, this has apparently not stopped the authorities in Rwanda and Uganda from allowing this aircraft to operate.

<sup>260</sup> APPG report: pages 21-22

<sup>261</sup> See [www.airliners.net](http://www.airliners.net) photograph

<sup>262</sup> <http://aviation-safety.net/database/operator/airline.php?var=7345>

<sup>263</sup> See civil aviation section of the UN Report, S/2001/264, and UN reports on Liberia

<sup>264</sup> US Department of Treasury, op cit

<sup>265</sup> APPG report, page 21

<sup>266</sup> Soviet Transport 2004 and UN report S 2001/1015, annex 3 and ATD, June 2005

<sup>267</sup> See Annex 3 of the UN Panel of Experts on Liberia S/2001/1015 and documents - s/n 1407 AN32B TL-ACH San Air General Trading (Sharjah) "Certificat de radiation", Civil Aviation Authority Central African Republic, 20/09/2000; - s/n 1407 AN32B 3C-QQT CET Aviation Enterprise FZE (Sharjah) "Registration certificate", Civil Aviation Authority Equatorial Guinea, 21/5/2001.

<sup>268</sup> UN Report, S/2005/30: page 19

<sup>269</sup> Air Bas, subcontractor for the U.S.", Los Angeles Times, 18 December 2004

### *Peace Air Company and Great Lakes Business Company*

Military clashes in Walikale also intensified in mid-September 2004 for a week. The skirmishes between the combined forces of the 112 and 114 Battalions led by ex-ANC officers and a coalition of ex-*Mayi-Mayi* and FDLR militia were the result of competition over cassiterite. The UN Experts Group has alleged that the aircraft used by the cassiterite *comptoirs* were used to transport soldiers and that the three aviation

#### **Goma Airport**

##### **(Let 410) 9L-LEM**

14/09/04 CHC Goma Bukavu 09:00  
 15/09/04 CHC Bukavu Goma 11:25  
 16/09/04 PAC Goma Walikale 08:26  
 16/09/04 PAC Walikale Goma 10:58  
 20/09/04 CHC Goma Walikale 08:02  
 20/09/04 CHC Walikale Goma 09:40

companies named are Great Lake Business Company, Peace Air Company (PAC) and KABI International.<sup>270</sup> Peace Air Company used a Let 410 aircraft with Sierra Leone registration number 9L-LEM. The Czech owner, Doren Air Africa (SL) Ltd., of this aircraft was contacted by the UN Experts Group<sup>271</sup> and he explained “*that an attempt had been made to commandeer this aircraft, which he had leased to Peace Air Company... during this outbreak of fighting, on 16 September 2004...*

*Banyarwanda soldiers had attempted to force the crew of the aircraft, which had landed at Walikale, to transport weapons to an undisclosed location, but were able to defuse the situation when the pilot claimed that the plane had a technical problem*”.<sup>272</sup>

Records of Goma airport show that the Congo Holding Development Company (CDHC) also operated the plane registered 9L-LEM in mid-September 2004. CDHC is a Goma-based company that has been mining and trading minerals in eastern DRC and closely linked to RCD-Goma with an office in Kigali. RCD-Goma handed CDHC several mining concessions in the Kivu’s and Maniema in August 2001.<sup>273</sup> The UN Panel of Experts recommended in October 2002 to the UN Security Council to place financial restrictions on CHDC.<sup>274</sup>

The UN Group of Experts identified the central role of the Peace Air Company (PAC) in supporting ex-ANC commanders during the Walikale clashes: “*According to other aviation companies, comptoirs and flight records, PAC, chartered by the comptoir Sodermines, was the only company allowed to fly into the area over the following three days because of its direct ties with the military forces controlling Mubi during that period.*”<sup>275</sup> Research has revealed that the Kigali-based ‘Peace Air Company’, managed

<sup>270</sup> UN Report S/2005/30: paragraphs 143-145

<sup>271</sup> S/2005/30: *ibid*

<sup>272</sup> S/2005/30: *ibid*

<sup>273</sup> *Arrête départementale N°051/RCD/CAB/DTME/2001 du 16 août 2001 portant attribution des concessions N° 29, 30, 47, 48, 66 et 73 à la société Congo Holding Development Company, Département des Terres, Mines et Energie, RCD*; A letter dated 26 September 2001 from the *Société Aurifère du Kivu et du Maniema* (SAKIMA) to RCD-Goma lists no less than 6 « *arrête départementale* » that were allegedly used by RCD-Goma to transfer the mining concessions to CDHC. It seems that with the September 26, 2001 letter SAKIMA tried to get the « *arrête départementale* » annulled and re-establish its rights over the mining concessions.

<sup>274</sup> UN Panel report, S/2002/1146; in October 2003, the UN Panel recommended that this matter be referred to the DRC government for resolution.

<sup>275</sup> UN report (S/2005/30), paragraph 144

by the businessman Tony Omende, also operated an Antonov-32 aircraft, Rwanda registered 9XR-SN,<sup>276</sup> that in mid-2003 had been held at Goma airport on suspicion of transporting arms.<sup>277</sup> On 27 April 2004, Tony Omende said that his company had been forced to transport arms on three occasions for the RCD-Goma.<sup>278</sup> He referred to a document from the coordinator of civil aviation in Goma, dated 20 March 2003, and claimed that the Peace Air Company was earmarked for special payment procedure from the RCD-Goma Department of Finance for “all the planes carrying out the turnovers of the soldiers and their equipment.”<sup>279</sup> The form for this special payment procedure applied to Goma, Kisangani, Bukavu, Lodia, Kindu and Lusambo. One year later, on the 1 June 2004, the same plane crashed near Kigali<sup>280</sup> while apparently flying to Goma for Sun Air.<sup>281</sup>

### ***Rwandan military delivery to UPC and the Ugandan connection***

The capture of Bunia by Thomas Lubanga’s UPC in late 2002 provoked a considerable shift in alliances. Although the UPC leaders had hitherto been given support by the Ugandan army (UPDF) they decided to change sides to Uganda’s rival Rwanda. The motivation for this shift of allegiance was military, political and financial: an alliance with the RCD-Goma would help confront the Congolese supported RCD-ML in northern North Kivu (south of Ituri).<sup>282</sup> Additionally, after its take-over of Bunia, the UPC was faced with financial troubles: unable to exploit the large gold reserves it had captured in Mongbwalu in November 2002, the UPC was looking for additional military assistance.<sup>283</sup>

Thus, in December 2002, Thomas Lubanga officially announced a new alliance with the RCD-Goma in order to secure material supplies and support from the Rwandan political and military authorities in the struggle against the FLC. This new alliance was confirmed on 6 January 2003 - shortly after the first series of five arms deliveries from Albania to Kigali - when the RCD-Goma made a reciprocal announcement of its alliance with the UPC. The RCD-Goma armed forces then launched an offensive in early 2003 to capture the strategic town of Beni in North-Kivu, in spite of a supposed ceasefire.

In October 2003, the Rwandan authorities were accused by the UN Panel on the DRC of using the UPC to extend their control with RCD-Goma and Governor Serufuli over the eastern DRC northward, in the hope of carving out a de facto independent territory comprised of a large arc stretching from Uganda’s borders south through the

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<sup>276</sup> Interview with Tony Omende, 20 April 2004

<sup>277</sup> UN Panel confidential report, October 2003 and Aviation Safety Network <http://aviation-safety.net/database/record.php?id=20040601-0>

<sup>278</sup> Interview with Tony Omende, 27 April 2004

<sup>279</sup> Fax from Raymond Sangara Bera N° 022/RVA/2003 on the 20 March 2003

<sup>280</sup> <http://www.jacdec.de/2004.htm>.

<sup>281</sup> Flight movements of 9XR-SN on 1 June 2004; fax from Régie des Aeroports, Kigali, 19 August 2004.

<sup>282</sup> Chief military commanders of the UPC such as Rafiki and Jean-Bosco are in fact of Rwandan origin.

