

## “Faced with a gun, what can you do?”:

### War and the militarisation of mining in eastern Congo

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## Acronyms

<b>ALIR</b>	<i>Armée pour la libération du Rwanda</i> (Army for the Liberation of Rwanda)
<b>AMC</b>	Amalgamated Metal Corporation
<b>CEEC</b>	<i>Centre d'évaluation, d'expertise et de certification</i> (Centre for Evaluation, Expertise and Certification)
<b>CNDP</b>	<i>Congrès national pour la défense du peuple</i> (National Congress for the Defence of the People)
<b>CREDDHO</b>	<i>Centre de Recherche sur l'Environnement, la Démocratie et les Droits de l'Homme</i> (Centre for Research on the Environment, Democracy and Human Rights)
<b>DRC</b>	Democratic Republic of Congo
<b>EICC</b>	Electronics Industry Citizenship Coalition
<b>EITI</b>	Extractive Industries Transparency Initiative
<b>FARDC</b>	<i>Forces armées de la République démocratique du Congo</i> (Armed Forces of the Democratic Republic of Congo)
<b>FDLR</b>	<i>Forces démocratiques pour la libération du Rwanda</i> (Democratic Forces for the Liberation of Rwanda)
<b>FEC</b>	<i>Fédération des Entreprises du Congo</i> (Federation of Congolese Enterprises)
<b>FRF</b>	<i>Forces républicaines fédéralistes</i> (Federalist Republican Forces)
<b>GeSI</b>	Global e-Sustainability Initiative
<b>GMB</b>	<i>Groupe Minier Bangandula</i> (Bangandula Mining Group)
<b>GMC</b>	Global Mining Company
<b>HP</b>	Hewlett-Packard
<b>ICC</b>	International Criminal Court
<b>ICGLR</b>	International Conference on the Great Lakes Region
<b>ITRI</b>	International Tin Research Institute
<b>MHI</b>	Mwangachuchu Hizi International

<b>MONUC</b>	<i>Mission de l'Organisation des Nations unies en République démocratique du Congo</i> (United Nations Organisation Mission in the Democratic Republic of Congo)
<b>MPA</b>	Metal Processing Association
<b>MPC</b>	Mining and Processing Congo
<b>MSC</b>	Malaysia Smelting Corporation Berhad
<b>NCP</b>	National Contact Point
<b>NGO</b>	Non-governmental organisation
<b>OCC</b>	<i>Office congolais de contrôle</i> (Congolese Office of Control)
<b>OECD</b>	Organisation for Economic Cooperation and Development
<b>OFIDA</b>	<i>Office des douanes et accises</i> (Office of Customs and Excise)
<b>OGMR</b>	<i>Office de Géologie et des Mines du Rwanda</i> (Rwanda Geology and Mines Authority)
<b>PARECO</b>	<i>Patriotes résistants congolais</i> (Congolese Resistance Patriots)
<b>RCD</b>	<i>Rassemblement congolais pour la démocratie</i> (Congolese Rally for Democracy)
<b>RIEPA</b>	Rwanda Investment and Export Promotion Agency
<b>SAESSCAM</b>	<i>Service d'assistance et d'encadrement du small scale mining</i> (Small Scale Mining Assistance and Support Service)
<b>THAISARCO</b>	Thailand Smelting and Refining Corporation
<b>UN</b>	United Nations

## 1. Summary

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“We are their meat, their animals. We have nothing to say.”  
 Miner from Shabunda (South Kivu), 28 July 2008

The militarisation of mining in eastern Democratic Republic of Congo (DRC) is prolonging the armed conflict which has been tearing the country apart for more than 12 years.

In many parts of the provinces of North and South Kivu, armed groups and the Congolese national army control the trade in cassiterite (tin ore), gold, columbite-tantalite (coltan), wolframite (a source of tungsten) and other minerals. The unregulated nature of the mining sector in eastern DRC, combined with the breakdown of law and order and the devastation caused by the war, has meant that these groups have had unrestricted access to these minerals and have been able to establish lucrative trading networks. The profits they make through this plunder enable some of the most violent armed groups to survive.

In their broader struggle to seize economic, political and military power, all the main warring parties<sup>i</sup> have carried out the most horrific human rights abuses, including widespread killings of unarmed civilians, rape, torture and looting, recruitment of child soldiers to fight in their ranks, and forced displacement of hundreds of thousands of people. The lure of eastern Congo’s mineral riches is one of the factors spurring them on.

By the time these minerals reach their ultimate destinations – the international markets in Europe, Asia, North America and elsewhere – their origin, and the suffering caused by this trade, has long been forgotten.

The illicit exploitation of natural resources is not a new phenomenon in eastern DRC. It has characterised the conflict since it first erupted in 1996 and has been well documented by non-governmental organisations (NGOs), the United Nations Panel of Experts and Group of Experts, journalists and others. Twelve years on, the patterns remain the same, and despite abundant evidence of these activities, no effective action has been taken to stop this murderous trade. On the contrary, the warring parties have consolidated their economic bases and have become ever more entrenched.

### Overview of findings

This report documents the militarisation of mining in the conflict-affected areas of eastern DRC. Its findings and conclusions, summarised below, are based primarily on Global Witness field research in North and South Kivu in 2008, and in Rwanda and Burundi in 2009.

- All the main warring parties are heavily involved in the mineral trade in North and South Kivu. This practice is not limited to rebel groups. Soldiers from the Congolese national army, and their commanders, are also deeply involved in mining in both provinces.
- In the course of plundering these minerals, rebel groups and the Congolese army have used forced labour (often in extremely harsh and dangerous conditions), carried out systematic extortion and imposed illegal “taxes” on the civilian population. They have also used

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<sup>i</sup> The term “warring parties” is used throughout this report to denote the range of armed groups operating in eastern DRC, as well as the Congolese army.

violence and intimidation against civilians who attempt to resist working for them or handing over the minerals they produce.

- The most detailed information obtained by Global Witness relates to the *Forces démocratiques pour la libération du Rwanda* (FDLR), the predominantly Rwandan Hutu armed group, some of whose leaders are alleged to have participated in the 1994 genocide in Rwanda, and the *Forces armées de la République démocratique du Congo* (FARDC), the Congolese national army. The involvement of these two groups in the mineral trade is extensive and well-organised.