<sup>283</sup> Human Rights Watch, “Ituri: Covered in Blood. Ethnically Targeted Violence in Northeastern Congo”, July 2003



Kivus.<sup>284</sup> Reports in January and February 2003 alleged that Rwandese government forces were present in Ituri and reinforcing the UPC forces in Fataki and Mongbwalu.<sup>285</sup> According to UN officials in October 2002, *Rwandaphone* officers occupied high-level positions within the UPC structure. These officers reported directly to the Rwandan army's high command. The UPC army commander, for example, General Kisémbó, reported directly to RDF Chief of Staff, General Kabarebe. Other Rwandan Generals occupied high-level positions in the UPC Headquarters, and the Chief of RDF Intelligence also oversaw UPC operations.<sup>286</sup>

### ***Sky Air and Rwandan arms flights to the UPC***

Apart from some direct military assistance from Rwandan military officers, the Rwandan political authorities reportedly began shipping tonnes of weaponry to the UPC forces from September 2002 onwards. According to the UN Panel on the DRC, between November 2002 and January 2003, mortars, machine guns, and ammunition were delivered to Mongbwalu. On other occasions the arms were sent from Kigali and were para-dropped in Mandro. Uniforms were also supplied to the UPC from Rwanda, allege UN officials, which are different to regular Rwandan army uniforms.<sup>287</sup>

In an official statement on 14 March 2003, the Ugandan Minister of Defence, Amama Mbabazi, said: “*We knew, all along, that it was the Rwanda government that was scheming to destabilise Uganda, from that part of the DRC. Starting with September, last year [2002], they massively air-lifted arms into that area using Antonov 28 planes, coordinated by Sky-Air company, that were commandeered for the purpose.*”<sup>288</sup> Sky-Air is an aviation company that was registered in Goma, eastern DRC which was running an Antonov-26B aircraft with Ukrainian registration normally operating flights to Bunia, Kongolo and Lodja (in the Ituri District and Oriental Province).<sup>289</sup> At the end of September 2002, the aircraft was grounded by the RCD-Goma's security services, reportedly for “political reasons”. Its managers were held by the security services in Goma for questioning in October 2003.<sup>290</sup> Throughout September and December 2002, this and other companies allegedly flew weaponry regularly from Goma and Kigali to the UPC strongholds of Bule, Tchomia and Momgbwalu.<sup>291</sup>

### ***Mbau Air Pax arms flight from Kigali to UPC***

On 30 December 2002, the UPC President Thomas Lubanga and a high level delegation of UPC officials arrived in the Rwandan capital aboard an Antonov operated

<sup>284</sup> UN Panel confidential report to the Security Council, October 2003

<sup>285</sup> Ibid

<sup>286</sup> The source is an insider with excellent knowledge of the operations of UPC. He was himself recruited and trained in Rwanda.

<sup>287</sup> Information from UN officials

<sup>288</sup> Ugandan newspaper the New Vision, 18 March 2003;

<sup>289</sup> The registration number of the Antonov 26B was UR-26676 (ex-Avalinii Ukrainy, ex-CCCP-26676)

<sup>290</sup> Interview with manager of Goma-based company, 2 October 2003

<sup>291</sup> Confidential interviews, May, July and October 2003

by Mbau Air Pax and piloted by two Russian speakers.<sup>292</sup> They had just attended the signing in Gbadolite of an UN-brokered peace agreement for Mambasa, one of the five territories in Ituri. After arriving in Kigali, the UPC leaders met that night with President Kagame, the defence chief of staff James Kabarebe and other Rwandan government officials. Before returning to Bunia on 1 January 2003, Rwandan soldiers reportedly loaded the aircraft with several tonnes of ammunition that were in non-identifiable metallic boxes.<sup>293</sup> Shortly after the plane departed, the UPC established a “government” that purported to control Bunia and the rest of Ituri, and Rafiki Saba Aimable, a Rwandan, was made Chief of Security Services. He was on the arms flight.

Supplies of ammunition to the UPC from Rwanda may have slowed down, due to the pressure exerted on Uganda and Rwanda and the presence of the IEMF and MONUC. Since the UPC’s loss of Bunia, and particularly the signing up of the RCD-Goma to the peace process, relations between the UPC and Rwanda have diminished considerably. However, local NGOs continued in September 2003 to report the presence of Rwandan military instructors in what is left of the UPC army.<sup>294</sup>

## 7.2 DRC government arms deliveries to armed groups and militia

The UN Panel reported in October 2003 that Kinshasa government power brokers had provided arms to “units of the ex-FAR/*Interahamwe*” in eastern DRC and that the Rwandan government had infiltrated them<sup>295</sup> but in late 2004 a local UN official doubted that such units in South Kivu were well armed.<sup>296</sup>

Nevertheless, other armed groups and militia have been armed by power brokers loyal to President Kabila. For example, before the imposition of the UN arms embargo, UN officials said they saw documents showing that, during the three months leading up to the launching of the ANC offensive on North Kivu in May 2003, the former DRC Government transported around 280 tons of weapons to Beni, intended for the RCD-ML led by Mbusa Nyamwisi.<sup>297</sup> The shipments took place days before the finalizing of the power sharing agreement - between 13 December 2002 and 20 March 2003. Over 40

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<sup>292</sup> Interview by Amnesty International with an eye-witness, 2003. Mbau Air Pax used to lease a Kyrgistan-registered aircraft, EX48-138, from New Gomair, a company named by the UN Panel as used for arms and mineral flights in and out of the DRC. Soviet Transport, 2005, lists it as an Antonov-32B (c/n 3201), formerly registered as RA-48138. This aircraft was photographed in Kindu on 28 June 2003 and in Bunia on 28 July 2003.

<sup>293</sup> Amnesty International interview, op cit. See also an account of the same event in Dispatches Channel 4 Television, “Congo’s Killing Fields”, 17 August 2003, and in Human Rights Watch, “Covered in Blood: Human Rights Violations in Ituri” 2003

<sup>294</sup> Such continuing support is more likely with the Lubanga led UPC than the Kissembo UPC faction

<sup>295</sup> UN confidential report, October 2003

<sup>296</sup> According to a MONUC official in Bukavu interviewed by the International Crisis Group, the FDLR has not received major supplies since 2002 from the government in Democratic Republic of Congo; cited in: *The Congo: Solving the FDLR Problem Once and for All*, Crisis Group Africa Briefing N°25, 12 May 2005

<sup>297</sup> Information from UN officials, October 2003

roundtrip flights using Antonov aircraft operated by Uhuru Airlines were required to complete the deliveries, according to a former manager of Uhuru.<sup>298</sup>

It is also reported to Amnesty International that in January 2003 Uhuru Airlines ferried roughly 500 soldiers from Kinshasa to Beni and transported arms and soldiers to Isiro. Uhuru Airlines was registered in the DRC and used aircraft owned by other airlines. One Antonov 26 aircraft leased by Uhuru Airlines, according to its manager, had the Burundian registration 9U-BHM and was run by Volga Atlantic, a company that had agents in Burundi, South Africa and Uganda. This plane was for a while stationed in Beni. Uhuru stopped using planes of Volga Atlantic in late 2003. In addition, during 2003, Uhuru used an Antonov 12 cargo plane belonging to Aerolift<sup>299</sup>, a South African-based company whose Russian owner split away from the owner of Volga Atlantic.<sup>300</sup>

The Russian owner of Volga Atlantic, Yuri Sidorov, who lived in South Africa since the mid 1990s and also operated from Namibia and Swaziland, was convicted in 1997 for violating aviation regulations in Namibia<sup>301</sup> and prohibited from using Namibian airspace in August 2001.<sup>302</sup> Sidorov operated several aircraft that, according to South African officials in 2001, worked closely with the Rwandan government to supply the RCD rebel movement. After securing contracts to fly supplies to the DRC for the South African armed forces serving with MONUC, Volga Atlantic was accused in 2002 and 2003 of irregularities by South African and Ukrainian aviation officials.<sup>303</sup> The irregularities included a 30-ton cargo flight from South Africa to Bujumbura and Kigali in December 2003 as part of a series of ten flights that was investigated by the South African authorities.<sup>304</sup> In January 2005, the UN Group of Experts also accused Volga Atlantic of infringing aviation rules.<sup>305</sup>

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<sup>298</sup> Letter from Uhuru Airlines Cabinet Chef de l'Etat (Kabila) dated 19.04.2003, reference: 055/FIH/UAL/01904/AR/JK/03. On the letter was a stamp from the cabinet of the President confirming receipt of the letter on 22 April 2003. Interviews with the former manager of Uhuru Airlines, 19 February 2003 and 19 June 2004

<sup>299</sup> In September 2003, a photograph shows Uhuru leased Antonov 12 reg: 9L-LEC from Aerolift and records show flights from Kinshasa to Goma and other airports in the DRC.

<sup>300</sup> The Russian owners of Aerolift and Volga Atlantic - both of whom have bases in South Africa, -used to work together in the same company, using a base in Namibia.

<sup>301</sup> Sidorov was operating under the company name Yurand Air when fined R40,000 on two charges of flying without an air service licence and failure to file flight plans, see Human Rights Watch, *Angola Unravels, The Rise and Fall of the Lusaka Peace Process*, New York, September 1999.

<sup>302</sup> Memorandum to all air traffic service units from the Director of Civil Aviation, Namibia, 7 August 2001; .

<sup>303</sup> Letter from the South African Department of Transport to the owner of Volga Atlantic, 10 December 2003, and Volga Atlantic letter of reply the following day; also, letter from the Antonov Design Bureau to the South African Department of Transport, 5 February 2002. See also Questions in the National Assembly, South Africa, 29 August 2003 and *This Day* newspaper, 26 February 2004.

<sup>304</sup> *Ibid.* Also interviews in May 2004 with Volga Atlantic former business partner. The matter was raised in the South African Parliament but to date no public report has been released by the South African Department of Transport or the Department of Defence.

<sup>305</sup> UN report S/2005/30 January 2005, paragraph 61: "Another aircraft, an Antonov 26 leased by Mango Mat Aviation from Volga Atlantic Airlines, was also registered illegally as 9U-BHR."

***DRC government arms deliveries to Mayi-Mayi militia in South Kivu:***

In June 2003, before the UN arms embargo on the DRC, three flights were organised with cargos of weapons and ammunition shipments from Lubumbashi to Lulingu (northeast of Shabunda in South Kivu) destined for *Mayi-Mayi* commander General Padiri, according to UN investigators.<sup>306</sup> The aircraft used, an Antonov-32 with Moldova registration ER-AFI, is the property of Moldovan company Renan Air<sup>307</sup> and was leased to Africa West Air, based in Togo, by Business Aviation of Congo, a company based in Kinshasa.<sup>308</sup> According to a UN report in October 2001, Victor Bout's Central African Airlines worked with Renan to ship arms to rebels in Sierra Leone, where civil war erupted in 1991 and massive human rights abuses were committed.<sup>309</sup> The aircraft used by Renan belonged to Chechen businessmen based in Hungary who used offshore companies in the UK and Ireland.<sup>310</sup>

Many other reports were made to the UN Panel about the Kinshasa-linked network's supply of *Mayi-Mayi* and associated forces and foreign armed groups through other airstrips in South Kivu, for example in Minembwe in the *Hauts Plateaux*. Shipments of arms and materiel to this area are described as being routed through Kamina and Lubumbashi in Katanga. Arms deliveries to *Mayi-Mayi* militia were allegedly made from stocks in Kolwezi and Lubumbashi to Muliro, where they were transferred into boats to be delivered in small harbours around Fizi in Lake Tanganyika. Arms traffic to the *Mayi-Mayi* has been observed in South Kivu, mainly in Fizi and Uvira.<sup>311</sup> As the *Mayi-Mayi* groups grew larger and more coordinated, they started funding their arms deals by ransacking the local villages and selling gold from the mines, particularly in Misisi, Lulinda and Lubichako. Exports from these deposits find their way into Tanzania, from where the traders return with small arms and ammunition on board small speedboats, locally called *marambo*.<sup>312</sup> Small amounts of arms and ammunition shipped from Kigoma in Tanzania to Dine, Ubware and other little harbours.<sup>313</sup> Another route has been the micro-trade through Burundi.

<sup>306</sup> UN Panel confidential report, op cit

<sup>307</sup> The air cargo company "Renan", also known as Renan Air, Renan Air Company and Renan Airways, was registered in State Registration House of Ministry of Justice Republic of Moldova on 14 September 1994, and with the International Civil Aviation Organization on 7 November 1994.

<sup>308</sup> Aerotransport Database and UN confidential report, op cit

<sup>309</sup> UN Report on Sierra Leone, S/2001/1015 of 26 October 2001. According to the UN findings, Ranjivan Ruprah, a close business partner of Victor Bout, also set up the ghost airline West Africa Air Services. The UN Panel obtained a copy of a contract agreement between West Africa Air Services and the airline company "Renan" based in Moldova for the leasing of a cargo aircraft that was used for violating the UN arms embargo.

<sup>310</sup> On 11 March 2001, the Moldova authorities named the owners of Renan as being two Chechen brothers living in Hungary. According to an investigative report by The Irish Examiner, 8 February 2002, Balcombe Investments Ltd, a company registered in the Republic of Ireland between 1992 and 2000, owned aircraft operated by "Renan Airways" of Moldova. Other offshore companies in the UK Channel Islands and Malta were linked to Balcombe Investments, which also had an office in Romania.

<sup>311</sup> 2004/5 - Qui arme les Maï-Maï ? Enquête sur une situation originale (Charles Nasibu Bilali) and Amnesty International interview with author, April 2005.

<sup>312</sup> Charles Nasibu Bilali, "The persistence of gun running from Tanzania towards the DRC and Burundi", GRIP, Brussels, 29 April 2005

<sup>313</sup> Ibid

***Kamina air crash and arms from Kinshasa***

On 30 October 2003, an Antonov 28 cargo plane, with Moldovan registration number ER-AJG, believed to have been transporting illegal arms, crash-landed 800m from the runway at Kamina. Congolese soldiers heavily guarded the crash site and turned back U.N. military observers. Aviation registers list this aircraft as belonging to TEPavia Trans of Moldova<sup>314</sup> and the UN Group of Experts reported it was operated by a DRC company called Flight Express.<sup>315</sup> On 4 November 2003, MONUC issued a formal complaint and "strongly protested" to the transitional government in Kinshasa for allegedly blocking UN efforts to check out reports that an airplane that crashed in Katanga Province had been carrying weapons, which would be in contravention of the arms embargo. UN military observers were sent to the area of the crash in the eastern DRC at the end of October, "but they were not allowed to get near the site guarded by military officers armed with AK-47 rifles and people wearing civilian clothes." MONUC said the aircraft was allegedly transporting weapons intended for armed groups in South Kivu.<sup>316</sup> Tepavia said that it had conducted its own investigation into the crash and that it was 'absolutely certain' that the airplane had not been transporting weapons.<sup>317</sup>

According to the APPG report, General John Numbi, the Commander-in-Chief of the DRC's Air Force had tried to find an airfreight company willing to transport a cargo consisting of weapons. Flight Express was allegedly willing to transport the cargo, and therefore leased an aircraft from TEPavia Trans. The researchers of the APPG were not able to locate the offices of Flight Express at the company's reported address. They also learned from the insurance company that TEPavia cancelled its insurance for this particular aircraft, and never filed an insurance claim.<sup>318</sup> The members of the APPG team say they were threatened by General Numbi after making contact with him during their stay in the DRC in June 2004.<sup>319</sup>

On several other occasions MONUC military observers (MILOBS) were prevented from verifying cargo arriving on flights connected to the ex-ALC (*Armée pour la Libération du Congo*, the armed wing of the MLC) and MLC leader Jean-Pierre Bemba at Gbadolite Airport between January and February 2004.<sup>320</sup> The latest UN report highlights several more recent cases between June and October 2004 at Beni airport in which MILOBS were prevented in inspecting cargo on flights connected to ex-ALC.<sup>321</sup> In most instances flights were performed by Jean-Pierre Bemba's airline company, CO-ZA Airways.