### ***FDLR***

- The FDLR has a stranglehold on the mineral trade in large parts of South Kivu. In some areas, their economic activities have become so successful that they appear to have become an end in themselves. Local residents describe them as the “big businessmen”.
- The FDLR sometimes trade openly, selling minerals in markets and towns; on other occasions, they use Congolese civilians as intermediaries.
- The FDLR systematically extort minerals and money from miners, charging a flat fee of 30% on mining proceeds in some areas and “taxing” minerals at roadblocks.

### ***FARDC***

- The most blatant example of FARDC involvement in mining is Bisie, the largest cassiterite mine in the region, which accounts for around 80% of cassiterite exports from North Kivu. From 2006 to March 2009, Bisie mine was entirely under the control of an army brigade. In 2007 and the first part of 2008, the FARDC based at Bisie were collecting at least US \$120,000 a month by taking a commission of US \$0.15 on every kilogramme of cassiterite.
- In some mines, a system has been set up in which particular days of the week are allocated for civilian miners to work for individual soldiers or their commanders. Soldiers also demand 10% of minerals, as well as cash, at numerous military checkpoints along the roads.
- Senior officers in the provincial command of the 8th and 10th military regions of the FARDC have been profiting from this trade.
- Individual commanders or military units “own” particular mineshafts. In Mukungwe, in South Kivu, a mineshaft has been nicknamed “10th military region”.

### ***FARDC/FDLR collaboration***

- The FARDC and the FDLR – supposedly battlefield enemies – often act in collaboration, carving up territory and mining areas through mutual agreement and sometimes sharing the spoils. The FDLR use roads controlled by the FARDC, and vice versa, without difficulty. Minerals produced by the FDLR are sent out through local airports controlled by the FARDC in South Kivu.

### ***Other armed groups***

- The *Congrès national pour la défense du peuple* (CNDP), and various other armed groups such as the *mai-mai*, have also profited from the mineral trade, particularly through their own systems of “taxation”.

### ***Smuggling***

- Provincial government officials struggle to control mineral exports across the DRC’s eastern borders. Official declarations and state revenues from exports of cassiterite and coltan have increased since 2007, but almost all the gold in North and South Kivu is still smuggled out. A Congolese government official told Global Witness that at least 90% of gold exports were undeclared.

### ***Rwanda and Burundi as transit countries***

- The majority of the minerals produced in North and South Kivu leave the DRC through Rwanda or Burundi. The governments of these countries have effectively provided the warring parties in eastern DRC with access to export routes and international markets. They have failed to acknowledge the fact that these minerals are fuelling the conflict in eastern DRC and have not held to account companies in their country which engage in this trade.

### ***The comptoirs***

- Several of the main *comptoirs* – trading houses based in Goma and Bukavu – buy, sell and export minerals produced by or benefiting the warring parties. They include Groupe Olive, Muyeye, MDM, Panju and others.
- The fact that these *comptoirs* are officially licensed and registered with the Congolese government acts as a cover for laundering minerals which are fuelling the conflict.

### ***Foreign companies***

- These *comptoirs*’ customers include European and Asian companies, such as the Thailand Smelting and Refining Corporation (THAISARCO), the world’s fifth-largest tin-producing company, owned by British metals giant Amalgamated Metal Corporation (AMC); British company Afrimex; and several Belgian companies such as Trademet and Traxys. These companies sell the minerals on to a range of processing and manufacturing companies, including firms in the electronics industry.
- Economic actors are turning a blind eye to the impact of their trade. They continue to plead ignorance as to the origin of their supplies and hide behind a multitude of other excuses for failing to implement practices which would exclude from their supply chain minerals which are fuelling the armed conflict.
- Foreign companies use the “legal” status of their suppliers as justification for continuing to trade with them, without verifying the exact origin of the minerals or the identity of intermediaries. In reality, some of these “legal” suppliers are among the main facilitators of the illicit trade with armed groups and army units.

- Some companies have claimed that the well-being of the Congolese population in mining areas is dependent on these companies' continued involvement in the trade. Such arguments ignore the serious human rights abuses perpetrated against artisanal miners and other civilians by the warring parties who exploit these minerals and with whom these companies are prepared to continue trading.
- Correspondence between some of these companies and Global Witness has revealed that despite paying lip-service to "ethical" principles, trading companies have no effective monitoring system in place to check their supply chain or assess the human rights impact of their trade.
- Correspondence from some of the major electronics companies has shown a greater recognition of the need for due diligence but also a lack of a sense of urgency and limited commitment to applying checks throughout the entire supply chain.

### *Foreign governments*

- International dialogue and peace talks have not tackled the economic dimension of the conflict. Global Witness believes that political agreements which do not address the exploitation of natural resources as one of the main drivers of the conflict are unlikely to lead to lasting peace.
- Home governments have failed to show moral leadership in holding to account companies based in their countries that engage in trade which benefits the warring parties and leads to human rights abuses. They have fallen back on voluntary codes of conduct and other non-binding guidelines, resisting calls for stronger action to control the corporate sector.
- Most donor governments have chosen to concentrate on technical solutions instead of addressing the fundamental causes of the conflict. Not only has this allowed the warring parties, and the companies which do business with them, to continue benefiting from the mineral trade with impunity, but it has further delayed the implementation of measures which would deprive the warring parties of one of their principal sources of finance.
- The inadequacy of the international response to the economic dimension of the conflict is obstructing development efforts. The conflict in eastern DRC continues to cause deaths, displacement, trauma and destruction of livelihoods on a massive scale – all of which impede development. Donor governments continue to pour vast sums of money into the DRC, but this assistance is undermined by their failure to address one of the fundamental aspects of the conflict: the warring parties' access to natural resources.

The findings presented in this report are based on Global Witness interviews with a wide range of eyewitnesses and other sources in North and South Kivu<sup>ii</sup> in July and August 2008, including miners, individual traders and trading companies, mining companies, government and military officials, members of armed groups, journalists, members of Congolese NGOs, UN staff and foreign diplomats. Global Witness has protected the identity of many interviewees in this report for their own security. Global Witness carried out further research in Rwanda and Burundi in March 2009. Additional information was obtained through correspondence with companies and other sources in late 2008 and early 2009.