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<sup>314</sup> JP Airlines Fleets International Manual 2001-2, Geneva, and Soviet Transports (2004 edition)

<sup>315</sup> UN report (S/2005/30), paragraph 85

<sup>316</sup> United Nations News Service, 5 November 2003

<sup>317</sup> Fax from Tepavia Trans Ltd. to IPIS received on 25 June 2004

<sup>318</sup> APPG Report December 2004: page 17

<sup>319</sup> Telephone conversation with the APPG team, 25 April 2005

<sup>320</sup> APPG Report page 17

<sup>321</sup> UN Report S/2005/30: pages 36-37

### 7.3 Ugandan military involvement in Ituri and support to armed groups

In order to counter the growing hegemony of the UPC over Bunia and part of Ituri with, what many observers called the Hema and Gegere ethnic domination project, the Ugandan government in January 2003 supported the setting up of FIPI, a coalition created in December 2002 with Ugandan support of the three ethnically-based political parties which shared the objective of getting rid of the UPC.<sup>322</sup> FIPI was initially made up of political groupings from all the ethnic communities in Ituri, and was coordinated by Chief Kahwa, formerly the UPC's defence minister. Congolese refugees in Ntoroko said in 2003 that Chief Kahwa, then leader of the Party for Unity and the Safeguarding of Congo's Territorial Integrity, (*Parti de l'Unité et la Sauvegarde de l'Intégrité du Congo - PUSIC*), was frequently visiting the region and Ugandan politicians and soldiers were providing political and military support for his movement.<sup>323</sup>

The UN Panel on the DRC reported in October 2003 that it had “*obtained documents suggesting a shift to a more centralized, state-sponsored policy. For example, various documents and receipts dated from May and June 2003 show transfers of funds from the Office of the Presidency of Uganda in support of PUSIC.*” One of the main FIPI factions appeared in mid 2003 to have close ties with former Ugandan army Colonel Peter Karim, an Alur from Uganda, and another faction also benefited from military training and support from the RCD-ML and, through it, from authorities in Kinshasa. Well-founded information gathered by Amnesty International shows that arms and munitions were distributed by the UPDF to the FIPI Congolese factions that were fighting before the hasty withdrawal of the Ugandan army from the DRC on 6 May 2003.<sup>324</sup>

The Ugandan military authorities have also supported a coalition of Lendu fighters of the *Front des Nationalistes Intégrationnistes* (FNI), Nationalist and Integrationist Front, and soldiers of the FAPC under Commander Jérôme Kakwavu which tried and failed to govern Bunia after the capture by Ugandan-backed forces in March 2003 and then retreated to their stronghold in the north eastern Ituri towns of Aru and Mahagi.<sup>325</sup> The UPC was ousted from the gold-mining area of Mongbwalu in June 2003 by this Ugandan-backed FNI-FAPC coalition which appears to maintain control over the main gold mining concessions, although sporadic fighting there with the UPC and between the two groups has continued.

The UN Expert Group report on the arms embargo in eastern DRC published in January 2005 listed several instances where militia in Ituri have received arms from Uganda. In one case FNI intercepted an arms shipment for FAPC/UCPD on 7 November

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322 The FIPI platform was made up of so-called political parties such as Floribert Njabu's FNI, a predominantly Lendu party, Chief Khawa's PUSIC, a predominantly Hema party, most of members of which are from the South (who have split from the UPC of Thomas Lubanga, who is a Gegere Hema from the North), the FPDC of honourable Unen Chan, a party dominated by Alurs and Lugbaras. For additional information on the FIPI, see Amnesty International, ‘*Our brothers who are helping them to kill us*’ April 2003, [AI Index: AFR 62/010/2003]

323 Chief Kahwa has since resigned as leader of PUSIC.

324 Amnesty International, ‘Democratic Republic of the Congo – Ituri’, October 2003

325 Amnesty International, *DRC: Ituri – How many more have to die?* August 2003, [AFR 62/030/2003]

2004. The UN Group also claims to have strong evidence of an incursion of Ugandan soldiers into DRC in support of FAPC/UCPD.<sup>326</sup> The UN Group criticised the Uganda government for not stationing enough qualified customs officials at strategic border posts, thus enabling the FAPC/UCPD in particular to trade in illegal produce and benefit from its own customs revenues system.<sup>327</sup> The Group also reported that gold continues to be smuggled out of the Ituri District to neighbouring Uganda, from where it is traded, including by a UK company registered in Jersey, and sent to refineries in South Africa and Switzerland.<sup>328</sup> Uganda's own output of gold cannot account for the amounts it exported.<sup>329</sup> The Mongbwalu gold concession in Ituri has recently been under the control of the FNI armed group that uses the gold proceeds to buy weapons and ammunition.<sup>330</sup> A MONUC investigation into weapons seized in Beni in July 2003 also found that the FNI used taxes from the gold mines to buy weapons.

The Ugandan government was also accused of trying to ensure local support for future development of oil deposits along the border between Ituri and Uganda.<sup>331</sup> In February 2003, Human Rights Watch found that agents of Heritage Oil had started to make contact with local chiefs in Ituri, including several in Burasi as well as Chief Kahwa of Mandro who said *"I have been contacted by the Canadian Oil people who came to see me. I told them they could only start work in Ituri once I had taken Bunia from the UPC."*<sup>332</sup>

### ***Arms from Uganda to Ituri diverted to Beni***

On 21 July 2003, an Antonov 28 aircraft showing an Equatorial Guinea registration (3C-DDB) and apparently run under the name of "Mavivi Air" by a businessman from Butembo was intercepted in Beni by the RCD-ML, who informed MONUC. Mavivi Air, that later went out of business, was reportedly chartering an Antonov 28 on a regular basis from Victoria Air at that time and on board were 66 mortar

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<sup>326</sup> UN Report S/2005/30: page 34

<sup>327</sup> Ibid, paragraphs 98 to 115

<sup>328</sup> Ibid, paragraphs 121-126. The UN Group reported that: "According to the three major licensed gold exporters in Uganda, namely Machanga, Uganda Commercial Impex and Bhimji, there are a handful of key gold traders emanating from the Aru and Ariwara area. They receive preferential commercial treatment and safe passage throughout the territory controlled by FAPC/UCPD while providing the armed group with a share of profits."

<sup>329</sup> UN Group of Experts Report, S/2005/30.

<sup>330</sup> Ibid paragraphs 127-134. See also Human Rights Watch, *"The Curse of Gold"*, New York, 2005: pages 60-61. *"The leader of the FNI, Njabu, himself admitted to Human Rights Watch researchers that his combatants mined gold and that he traded gold for weapons"* and *"The FNI armed group was also approached by multinational companies eager to gain access to the significant gold reserves in the area."* Floribert Njabu was arrested and held in Kinshasa.

<sup>331</sup> The recent discovery of oil in the Semliki Valley near the border between Uganda and Ituri will greatly increase the struggle for control. The DRC and Ugandan governments have both granted exploration rights along the border to Heritage Oil, a Canadian-based company, which on 31 March 2003 announced it had struck oil in Uganda and said the area had the potential of being a new world-class oil basin. See Heritage Oil Press Release, "Heritage Confirms Uganda Oil Potential and Outlines Further Investment Plans", 31 March, 2003

<sup>332</sup> Interview with Chief Kahwa Mandro, Kampala, February 22, 2003 cited in Human Rights Watch, op cit.

rounds and 18 boxes of ammunition.<sup>333</sup> A Russian businessman, formerly associated with Victor Bout in South Africa controls Victoria Air<sup>334</sup> from the DRC and another airline company, Gran Propeller, from South Africa.<sup>335</sup>

On 23 August 2001, an Antonov 28 aircraft registered in Equatorial Guinea as 3C-LLA and operated by Victoria Air was said to be carrying arms in south Kivu. The plane departed Bukavu for a flight to Kapmene. An intermediate stop was made at Kama, where some cargo was loaded and passengers boarded the plane. Eight minutes after takeoff from Kama, one of the engines failed. The crew, consisting of two Russian pilots, elected to divert to Bukavu but the aircraft crashed 10km short. According to survivors, the aircraft was overloaded with arms and ammunition.<sup>336</sup> A Victoria Air Antonov was seen flying cargo into Kisangani in May 2003.<sup>337</sup> On 25 May 2005 a Victoria Air Antonov 12 carrying passengers and cargo crashed near Bitale in a remote part of South Kivu after taking off from Goma to Kindu en route to Kongolo. All 21 passengers and East European crew were reported killed. The aircraft was chartered by a DRC company, Maniema Union and was carrying 16 tonnes of cargo.<sup>338</sup>