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<sup>ii</sup> Global Witness did not research the mineral trade in the area known as *le Grand Nord* (in the northern part of North Kivu) or in the neighbouring province of Maniema.

## Action to break the links between the mineral trade and armed conflict

This report sets out detailed recommendations for governments, individuals, organisations and companies inside and outside the DRC who have the power to break the links between the mineral trade and the conflict. Foremost among these recommendations are:

- measures to cut off warring parties' access to mining sites in the DRC, as well as international trade routes and external networks;
- ending the impunity protecting those engaged in illicit mineral exploitation and trade, through actions by the governments of DRC, neighbouring countries and countries where companies are registered;
- thorough due diligence by all companies trading in minerals which may originate from eastern DRC and stronger corresponding action by their governments to hold accountable those who continue to trade in ways which fuel the conflict.

## 2. Recommendations

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### *To the Congolese government*

- Set up a tighter control system over the chain of supply of minerals, from the point of extraction to the point of export. Establish a legal requirement that individuals or companies handling minerals, at every stage of the supply chain, produce written, verifiable documentation of the exact location from which the minerals originate and the identity of their suppliers and any intermediaries or third parties. Prohibit any mineral exports which do not carry such documentation.
- Exercise greater oversight and control over the activities of *comptoirs*. Revoke the licences of *comptoirs* and *négociants* (buyers) who persist in trading in minerals produced by or benefiting the warring parties (including those named by the UN Group of Experts) or who fail to produce precise, verifiable documentation on their chain of supply, as outlined above. Investigate reports that some *comptoirs* and *négociants* are knowingly trading with armed groups or the FARDC and, where substantial evidence exists, initiate prosecutions.
- Carry out spot checks on the identity of suppliers to *comptoirs* exporting minerals from North and South Kivu and investigate any fresh allegations or suspicions that some *comptoirs* may be obtaining supplies from individuals known to be close to armed groups or FARDC units involved in mineral exploitation.
- Provide strong political and technical support to provincial-level government agencies responsible for controlling the mining sector, exports and border controls in North and South Kivu. Senior national level government officials should be prepared to intervene promptly in cases where members of armed groups or the FARDC prevent provincial officials from doing their job. Government and judicial authorities should investigate reports of threats against civilian officials by members of armed groups or the FARDC and take action against those found responsible.

### **To Congolese government and military authorities**

- Closely monitor the conduct of army brigades deployed in mineral-rich areas; remove, discipline and, where appropriate, investigate and initiate prosecutions against those found responsible for the illicit exploitation of minerals and for human rights violations committed in this context.
- Launch an investigation into reports that the 85<sup>th</sup> brigade, under the command of Colonel Sammy Matumo, has been exploiting and trading in cassiterite in Bisie from 2006 to March 2009. The brigade's redeployment in March 2009 should not serve as a substitute for legal action. If substantial evidence is found, initiate judicial proceedings against Colonel Sammy Matumo and other FARDC members found responsible for these offences and for human rights violations committed in this context. Ensure that the FARDC brigade replacing the 85th brigade is not based in Bisie and does not engage in mineral exploitation and trade.
- Similarly, remove FARDC units known to be exploiting minerals in other locations in North and South Kivu and take action against their commanders and other FARDC members found responsible.
- Launch an independent investigation into allegations that senior FARDC officials, at provincial and national level, may be profiting from the trade in minerals in North and South Kivu; ensure that any individuals found responsible for profiting from this trade or for ordering or sanctioning such behaviour by others within the FARDC are brought to justice, however senior their rank.
- Immediately suspend and, where appropriate, initiate prosecutions against FARDC members who have collaborated with the FDLR and other armed groups responsible for grave human rights abuses, including through sharing the proceeds of the mineral trade.

### **To governments of neighbouring countries and transit countries**

- Fully implement UN Security Council Resolution 1856 (2008) which requires “all States, especially those in the region, to take appropriate steps to end the illicit trade in natural resources, including if necessary through judicial means” and report to the UN Security Council on measures taken.
- In view of the gravity of the human rights situation in eastern DRC and the fact that the warring parties rely heavily on funds from the mineral trade, carry out additional due diligence with a view to stopping imports of minerals which are produced by or benefit any of the warring parties. Tighten controls of mineral imports and insist that any minerals imported from the DRC are accompanied by verifiable documentation indicating their precise origin and the identity of intermediaries.
- Launch investigations and, if appropriate, prosecutions against individuals or companies in their country who are trading in minerals produced by or benefiting any of the warring parties in eastern DRC. Suspend the trading licences of any such individuals or companies, pending the outcome of investigations.
- Submit to the UN Sanctions Committee the names of individuals or companies based in their country whose trade in minerals is helping fund armed groups in eastern DRC.

### **To foreign governments, including diplomats and mediators involved in peace talks**

- Ensure that foreign policy on the DRC and the Great Lakes region addresses the economic drivers of the conflict as one of the central factors behind the continuing violence in eastern DRC.
- Ensure that the question of the economic agendas of the warring parties is discussed explicitly and frankly in peace talks and other regional and international political dialogue. Make clear that the exploitation and trade of natural resources by armed groups and army units is not acceptable under any circumstance. Seek agreement among leaders of armed groups, as well as FARDC and government officials, on measures to halt this illicit trade and secure their commitment to implementing this agreement within their ranks. Under no circumstances should negotiations include a division or apportioning of natural resources between the warring parties.
- Raise with the Congolese government, at the highest levels, the question of the involvement of FARDC units and military commanders in the mineral trade, and press for those responsible to be brought to justice.
- Urge the Congolese government to implement the other measures listed above; provide assistance and support to enable the rapid implementation of these measures, in particular to strengthen the capacity and effectiveness of provincial and local government bodies responsible for overseeing the mining sector and controlling exports.
- Ensure that clear guidelines and instructions prohibiting the illicit exploitation of natural resources are included in security sector reform and training programmes for the Congolese security forces.
- Provide political and technical support to MONUC (the UN peacekeeping mission in the DRC), as well as assistance in the form of personnel, to enable it to fulfil its brief to “curtail the provision of support to illegal armed groups derived from illicit trade in natural resources”, as provided for in UN Security Council Resolution 1856 (2008).