Commander Jérôme Kakwavu of the FAPC reportedly chartered the July 2003 flight of the Victoria Air Antonov 28 that was carrying weapons and ammunition boxes mainly from the Ugandan weapon factory of Nyakasongola (100 km from Kampala) destined for the Mongbwalu gold mining area in Ituri, when it was intercepted.<sup>339</sup> According to the testimonies of those detained from the plane, Commander Jérôme and Chief Floribert Ndjabu, leader of the *Front de Résistance Patriotique Intégré* (FRPI) gave orders to transport the arms shipment from Aru near the border with Uganda to Mongbwalu. In response, Commander Jérôme demanded the immediate release of the arms and ammunition as well as the detainees before he would release three other aircraft held in Mongbwalu. The detainees, who were soon released, included two colonels of FAPC, four FRPI fighters, one member of the *Police Nationale Congolaise* and the Deputy Administrator of Mongbwalu who all claimed to be residents of Mongbwalu. This incident occurred at the same time that the FAPC and other armed groups were gathering in Bunia to commit their fighters to demilitarization.

MONUC stated that the arms trafficking was a "flagrant violation" of UN Security Council resolution 1484 (2003) requiring that all parties "refrain from any military activity or from any activity that could further destabilise the situation in Ituri"<sup>340</sup> MONUC said it would transport the munitions captured from the plane in Beni to Lubero, some 50 km south of Beni, where they would be destroyed.

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<sup>333</sup> APPG report: page 23

<sup>334</sup> Victoria Air was registered in Equatorial Guinea

<sup>335</sup> JP Airline Fleets International 2001-2 listing for 3C-LLA and interviews with Victor Granov and South African and Belgian officials 2001 to 2004

<sup>336</sup> <http://aviation-safety.net/database/record.php?id=20010823-1>

<sup>337</sup> The aircraft was photographed in Kisangani

<sup>338</sup> Associated Press 25 May 2005, IRIN 26 May 2005, Newswire 27 May 2005

<sup>339</sup> Interviews by Amnesty International with MONUC officials, August 2003

<sup>340</sup> UN Security Council Resolution 1484 (2003) extending the mandate of MONUC

<http://ods-dds-ny.un.org/doc/UNDOC/GEN/N03/377/68/PDF/N0337768.pdf?OpenElement>



***Arms trafficking from Uganda to Beni and Kasindi***

On 26 February 2004, MONUC officials wrote that: “information from reliable sources indicates that some high ranking officers (ex-APC) together with civilian administrative authorities are involved in illegal arms trafficking. According to the source, a real network has been put in place from Beni. These arms originate from Uganda, transported to DRC by road when most of the customs officials and security are withdrawn. The arms are off-loaded in remote areas of Kasindi and Beni and reloaded into smaller unsuspecting looking trucks and delivered to the sponsors.”<sup>341</sup>

***Showa Trade, Services Air and Aerolift***

In April 2003, two companies, Santair Cargo Ltd and Showa Trade, using an Antonov with serial number OG 3440 and an Equatorial Guinea registration number 3C-QQE that had been operated by Victor Bout’s companies under a Liberian registration<sup>342</sup> were given clearance by the Uganda Peoples’ Defence Forces for flights between Entebbe and the DRC.<sup>343</sup> The plane was reported flying between Entebbe and Bunia for the Ugandan Air force in April 2003.<sup>344</sup> The owner of Showa Trade and Showa Air Cargo said in June 2004 that he had a five-year contract with the Ugandan military authorities.<sup>345</sup> Showa Trade apparently bought this aircraft from Norwood Industries in December 2002<sup>346</sup>, although there seemed to be some misunderstanding about payment.<sup>347</sup>

On 8 January 2005 an Antonov-12 (registered as 9Q-CIH) operated by Services Air, and wet leased from a South African company, Aerolift, crashed north of Entebbe. The crash investigation revealed that the cause of the accident was overloading and engine failure, and the inquiry concluded that the aircraft had no air operator’s certificate, no airworthiness certificate, and did not carry records of maintenance and insurance.<sup>348</sup> The same plane was operated in late 2003 for flights between Goma, Kisangani and Kinshasa, but by a different company, Uhuru Airlines, when Aerolift in South Africa had registered it as 9L-LEC on the Sierra Leone aviation register.<sup>349</sup>

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<sup>341</sup> MONUC report, Lubero, 26 February 2004

<sup>342</sup> EL-WVA was operated by AirCess, delivering arms to Kisangani in 2000 and was also used by two Goma-based companies, GLBC and CAGL, as described earlier in this report. Letter from Antonov, Aviation scientific & technical complex, 4 June 2003, helps trace the link between EL-WVA and 3C-QQE.

<sup>343</sup> ‘Clearance of AN-8 operated by Showa Trade’, UPDF/AC/830/C, Letter UPDF to Uganda Air Cargo, 31 March 2003

<sup>344</sup> Letters from the UPDF to Santair Cargo Ltd and Showa Trade, April 2003 and see Soviet Transports 2004

<sup>345</sup> IPIS interview with owner of Showa Trade and Showa Air Cargo, June 2004

<sup>346</sup> Aircraft Purchase Agreement, December 2002.

<sup>347</sup> Fax from Norwood Industries to Showa Trade, 11 February 2003

<sup>348</sup> ‘Crashed AN-12B was overloaded’, *Flight International*, 7-13 June 2005

<sup>349</sup> In September 2003, a photograph shows Uhuru leased Antonov 12 reg: 9L-LEC from Aerolift and records show flights from Kinshasa to Goma and other airports in the DRC.

### *Mystery of Antonov-8 registered as 9L-LEO*

The following case shows how planes that have been used by companies identified by the UN for violating arms embargoes the Security Council has imposed on other countries in the past are now sometimes re-circulating and relocating into eastern DRC, and how difficult it is in that region identify the cargo companies and their locations, registrations and leasing arrangements to ensure that they are operating legitimately and observing the embargo.

An Antonov-8 aircraft with the Sierra Leone registration number 9L-LEO was seen in Entebbe on 29 May 2004. The same plane was spotted in Goma during July 2004. International aviation records reveal that the Antonov 8 with serial number OG3410 was previously flying with Liberian registration number, EL-AKY. The aircraft used to belong to Santa Cruz Imperial/Flying Dolphin Airlines based in the United Arab Emirates,<sup>350</sup> a company owned by a business associate of Victor Bout.<sup>351</sup>

Santa Cruz Imperial/Flying Dolphin Airlines used the Liberian registry for its aircraft “*apparently unknown to Liberian authorities until 1998. It also used the Swaziland registry until the Government of Swaziland de-registered them in 1999. A total of 43 aircraft were de-registered...*”<sup>352</sup> When the Government of Swaziland discovered that some of the aircraft were still operating it “*sent information to the Civil Aviation Authorities in the United Arab Emirates where some of the aircraft were based, in part because of airworthiness concerns, and in part because it believed that the operators may have been involved in arms trafficking*”.<sup>353</sup> The assets of Santa Cruz Imperial/Flying Dolphin Airlines were taken over by Dolphin Air.<sup>354</sup>

According to Dolphin Air, they sold two Antonov 8s, one of which was registered EL-AKY, for cash two years ago to a Russian, who repaired the Antonov marked EL-AKY using the spare parts of the other.<sup>355</sup> According to Civil Aviation Authority of Sharjah, 9L-LEO left Sharjah on the 27 May 2004 operated by Dolphin Air for an unknown destination.<sup>356</sup> It then appeared at Entebbe airport on 29 May 2004.<sup>357</sup>

Research shows that the registration 9L-LEO was issued by the Sierra Leone civil aviation authority to an Antonov-8 with serial number OG3410 on 22 March 2004, and was owned by a U.S. Oregon-based company called Simax llc, using an address in Sierra Leone “*c/o Africargo International/Inter Tropic Airlines*”.<sup>358</sup> Africargo International paid

<sup>350</sup> JP Airline Fleets International 1999/2000

<sup>351</sup> UN Report, S/2000/1195: page 39.

<sup>352</sup> Ibid

<sup>353</sup> Ibid

<sup>354</sup> JP Airline Fleets International 2004/05

<sup>355</sup> Interview Dolphin Air 11 May 2005, 12 May 2005

<sup>356</sup> The operator of the aircraft, according to GCAA, was Dolphin Air (Interview GCAA Sharjah, 10 May 2005)

<sup>357</sup> Photograph of the plane at Entebbe, 29 May 2004

<sup>358</sup> Certificate of registration of aircraft, 22 March 2004

for the Airworthiness Operations Certificate (AOC)<sup>359</sup> that was valid until June 2004 but was not renewed.<sup>360</sup> This indicates that the plane was flying in contravention of aviation regulations in the DRC in July 2004 without a valid AOC. The Sierra Leone authorities subsequently deregistered the aircraft in October 2004.<sup>361</sup>

The operator of the plane in DRC, KAL or Kisangani Airlift, said in May 2005 that his company was started in June 2004. He said that 9L-LEO was their first plane and that KAL was operating three planes, one of which recently crashed in the DRC, EK-26060.<sup>362</sup> According to him, the real owner of the aircraft is the Dubai-based company Pusk Ltd.<sup>363</sup> In October 2004, KAL claimed the plane was taken out of the DRC for maintenance and to renew the airworthiness certificate.<sup>364</sup> Also in October 2004, the US company Simax tried to register an Antonov-8 in Burundi but failed.<sup>365</sup> KAL claimed that the aircraft has since been registered in Sao Tome and Principe as S9-DBC<sup>366</sup>, but the original certificate went missing according to CAA of Sao Tome.<sup>367</sup> According to KAL, the same aircraft was parked in Nairobi for maintenance on 12 May 2005.<sup>368</sup>

### *Arms trafficking into Ituri via micro-markets from Uganda*

Local NGO researchers documented small arms trafficking by local traders across the border into north eastern DRC from Sudan and Uganda, were in early 2003 using questionnaire field research in Aru, Isiro, Bunia, Mahagi and other towns.<sup>369</sup> The researchers reported that they found that 90% of the reported trafficking of weapons was allegedly from Uganda, especially to Mahagi and Bunia. Most arms were brought in small quantities at night on foot and by bicycle or vehicle. Most of the users of such weapons were said to be armed criminal gangs, rebel soldiers and increasing numbers of self-defence militia, although some weapons were just used for hunting. The researchers found that such arms were being used for wide scale criminality and human rights abuses.<sup>370</sup>

### *MONUC action in Ituri*

On 28 July 2003, the United Nations Security Council extended and stepped up MONUC's mandate. It was turned from a simple observation mission into a peace-building mission in the Ituri district and the provinces of north and south Kivu. It was

<sup>359</sup> Email Sierra Leone aviation registry, 11 May 2005

<sup>360</sup> Email Sierra Leone aviation registry, 11 May 2005

<sup>361</sup> Certificate of de-registration, 18 October 2004

<sup>362</sup> Interview Aeroworld, 12 May 2005. AeroTransport Database reported the loss of aircraft EK-26060 on 4 May 2005

<sup>363</sup> Interview Kisangani Airlift, 12 May 2005 and fax from Simax to Sierra Leone CAA, 18 October 2004

<sup>364</sup> Email KAL, 12 May 2005

<sup>365</sup> Fax of Simax to CAA Burundi, 19 October 2004

<sup>366</sup> Interview KAL, 12 May 2005

<sup>367</sup> Copy of *Certificado de matricula* is dated 2 May 2005

<sup>368</sup> Email KAL, 12 May 2005

<sup>369</sup> Pax Christi (Netherlands), "Proliferation and Illicit Traffic of Small Arms and Light Weapons in the Northeast of the DRC", January 2003

<sup>370</sup> Ibid

also provided with the explicit capacity to use force, where necessary, to protect the civilian population and encourage humanitarian action.

On 14 September 2003, the Ituri Brigade of MONUC proceeded to reintroduce the “Bunia: weapon free” operation. As a result of unannounced searches, many caches of arms and munitions were found buried at the homes of leaders of the UPC. MONUC reported that one of the arms caches comprised fourteen AK 47 machine-guns, six Claymore mines, one rocket launcher and nine rockets, and a stock of munitions of different calibres. They were impounded and many of the movement’s senior figures, including Floribert Kissebo and “Rafiki” who were then the UPC’s Chief of Staff and the Head of Information Service respectively, were arrested and detained at the airport military camp. The next day a crowd from Mudzi Pela converged on MONUC armed with clubs, machetes, and sticks calling for them to be freed. The protest was broken up by MONUC’s troops shooting into the air. Three people were reportedly killed when the crowd scattered, and several people were wounded. The following day, a MONUC surveillance helicopter fired on a UPC vehicle carrying armed soldiers that was heading towards the town, and three people were killed.

Records for the MONUC weapons recovered from the UPC in Ituri during September 2003 show that most of weapons consisted of over 3,000 Kalashnikov rifles and corresponding ammunition with markings reportedly from China and Russia. There were also Russian grenade launchers, Russian and US grenades, a variety of other ammunition and some firearms from Former Yugoslavia (Serbia) and Israel.<sup>371</sup>

MONUC has also arrested some leaders of armed groups. For example, Floribert Njabu (FNI leader), two FNI commanders Goda Sukpa and Germain Katanga (who had recently been appointed by the DRC government as FARDC generals), as well as UPC leader Thomas Lubanga, were all arrested in March 2005 and detained in Kinshasa.

## **8. Conclusion and recommendations**

Amnesty International is extremely concerned that, during the entire peace process in the DRC, military aid has been provided from agents close to the Rwanda, Uganda and the DRC governments to armed groups and militia in eastern DRC who have committed grave human rights abuses. Despite the plethora of cases in this report, what is presented is only a partial picture of the trade in arms and related services because this trade in the region is characterized by extreme stealth.

The inflow of large quantities of small arms and light weapons into the Great Lakes region in the ongoing context of deliberate state diversion, weak state control and lack of transparency of arms stocks threatens to undermine the peace process. The current design of UN embargo and resources available to the UN Experts Group to expose violations, as well as the current capacity of MONUC to trace and destroy weapons and munitions, are insufficient to deal with the problem. In particular, those aircraft plying

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<sup>371</sup> Report from MONUC Ituri Brigade, September 2003

their trade into eastern DRC that have close links to arms trafficking networks remain free to operate with minimal regulation and accountability. Experience from the UN embargoes on Sierra Leone and Liberia shows that without grounding and controlling such aircraft, there can be little done to prevent arms flows.

Even without new supplies going into the region, the violent conflicts during the past decade and intense international arms trafficking have already left the Great Lakes region awash with small arms, yet more arms and ammunition have recently been imported despite the peace agreements. As the price of weaponry has decreased, the value of life has been correspondingly diminished. The increase in ambushes, armed robbery, rape and killings perpetrated with small arms in the region have not only violated individuals' rights but also perpetuated insecurity and severely diminished prospects for human and economic development

The human rights, security, peace, and prosperity of the people of the eastern DRC, as well as the neighbouring states of Rwanda, Uganda and Burundi, are closely intertwined. Yet peace in the Great Lakes Region of Africa cannot be sustained without addressing impunity for these human rights abuses and it cannot be maintained without much stricter international control of arms transfers and without adequate human and financial investment to support this process. Amnesty International is therefore appealing to the following governments and organizations to take swift action as recommended below.