### **To MONUC**

- Ensure that the task of curtailing the provision of support to armed groups through the trade in natural resources, included in MONUC’s mandate since December 2008, is fully integrated into the work of UN military and civilian teams deployed in mineral-rich areas of North and South Kivu; that these teams report regularly on their findings; and that these findings are communicated promptly to the UN Security Council. These efforts should cover the exploitation of natural resources by all the principal armed groups.
- In recognition of the fact that MONUC forces are severely overstretched, adopt a targeted approach to the strategy to combat illicit natural resource exploitation which can be implemented in the short term. Concentrate monitoring efforts on the principal mining sites known to be supplying armed groups and the trade routes known to be used by these groups, with a view to halting this trade. Set up monitoring and control points at strategic locations such as important mines, key border posts, airstrips and lake crossings used by armed groups. Carry out this work in close collaboration with Congolese provincial government authorities.

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

- Request regular reports on MONUC’s progress in using “its monitoring and inspection capacities to curtail the provision of support to illegal armed groups derived from illicit trade in natural resources”, as mandated by UN Security Council Resolution 1856 (2008); propose further actions by MONUC and/or UN member states, as appropriate, in response to MONUC’s reports and findings.
- Request regular reports from all member states on the implementation of UN Security Council Resolution 1857 (2008), relating, in particular, to sanctions against individuals or entities in breach of the arms embargo, including against those who support armed groups through the trade in natural resources.
- Continue to support the work of the Group of Experts and ensure that member states act on its findings.

### **To companies and traders purchasing, handling or trading in minerals originating from eastern DRC or neighbouring countries**

- Exercise stringent due diligence regarding their mineral supplies:<sup>iii</sup> find out exactly where the minerals were produced (not only the broad geographical area, but the precise location and mine), by whom they were produced and under what conditions (including use of forced labour, child labour, health and safety and other labour conditions).
- Refuse to buy minerals if the above information is not available or if there are indications that the minerals have passed through the hands of any of the warring parties, benefited them in other ways, or otherwise involved human rights abuses.
- Be able to demonstrate, with credible written evidence, the exact origin of their mineral supplies, the routes they have taken and the identity of those involved in the chain of custody, including intermediaries or third parties who have handled them.
- Do not accept oral or vague assurances from suppliers as to the origin of minerals and the identity of their own suppliers. Carry out spot checks to verify the sources and the accuracy of suppliers’ assurances. Require these measures in all circumstances, including in cases where minerals originate from areas which may be remote or difficult to access.
- Commission and publish regular independent third-party audits of their supply chain.
- Federations and associations of *comptoirs* and other trade bodies: adopt an explicit policy not to buy or handle minerals which benefit any of the warring parties in eastern DRC. Require their members to carry out the above due diligence steps systematically and to demonstrate precisely where all their supplies come from. Set up mechanisms for independently monitoring and checking whether their members are complying with these requirements.

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<sup>iii</sup> For a separate briefing and recommendations on due diligence (some of which are also contained in the present report), see Global Witness, “Recommendations on due diligence for buyers and companies trading in minerals from eastern DRC and for their home governments”, November 2008.

## **To governments of home states in which companies are registered**

- Provide clear guidance to companies purchasing or trading in minerals from eastern DRC or intending to do so in the future. Publicly warn these companies that they should proceed with caution, that the government is monitoring the implications of their activities and that they could face a number of liability risks if they are found to be assisting or facilitating human rights abuses.<sup>iv</sup>
- Insist that companies carry out the highest level of due diligence regarding their entire chain of supply, as outlined above. Adopt national legislation that requires the performance of due diligence extraterritorially (in this case, in the DRC and the Great Lakes region), identifies specific measures which companies are expected to take and standards they are expected to meet, and specifies government action which would be triggered by a company's failure to take these steps.
- Ensure that these steps are taken not only in relation to imports from the DRC, but also from neighbouring countries such as Rwanda, Burundi, Uganda and Tanzania, as minerals originating from the DRC may be imported from these countries without being clearly identified as Congolese.
- In parallel with initiatives to introduce legislation (as above), effectively monitor companies' adherence to international standards such as the OECD Guidelines for Multinational Enterprises. Reprimand those companies found to be in violation of these standards and formulate strong recommendations for remedying their business practices.
- Where there are indications that companies may be trading in ways which are benefiting any of the warring parties, carry out immediate detailed investigations. If credible information confirms this link, officially advise the companies to cease trading and purchasing from that specific area or supplier until the companies can demonstrate that their trade is not financing any of the warring parties or contributing to human rights abuses. In cases where complicity can be demonstrated, initiate prosecutions against companies and individuals.
- Submit to the UN Sanctions Committee the names of individuals or companies registered in their country whose trade in minerals is helping fund armed groups in eastern DRC, in conformity with UN Security Council Resolution 1857 (2008). These should include companies named in the reports of the Group of Experts, such as those registered in the UK and Belgium.
- Do not financially support or invest in companies whose trading activities benefit groups or individuals responsible for serious human rights abuses in eastern DRC, for example through export credit agencies or state pension schemes.

## **To the International Criminal Court (ICC)**

- Recognise the role of economic actors and companies in crimes within the ICC's jurisdiction, as set out in the Rome Statute.

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<sup>iv</sup> For examples of the legal risks faced by companies, see International Alert / Fafu, "Red Flags: liability risks for companies operating in high-risk zones", 2008, available at [www.redflags.info](http://www.redflags.info)

- Investigate individuals – including those heading *comptoirs* and foreign companies buying minerals from North and South Kivu – who, through their trading practices, are financing armed groups or army units responsible for war crimes or crimes against humanity. Where appropriate, and pursuant to the principle of complementarity with national jurisdictions, initiate prosecutions of individuals against whom there is evidence of involvement in such crimes. Under the Rome Statute, the ICC has jurisdiction against an individual who “for the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission”.<sup>1</sup>
- Encourage states to launch their own investigations and, where appropriate, prosecutions of economic actors suspected of involvement in crimes within the ICC’s mandate. Facilitate the work of national law enforcement agencies and monitor the progress of these investigations and prosecutions in national jurisdictions.