### **Recommendations**

To meet their responsibilities under the UN Charter, other relevant provisions of international law particularly to ensure respect for human rights, and to ensure compliance with the decisions of the Security Council on the arms embargo on the DRC so that “*supplies of arms and related materiel or technical training and assistance*” and “*assistance*” that includes “*financing and financial assistance related to military activities*”, as set out in Resolution 1596 (2005), are effectively controlled, Amnesty International recommends the following urgent steps:

#### ***To the UN Security Council***

1. Security Council deliberations and decisions on the better control and more responsible use of international transfers of conventional arms and related materiel should be reinforced by the promotion of an explicit set of universal rules consistent with existing principles of international law (see the enclosed appendix on Principles for an Arms Trade Treaty), as well as active encouragement to assist states to enact strict laws to control the international brokering and transportation of arms. Ensuring observance of a set of universal rules consistent with the existing responsibilities of states should compliment the imposition of arms embargoes by the Security Council, providing a common benchmark to allow transfers of some arms for legitimate purposes in a manner that does not undermine, but rather ensures respect, for UN arms embargoes.
2. The UN Security Council should (a) prohibit immediately, at least in the DRC and neighbouring states, the operation of any aircraft inconsistent with the conditions

in the Chicago Convention or the standards established by the International Civil Aviation Organization, in particular with respect to the use of falsified or out-of-date documents; (b) the immediate grounding of aircraft found to be carrying illegal arms and related equipment to armed groups or militia in eastern DRC, and (c) act swiftly to place specialized MONUC aviation and customs inspectors at all airports in eastern DRC – currently, only a few airports are covered – to uphold the UN arms embargo and international aviation standards.

3. The existing UN embargo imposed in April 2005 should be renewed before Resolution 1596 expires at the end of July 2005 so as to provide a realistic timeframe for MONUC and the relevant government agencies in the region and elsewhere to strengthen legitimate control over transfers of arms and related materiel, particularly since there will have been such a short time for the UN Group of Experts and MONUC to cover their expanded monitoring mandate over the entire territory of the DRC. In particular, the Security Council needs to ensure that adequate structures are put in place by the DRC authorities and MONUC to limit exemptions to procurement and uses (i) of arms and related materiel by the *Etat-Major* of the *Forces Armées de la République Démocratique du Congo* (FARDC), provided such procurement and uses respect relevant principles of international law; (ii) of equipment for MONUC operations, and (iii) of supplies of non-lethal materiel and training for humanitarian or protective use.
4. The Security Council should ensure the strict implementation of its decision that all future authorized shipments of arms and related materiel consistent with such exemptions “*shall only be made to receiving sites as designated by the DRC Government of National Unity, in coordination with MONUC, and notified in advance to the UN Committee on Sanctions.*” Designated sites should be effectively policed and monitored by MONUC 24 hours a day, seven days a week.
5. To this end, we urge the Security Council to ensure strict compliance with its decision that “*each government in the region, in particular those of States bordering Ituri and the Kivus, as well as that of the Democratic Republic of the Congo, shall maintain a registry for review by the Committee and the Group of Experts of all information concerning flights originating in their respective territories en route to destinations in the Democratic Republic of the Congo, as well as flights originating in the Democratic Republic of the Congo en route to destinations in their respective territories.*” MONUC should be tasked to assist the governments of the DRC, Rwanda and Uganda in particular to maintain full records and inventories of weaponry and other military, police or security materiel officially acquired, and of the onward distribution of such equipment to authorised military or police units. Such records should form the basis of comprehensive periodic reports to, and be open to inspection on request by, the UN Group of Experts and MONUC. Samples of the equipment so recorded should be subject to on-site verification by MONUC using its powers under paragraph 19 of Security Council Resolution 1493.
6. Similar standards of accountability and transparency to those applying to the government of the DRC should be required of the governments of neighboring states, particularly Uganda and Rwanda, from whose territory the UN has reported a pattern of arms or related materiel transfers in violation of the UN embargo.

Such states should be required to cooperate fully with the UN Committee and the Group of Experts and MONUC to account for possible violations (as required under paragraph 12 of UN Resolution 1533). Such neighboring states should be required to notify the UN Secretary General in advance through the Special Representative and/or MONUC of imports to their territories of arms and related material, and be required to demonstrate when requested by the Secretary General that such imports have not been used for illegitimate purposes or diverted to the DRC in violation of the UN arms embargo.

7. Given the UN Group of Experts concerns regarding the deliberate non-cooperation of certain states, notably Rwanda, with their enquiries, the Security Council should widen the applicability of on-site verification by MONUC as set out for the DRC in the afore-mentioned paragraph 19 to include Rwanda, Uganda and other states that continue to allow violations of the UN embargo or who refuse to cooperate with UN investigations. Deliberate failure to comply with the Security Council's provisions for the arms embargo should be met with the imposition of severe restrictions or embargoes on arms transfers to those states.
8. The Security Council should actively support the UN Expert Group's recommendations relating to the provision of greater specialized training, marine and surveillance capability to MONUC, and the assembling of baseline data to trace the origin and supply routes of all weapons and munitions stocks seized – a strict rule should be established by MONUC so that the practice of destroying illegal and surplus weapons and ammunition in the DRC should be carried out by MONUC in each case only when the markings on each item have been properly recorded and checked, so that the provenance of the items can be traced.
9. The Security Council should take steps to ensure that those responsible for crimes against humanity, war crimes or serious violations of human rights are brought to justice in accordance with the rule of law.
10. The Security Council should focus greater international attention, resources and energy to advance security sector reform in the DRC in cooperation with the Transitional Government and other parties who have been involved in the conflict, and particularly the vital reform of an integrated national army. This should include a renewed and strong signal to the Transitional Government and all parties involved in that reform to show more commitment to the process, as a matter of priority. The Security Council should ensure support for implementing Demobilization, Disarmament and Rehabilitation programmes in the region, particularly in the eastern DRC, in order to reduce the flow of small arms and light weapons.

***To all states:***

11. All states should fully implement the existing UN mandatory arms embargoes as they apply to the DRC and Rwanda and ensure that any deliberate violation of a UN arms embargo is made a serious criminal offense in domestic law<sup>372</sup> –

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<sup>372</sup> Security Council resolution 1196 (1998) of 16 September 1998 reiterated the obligation of all States to carry out the decisions of the Council on arms embargoes and also reiterated its request that all States report information on possible violations of arms embargoes established by the Council to the relevant Security

- currently this is not the case despite requests by the UN Security Council. Individuals, groups and companies who are named as alleged violators of the UN embargo on the DRC or Rwanda should be subject to further investigation and, if there is sufficient evidence, prosecution by national states.
12. States should adopt a set of rules consistent with existing principles of international law on arms trade (see the enclosed appendix on Principles for an Arms Trade Treaty). This would complement the imposition of arms embargoes by the Security Council, providing a common benchmark to allow transfers of some arms for legitimate purposes in a manner that does not undermine, but rather ensures respect, for UN arms embargoes.
  13. Any state considering the supply of arms or provision of military and security assistance to the DRC should submit details of those arms or related transfers to the UN Security Council Sanctions Committee, in accordance with paragraph 8 of Security Council Resolution 1533, and should cooperate fully with the Group of Experts. The same procedure should be followed when considering such transfers to Rwanda and Uganda.
  14. All States should investigate the activities of their nationals who operate or are associated with the operation of aircraft or other means of transport such as aircraft violating international aviation regulations used for the transfer of arms or related materiel in violation of the UN embargo, “*and if necessary to institute the appropriate legal proceedings against them*” as required by Security Council Resolution 1596 (2005).
  15. All states should uphold, and enact into domestic regulations, their obligations under international law not to authorize transfers of arms and related military and security assistance to the DRC or to other states in the region unless it can be clearly demonstrated that such transfers will not contribute to serious human rights violations or violations of international humanitarian law (see appendix 1).
  16. All states should enact without delay consistent national laws and regulations to strictly control the activities of arms brokers, transporters and other intermediaries who facilitate international arms transfers, including through strict procedures for licensing such activities, the registration of such intermediaries according to ethical standards, comprehensive record keeping and the application of the law to extra-territorial transfers of arms. The latter element is required because nowadays such intermediaries can easily circumvent domestic controls by using offshore accounts, shell companies and circuitous routes at the weakest points in the global system.
  17. States have the duty to investigate and, if there is sufficient evidence, the duty to submit to prosecution the person allegedly responsible for crimes under international law and other serious human rights violations. If the person is found guilty, states have the duty to punish her or him.