Global Witness is calling for actions targeted specifically at those parts of the mineral trade which are controlled by armed groups or military units and has developed the above recommendations with this goal in mind. A crackdown on this part of the trade would not have significant negative effects on the civilian population in the long term, as the profits currently derived from it serve primarily to enrich the elite of businessmen, the military and leaders of armed groups. Global Witness does not take the position that mining activities in eastern DRC should cease altogether. Nor does it advocate a boycott or embargo of the trade as a whole, as such blanket measures would adversely affect the sections of the mineral trade which are not controlled by any of the warring parties. The aim of Global Witness’s campaign, therefore, is not to stop artisanal miners from trading, nor to close down mines in eastern DRC, but to exclude the warring parties, and their intermediaries, from the supply chain and trading networks, so that miners are able to sell only to legitimate, civilian buyers who do not have connections with any of the warring parties. Global Witness also aims to highlight, and ultimately stop, the grave human rights abuses committed by the warring parties involved in the exploitation and trade of minerals.

### 3. Background to the armed conflict in eastern DRC

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The fighting in eastern DRC has numerous, complex causes, including long-standing political and ethnic grievances and disputes over land. But there are baser motivations behind this war: greed and the desire to control eastern DRC’s rich mineral deposits. The minerals scattered all over North and South Kivu have acted as a magnet for rebel groups and military factions throughout the last 12 years.

Global Witness previously undertook field research on the cassiterite trade in eastern DRC in 2005.<sup>2</sup> Three years later, despite turbulent political developments in the region, the practices of the warring parties, and the individuals with whom they trade, have remained constant. The fortunes of some of these groups may have turned – for example, the former rebel group the *Rassemblement congolais pour la démocratie* (RCD), now a political party, joined the government and no longer has its own armed force – but their successors and opponents are using the same tactics to exploit and retain control of mining areas. Whereas in the earlier years of the conflict, armed groups fought for control of the mines,<sup>3</sup> these groups have since carved up the main mining areas, each controlling different territories and the corresponding trade networks. Neighbouring countries, notably Rwanda, Burundi and Uganda, are also continuing to profit from the chaos on the Congolese side of the border and from the trade passing through their countries.

The conflict in the DRC is often described in terms of two wars. The first began in 1996, when the Rwandan army invaded eastern DRC, backing rebel leader Laurent-Desire Kabila, who eventually toppled President Mobutu Sese Seko; the second began in 1998, when Kabila broke with his Rwandan allies, and Rwanda, in turn, backed a new rebel group, the RCD,<sup>v</sup> to attempt to overthrow Kabila. The five years of armed conflict that followed split the country into different zones of control ruled by competing armed groups. The result was devastating for the Congolese civilian population, with massive loss of life, internal displacement and a prolonged humanitarian crisis. 2003 saw the formation of a transitional government, based on a power-sharing arrangement between the main armed groups, including the RCD. Nevertheless, fighting continued in eastern DRC throughout the transitional period (2003 to 2006) and in the years following historic national elections in 2006.

Prospects for lasting peace in eastern DRC remain elusive. Despite numerous diplomatic efforts, rebel groups and the Congolese army are continuing to fight an exceptionally brutal war, which escalated sharply in the second half of 2008. Ceasefires have been broken almost as soon as they have been declared; peace agreements have been violated repeatedly; and international efforts to broker peace have foundered again and again.

Many of the armed groups in eastern DRC were created in response to a set of diverse and complex factors, often rooted in local dynamics. These included perceived exclusion on the basis of ethnicity or regional origin, conflicts over land ownership, absence of security, and the inability of government institutions to ensure the rule of law. Over time, some of these armed groups became diverted from their original objectives through a combination of corruption and political and economic opportunism. Finding it relatively easy to seize territory through the use of violence, they attempted to replace or take over state structures and reap the benefits of the mineral wealth which they found in the areas under their control. As the profits from this trade became increasingly important to their survival, some of the armed groups switched their attention and resources to further developing these activities. In some cases, the financial profits from the mineral trade or from the “taxes” they extorted from the local population became so attractive that this economic agenda seemed to overtake political or ethnic grievances as the primary motivation for the conflict.

Armed groups in eastern DRC come and go, alliances form and unravel, and different groups have split along ethnic, political or regional lines. But some have remained more or less constant, posing continued threats to security and a pretext for their opponents to continue fighting. Among these is the *Forces démocratiques pour la libération du Rwanda* (FDLR), a predominantly Rwandan Hutu armed group, some of whose leaders allegedly participated in the genocide in Rwanda in 1994. Despite various attempts to dislodge them through military means and a Disarmament, Demobilisation, Repatriation, Reinsertion and Reintegration (DDRRR) programme overseen by the UN, the FDLR have remained active in North and South Kivu, sometimes forming alliances with smaller armed groups as well as the Congolese army (see section 7).

The presence of the FDLR has been used by the predominantly Tutsi armed group the *Congrès national pour la défense du peuple* (CNDP) as a pretext for waging its own war, supposedly in order to defend the Congolese Tutsi population against the threat of the FDLR. Similarly, in previous years, the Rwandan government and army have used the presence of the FDLR as justification for sending their own troops into eastern DRC.

In addition to fighting the FDLR, the CNDP had several other objectives revolving around political and social representation of the Tutsi, as well as securing the return of Congolese Tutsi refugees in

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<sup>v</sup> The RCD later split into three different factions.

Rwanda. Some of their grievances struck a chord among sections of the population, and support for the CNDP increased significantly after the RCD was wiped off the political map in the 2006 elections. However, the tactics the CNDP used to further its aims – particularly the extreme violence and suffering inflicted on the civilian population – ended up alienating many of its former or potential supporters.

In reality, these various armed groups' political posturing and their claims to protect particular sections of the population have often acted as facades for an altogether more crude, self-serving agenda: use violence as a means to secure a place at the political table, to obtain senior positions in the army, and, critically, to gain control of territory and the natural resources which come with it.

This strategy has been used, time and again, by various armed groups in eastern DRC with considerable success: some of the militias responsible for the worst atrocities have transformed themselves into political parties overnight and their leaders have been rewarded with military or political positions in national institutions, with little protest by international actors. Impunity has been the rule: there have been very few cases of successful prosecution for war crimes, crimes against humanity or other grave human rights abuses against civilians carried out during the conflict. The result has been the formation of an army, and branches of the government, composed of individuals responsible for overseeing or carrying out some of the most serious crimes. Furthermore, many of the combatants from former rebel groups which have been integrated into the national army retain their former ethnic or regional allegiances.

In January 2009, a new scenario began unfolding, with a rare military collaboration between the DRC and Rwanda to disband the FDLR and the reported arrest of Laurent Nkunda, the leader of the CNDP, in Rwanda on 22 January.<sup>vi</sup> On the surface, these events may signal a short-term resolution of some of the more intractable obstacles which have characterised the conflict to date – in particular, the fierce enmity between Congo and Rwanda – but reports from human rights groups indicate that they are already bringing a further wave of human rights abuses and displacement in their wake.<sup>4</sup> Most importantly, the underlying causes of the conflict, and the many challenges on the road to long-term peace, have yet to be addressed.

The deals secured behind the scenes in the run-up to the events of January 2009 have also resulted in some shocking developments: following an internal split within the CNDP, Bosco Ntaganda replaced Laurent Nkunda as its military leader and announced that the CNDP would join the Congolese army to fight against the FDLR. Ntaganda thus effectively became one of the main interlocutors in attempts to resolve the conflict, despite the fact that he is wanted by the International Criminal Court (ICC) for war crimes committed in Ituri (Province Orientale). In a further blow to the search for justice, senior Congolese government figures, including President Joseph Kabila himself and Information Minister Lambert Mende, have indicated publicly that they are unlikely to hand Ntaganda over to the ICC in the near future, prioritising “security and peace” over justice.<sup>5</sup> This position reinforces the culture of impunity in the DRC, effectively rewarding the perpetrators of some of the worst human rights abuses and encouraging others to follow in their steps. As events in eastern DRC since 1996 have amply demonstrated, impunity has severely undermined peace efforts and served to prolong the conflict, while depriving victims of the prospect of justice or redress. In April 2009, it was reported that Ntaganda was to play a prominent role in further FARDC operations against the FDLR.<sup>6</sup>

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<sup>vi</sup> The Rwandan authorities are not known to have formally arrested Laurent Nkunda or charged him with a criminal offence; nor have they begun judicial proceedings against him. He is believed to be under a form of house arrest. In an interview with the BBC, Rwandan President Paul Kagame described Nkunda as Rwanda's “guest” (BBC, Hard Talk, 17 March 2009). The Congolese authorities have requested Nkunda's extradition to the DRC to face prosecution there.

In March 2009, the CNDP and the Congolese government signed an agreement in which, among other things, the CNDP announced that its forces would be integrated into the national police and army and that it would become a political party.<sup>7</sup> The process of the CNDP's "accelerated integration" into the national army began even before the agreement was signed, raising renewed concerns about impunity and the future of a national army made up of warlords and rebel fighters responsible for grave human rights abuses.

***Box: Which military and other armed groups are plundering the minerals?***

- **Forces démocratiques pour la libération du Rwanda (FDLR)**, a predominantly Rwandan Hutu armed group, some of whose leaders allegedly participated in the genocide in Rwanda in 1994. Many of the FDLR fled from Rwanda to the DRC in the aftermath of the genocide in 1994 and have remained there ever since. Initially made up, in part, of members of the former Rwandan army and *interahamwe* militia who played a central role in carrying out the Rwandan genocide, it later gained new recruits. Many of its current members are too young to have participated in the genocide. The movement went through several name changes; known as *Armée pour la libération du Rwanda* (ALIR) from around 1998, it renamed itself the FDLR in 2000. The FDLR are spread across North and South Kivu, with a more established presence and greater involvement in mining in South Kivu.
- **Congrès national pour la défense du peuple (CNDP)**, a Tutsi-led rebel group backed by Rwanda. Active in North Kivu, particularly in Rutshuru and Masisi. The CNDP was headed by Laurent Nkunda until January 2009. At the time of writing, its political leader is Désiré Kamanzi and its *de facto* military leader is Bosco Ntaganda, who is wanted for war crimes by the International Criminal Court. In February 2009, the CNDP announced that it was to become a political party and that its forces would be integrated into the national Congolese army; this was formalised in an agreement signed with the Congolese government in March 2009.
- **Patriotes résistants congolais (PARECO)**, a group loosely allied with the FDLR, and sometimes with Congolese government forces, in their battles against the CNDP. In January 2009, PARECO followed the CNDP in announcing that it too would cease hostilities and join the ranks of the national army.
- Various **mai-mai** groups in North and South Kivu, often divided along ethnic lines. Originally local self-defence groups, *mai-mai* in different parts of eastern DRC have become increasingly involved in the armed conflict over the last ten years, sometimes fighting alongside the Congolese army against the CNDP or other Rwandan-backed groups, and sometimes fighting each other.
- **Forces républicaines fédéralistes (FRF)**, sometimes known as *Groupe de 47*, a small Tutsi armed group active in the Haut Plateau area of South Kivu.
- **Forces armées de la République démocratique du Congo (FARDC)**, the Congolese national army. North Kivu is under the command of the 8th military region. South Kivu is under the command of the 10th military region. Various FARDC units and commanders from these two military regions are involved in mining, in many locations in North and South Kivu.
- **Demobilised combatants**, particularly former *mai-mai*, in North and South Kivu, some of whom have retained their weapons.

**Box: Testimonies of human rights abuses**

(All information and testimonies collected by Human Rights Watch and reprinted with its permission.)

All the main warring parties involved in mineral exploitation and trade in eastern DRC have committed grave human rights abuses.