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Council Committees. In paragraph 2 of that resolution, the Council encouraged “each Member State, as appropriate, to consider as a means of implementing these obligations the adoption of legislation or other legal measures making the violation of arms embargoes established by the Council a criminal offence.”



***To the Governments of DRC, Rwanda and Uganda***

18. Laws and procedures should be established to enable the government, military and other authorities responsible for the conduct of armed forces and law enforcement to demonstrate high standards of accountability and transparency in complying with all the provisions of the UN arms embargoes on the DRC and Rwanda, as well as the procurement, acquisition, safe storage, destruction, distribution and, most importantly, the use of all weapons and munitions. In particular, the law should set out that any arms that the government possesses or acquires should be used only for legitimate defence and security needs in a manner consistent with international law, particularly with humanitarian and human rights law and standards (see appendix 1).
19. Set up a joint monitoring mechanism to ensure the effective compliance of the three states with the Nairobi Protocol, a binding instrument for the prevention, control and reduction of small arms and light weapons in the Great Lakes Region and the Horn of Africa,<sup>373</sup> and the bilateral agreements of the three states.
20. Urgently ensure regulations, procedures and personnel are in place for the effective monitoring at land and lake crossing points as well as airspace for the detection of arms illicit trafficking. If insufficient resources are available to increase technical control and surveillance capacities as well as human monitoring resources to achieve this end, then appeal to the UN Security Council and the international donor community to assist.

***States trading or aiding the DRC, Rwanda and Uganda***

21. No arms or related materiel intended for delivery to the government forces of the DRC Rwanda or Uganda should be permitted if there is a likelihood that those arms will be directly or indirectly transferred in violation of the UN arms embargoes on the DRC and Rwanda or directly used for serious human rights violations or violations of international humanitarian law.
22. Those governments whose countries have been used for actual and possible larger-scale arms transfers to the DRC, Rwanda and Uganda should investigate those transfers, determine exactly who was involved and their impact, then publish the results without delay so as to demonstrate that none of the arms have been diverted for violations of the UN arms embargo or for serious violations of international law, including the following cases mentioned in this report: (a) Transfers from the Czech Republic and Slovakia to the DRC using Belgium and Namibia; (b) Transfers from Albania and allegedly Serbia to Rwanda using entities in the jurisdictions of Israel, Panama, South Africa, the United Kingdom and the USA; (c) Possible transfers from Bosnia to Rwanda involving alleged transporters and brokers from Bulgaria, Croatia, Israel, Kyrgyzstan and Serbia; and (d) Transfers of small arms and light weapons to Uganda from Slovakia and Croatia.

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<sup>373</sup> States parties to the protocol include Burundi, Rwanda, the DRC, Ethiopia, Djibouti, Eritrea, Kenya, Uganda, Sudan, Tanzania, and Seychelles.

23. Given the significant international aid donations and direct assistance to the Albanian, Bosnia and Herzegovina and other governments in eastern and central Europe for the collection and destruction of surplus arms, Amnesty International is also urging that the aid donor authorities and those governments review controls in these programs to ensure that there are no leakages of arms to users likely to commit human rights violations. States providing military assistance to the DRC, Rwanda or Uganda, such as Belgium, South Africa and the USA, should review such assistance to ensure that it meets standards required by international law, particularly international humanitarian and human rights law, and should immediately cease such assistance if there is a danger that it will be used for serious violations of such law.
24. States providing international development assistance to the DRC, Rwanda and Uganda, in particular the countries of the European Union and North America, as well as Japan and other Nordic states, should ensure that such aid does not serve the purpose, directly or indirectly via fungible accounting or resource exchanges, of purchasing or acquiring arms or related military and security items.

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## *Appendix 1*

### **Global principles for arms transfers**

#### **Principle 1: Responsibilities of states**

**All international transfers of arms shall be authorised by a recognized state and carried out in accordance with national laws and procedures that reflect, as a minimum, states' obligations under international law.**

#### **Principle 2: Express limitations**

**States shall not authorize international transfers of arms that violate their expressed obligations regarding arms under international law.**

This includes:

- A Obligations under the Charter of the United Nations – including:
- decisions of the Security Council, such as those imposing arms embargoes;
  - the prohibition on the use or threat of force;
  - the prohibition on intervention in the internal affairs of another state.
- B Any other treaty or decision by which that state is bound, including:
- Binding decisions, including embargoes, adopted by relevant international, multilateral, regional, and sub-regional bodies to which a state is party;

- Prohibitions on arms transfers that arise in particular treaties which a state is party to, such as the 1980 UN Convention Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects, and its three protocols, and the 1997 Anti-personnel Mines Convention.
- C Universally accepted principles of international humanitarian law:
- Prohibition on the use of arms that are of a nature to cause superfluous injury or unnecessary suffering;
  - Prohibition on weapons that are incapable of distinguishing between combatants and civilians.
- D Transfers which are likely to be diverted for any of the above or be subject to unauthorized transfer.

Principle 2 encapsulates existing express limitations under international law on states' freedom to transfer and to authorize transfers of arms. It focuses on circumstances in which a state is already bound not to transfer arms, as set out in expressed limitations in international law. The language is clear: "states shall not ..."

When new binding international instruments are agreed, new criteria should be added to the above principles. For example, if there is a new binding instrument on marking and tracing or illicit brokering.

### **Principle 3: Limitations based on use or likely use**

**States shall not authorize international transfers of arms where they will be used or are likely to be used for violations of international law, including:**

- A breaches of the UN Charter and customary law rules relating to the use of force;
- B the commission of serious violations of human rights;
- C the commission of serious violations of international humanitarian law, genocide, and crimes against humanity;

Nor should they be diverted and used for the commission of any of the above.

In Principle 3, the limitations are based on the use or likely use of the weapons to be transferred. All states should abide by the principles of state responsibility, as set out in international law, which include supplier-state responsibility and accountability for the use of arms transferred between states.

**Principle 4: Factors to be taken into account**

**States shall take into account other factors, including the likely use of the arms, before authorizing an arms transfer, including:**

A the recipient's record of compliance with commitments and transparency in the field of non-proliferation, arms control, and disarmament.

States should not authorize the transfer if it is likely to:

B be used for or to facilitate the commission of violent crimes;

C adversely affect regional security or stability;

D adversely affect sustainable development;

E involve corrupt practices;

F contravene other international, regional, or sub-regional commitments or decisions made, or agreements on non-proliferation, arms control, and disarmament to which the exporting, importing, or transit states are party;

G or be diverted for any of the above.

Principle 4 does not contain clearly stated prohibitions on the authorization of arms transfers. Instead, it identifies possible consequences that states are required to take into account before authorizing an arms transfer, imposes a positive duty on states to address these issues, and establishes a presumption against authorization where these consequences are deemed very likely.

### **Principle 5: Transparency**

**States shall submit comprehensive national annual reports on international arms transfers to an international registry, which shall publish a compiled, comprehensive, international annual report.**

Principle 5 is a minimum requirement to increase transparency so as to help ensure compliance with Principles 1-4 above. States should report each international arms transfer from or through their territory or subject to their authorization. Reporting should be standardized and tied to the implementation of the normative standards set out in the Treaty. These reports should be sent to an independent and impartial Registry of International Arms Transfers, which should issue a comprehensive annual report.

### **Principle 6: Comprehensive Controls<sup>i</sup>**

States shall establish common standards for specific mechanisms to control: (a) all import and export of arms; (b) arms brokering activities; (c) transfers of licensed arms production; and (d) the transit and trans-shipment of arms. States shall establish operative provisions to monitor enforcement and review procedures to strengthen the full implementation of the Principles.

Principle 6 will help ensure that states enact national laws and regulations according to common standards, and ensure that the principles are implemented consistently.

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<sup>i</sup> This Principle recognises the need to include critical elements to comprehensively control international arms transfers, as recognised by the UK Government in its statement on 15 March 2005 on an Arms Trade Treaty which is being supported by a growing number of governments.