**Witness of summary executions by the CNDP in Kiwanja (North Kivu), November 2008:**

*On 4-5 November 2008, around 150 people were killed in the town of Kiwanja. Most of them were killed by CNDP forces. Others died during fighting between the CNDP and the mai-mai.*

“I could not flee Kiwanja after the CNDP told everyone to leave because my wife was pregnant. I live close to where the CNDP had their camp, and I heard them say anyone leaving their house was suspect and that anyone poking their head out of a window should be shot. After a day hiding in our houses, I heard my neighbour say she had desperately to go to the toilet and she left her house. A soldier asked her where she was going, and when she told him she was going to the toilet, he shot her. Then her husband opened the door to see what had happened and they shot him dead as well. They were both about 60 years old. They were not *Mai Mai*. They were just an old couple who could not run away.”<sup>8</sup>

**Victim of rape by the FDLR near Ngungu, Masisi (North Kivu), December 2006:**

*A woman was assisting a victim of rape, whom she found tied to a tree, when she was followed and raped by FDLR combatants.*

“There was a piece of wood inserted into her [the other woman’s] vagina. I pulled it out, and I put the victim on my back. I carried her for about two miles and the victim then died on my back. She just passed away. All the time we were being followed by [FDLR] combatants [...] When I finished [burying the victim] they said they would rape me. I told them, if you want to rape me, let me first pray. There were eight of them. I prayed. When I stopped praying, four refused to rape me, but the other four said that they would not leave without raping me. They raped me, they hit me, for six hours, from 10am to 4pm. When they finished their dirty task they fled into the bush, firing shots. I was left there naked, beaten. I couldn’t move.”<sup>9</sup>

**Victim of rape by FARDC soldiers, Goma, October 2008:**

*In late October 2008, in the face of an advance by CNDP troops towards Goma, Congolese army soldiers panicked and fled, creating chaos in their wake. They rampaged through Goma, killing at least 20 civilians, including five children, and injuring more than a dozen others. They raped over a dozen women and girls. A 20-year-old woman was among the victims.*

“Two soldiers came up to me and asked me to give them my goats. I said I didn’t have any. They then asked for my pigs. Again, I said I didn’t have any. They turned to another woman and asked her for her beans and bananas. She gave what she had, and the soldiers told me to carry the bananas for them into the hills.

When we got to the hill, one of the soldiers pushed me to the ground. He put the blunt side of his machete on my neck and the handle of his rifle on my chest. Then he raped me. When he was finished, he called the other soldier and he raped me too. Then they told me I could go. As I fled, they shot their rifles into the banana plantation. I fell to the ground, pretending I was dead.”

*Hours later, the woman's 57-year-old grandmother was also raped by a man in Congolese army uniform.<sup>10</sup>*

#### 4. Overview of mining in North and South Kivu

##### ***Box: Minerals found in North and South Kivu***

The main minerals in North and South Kivu are:

##### **Cassiterite (tin ore)**

Currently the most important mineral in terms of quantity and price. Found in numerous locations in North and South Kivu. It has many uses, including as a component in the production of solders, tin plating and alloys. These are used, among other things, in the electronics industry (electronic solders alone accounted for over 44% of all refined tin usage in 2007<sup>11</sup>) and for the production of tin cans.

##### **Gold**

Found in North Kivu and South Kivu, with the most significant deposits in South Kivu. (Gold produced in the Ituri district of Province Orientale, to the north, is also traded and exported through towns such as Beni and Butembo, in North Kivu.) Almost all gold exports are illicit and undeclared; only a tiny proportion is produced and exported officially. No reliable statistics are available.

##### **Coltan**

Found in many of the same locations as cassiterite, in North and South Kivu. “Coltan” is an abbreviation of columbite-tantalite, a mineral concentrate containing the metals niobium (also known as columbium) and tantalum. Coltan from the DRC is mostly used as a source of tantalum. Tantalum is used as a component in electronic goods, such as circuits in mobile telephones, laptop computers, airbag protection systems, playstations, video cameras and digital cameras. Coltan was the most important mineral in the earlier phases of the war in the DRC, with its price peaking in around 2000 in response to rising demand. Coltan has become much less significant since its price dropped from 2001 onwards. It has since been overtaken in importance by cassiterite. According to official government statistics from North and South Kivu, 428.4 tonnes of coltan were exported in 2007 and at least 270.79 tonnes in the first half of 2008.<sup>18</sup>

In 2007 and 2008, the DRC accounted for around 4% to 5% of the global production of tin ore.<sup>12</sup> According to official government statistics from North and South Kivu, 14,905.9 tonnes of cassiterite were exported in 2007 and at least 13,782.74 tonnes from January to September 2008.<sup>13</sup> In comparison, China and Indonesia – the world's two largest producers – produced 118,300 tonnes and 103,100 tonnes respectively in 2007.<sup>14</sup> Other cassiterite-producing countries include Peru (39,019 tonnes),<sup>15</sup> Bolivia (15,972 tonnes)<sup>16</sup> and Brazil (12,596 tonnes).<sup>17</sup>

According to official government statistics from North and South Kivu, 428.4 tonnes of coltan were exported in 2007 and at least 270.79 tonnes in the first half of 2008.<sup>18</sup>

The 428.4 tonnes of coltan produced in 2007 had the potential to yield an estimated 116 tonnes of tantalum.<sup>19</sup> In global terms, this is a significant amount: Australia and Brazil, which are among the world's largest tantalum producers, produced 435 and 180 tonnes of tantalum in 2007 respectively.<sup>20</sup> Other tantalum-producing countries include Canada, Rwanda, Ethiopia and Mozambique. The amount of niobium extracted from coltan in the DRC is minimal in global terms. The 428.4 tonnes of coltan produced in North and South Kivu in 2007 had the potential to yield an estimated 99 tonnes of niobium.<sup>21</sup> In comparison, Brazil, the world's largest producer of niobium, produced 57,300 tonnes in 2007; Canada, the second largest producer, produced 3,000 tonnes in 2007.<sup>22</sup>

### **Wolframite**

Found in North and South Kivu. Wolframite, sometimes referred to as wolfram, is an ore used as a source of tungsten. Tungsten is used in the production of hard metals (or cemented carbides), which are used in heavy industry, particularly to manufacture metal and stone cutting tools, mining tools and other machinery components. Tungsten is also used in incandescent lamps, alloys and steels, as well as in the vibration alert function in mobile telephones.<sup>23</sup> According to official government statistics from North and South Kivu, 1,222.1 tonnes of wolframite were exported in 2007 and at least 443.92 tonnes in the first half of 2008.<sup>24</sup> The 1,222.1 tonnes of wolframite produced in 2007 had the potential to yield an estimated 635 tonnes of tungsten.<sup>25</sup> As a comparison, China, the world's largest producer of tungsten, produced 41,000 tonnes of tungsten in 2007; other major producers include Russia (3,200 tonnes), Canada (2,700 tonnes) and Austria (1,200 tonnes).<sup>26</sup>

### **Pyrochlore**

A rare mineral, found in Lueshe, in the *territoire* of Rutshuru (North Kivu), in an area under CNDP control in 2008. Pyrochlore is the main mineral from which niobium is obtained. The main use of the niobium found in pyrochlore is as an additive in the production of steel. Lueshe mine has been officially closed since 2004, in part because of an unresolved legal dispute over the rights to control it.<sup>27</sup> No government exports of pyrochlore are recorded for 2007 or the first half of 2008; some exports are recorded for 2006.<sup>28</sup> Production reportedly resumed in 2008 and stock was delivered to warehouses in Goma in preparation for export in late 2008, but the government blocked these exports due to the continuing legal dispute over the ownership of the mine.<sup>29</sup> Niobium is also obtained from coltan (see above).

### **Various precious and semi-precious stones, including diamonds, amethysts and tourmaline.**

Small quantities found primarily in South Kivu.

### ***Box: The formal and informal mining sectors***

All the mining in North and South Kivu takes place in the informal sector. The minerals are dug by hand, or with very basic tools, by civilians known as artisanal miners. These miners work in extremely harsh conditions, without training, equipment or protection; fatal accidents and serious injuries occur regularly. Officials of the Division des Mines (the provincial representation of the Ministry of Mines) are able to record only a small fraction of the number of accidents; the vast majority go unreported. Tens of thousands of people, including children, work as artisanal miners in the two provinces. It is impossible to know the exact number, as they are not registered. In theory,

miners are supposed to obtain a card from the authorities (“*carte de creuseur*”) before they can operate legally, but very few do, partly because of the cost and partly because the regulation is not enforced. Miners also move from mine to mine, according to opportunities and new discoveries of minerals. Work may be irregular and has been disrupted, among other things, by population displacement resulting from the conflict.

There are few foreign or multinational mining companies operating in North or South Kivu. Those which are present are at the early stages of exploration and have not begun extracting minerals. Some of their exploration programmes have run into serious problems because of the widespread presence of armed groups and military in the mines; local disputes over control of resources; and tensions between the companies and local populations, sometimes resulting in violence. Mining companies continue to face particular challenges arising from the volatile environment and the general context of lawlessness.

In 2008, these companies included:

**Mining and Processing Congo (MPC)**, a subsidiary of South African-owned **Kivu Resources**, registered in Mauritius. MPC, which was established in the DRC in December 2002, holds exploration titles to 14 concessions in North Kivu, South Kivu, Maniema and Katanga provinces.<sup>30</sup>

**Metal Processing Association (MPA)**, its counterpart in Rwanda. MPA has a factory in Gisenyi, north-western Rwanda (just across the border from Goma), which used to process Congolese minerals. However, in 2008, the factory was no longer fully operational.<sup>31</sup> Since 2007, MPA has been involved in cassiterite and coltan exploration in Rwanda, after forming a joint-venture company with the Rwandan government (Gatumba Mining Concession).

**Banro**, a company with headquarters in Canada, publicly listed on the Toronto and New York Stock Alternext<sup>vii</sup> stock exchanges. Banro holds exploration titles in three gold mining areas in South Kivu (Twangiza, Lugushwa, Kamituga) and one in the neighbouring province of Maniema (Namoya). Banro started working in the area in 1997 after it took over gold mining rights from the now defunct state mining company SOMINKI, but had to interrupt its work because of the war. It resumed exploration from 2004.<sup>32</sup>

Canadian-registered **Shamika**, a relative newcomer in the region, which holds 15 exploration titles for cassiterite, gold and other minerals in South Kivu, the neighbouring province of Maniema and the northern part of Katanga province. Most of these titles were obtained in 2007, some in 2008.

**Transafrika**, a Mauritius-registered company with predominantly South African interests, which holds exploration titles to four gold mining areas in the southern part of South Kivu. One of the senior managers of Transafrika is Thomas Nziratimana, former deputy governor of South Kivu during the period that the RCD-Goma was in power.

Canadian-registered **Loncor**, which has a number of gold exploration permits in North Kivu, mostly in Lubero, but also in Walikale and Rutshuru.

A number of other companies – some Congolese, some foreign – have also been granted exploration rights to mines in North and South Kivu. Many of them have not yet begun operations. They include some companies already operating as *comptoirs* (see section 10), such as **Sodexmines and Groupe Olive**.<sup>33</sup>

<sup>vii</sup> Alternext is a market for small and medium-sized companies within the New York Stock Exchange.

## 5. The Congolese army's involvement in the exploitation of minerals

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“Please tell the government to tell the military to stop this. The population is suffering.”  
Miner in Tubimbi (South Kivu), 29 July 2008

Global Witness collected numerous testimonies of the involvement of the FARDC in mineral exploitation in both North Kivu and South Kivu. Contrary to the claims of some military officials, this practice is not limited to a few low-ranking soldiers trying to top up their meagre salaries. It is widespread, across both provinces, and the system of financial rewards is well-organised: commanders are directly involved and the profits are channelled back up the military hierarchy. Those profiting include senior officers in the provincial command in the 8th military region (North Kivu) and the 10th military region (South Kivu). There are also frequent reports from North and South Kivu – both from Congolese and international sources – that senior military and political officials in the capital, Kinshasa, are implicated. A UN source told Global Witness: “If a person has a rank in the army, he has access to natural resources.”<sup>34</sup>

The extent of mineral exploitation by the military, and the impunity which protects those responsible, are illustrative of the deeper problems which characterise the Congolese army, and the country's governing institutions as a whole. Corruption is widespread throughout the DRC and affects government agencies and the security forces at all levels. Corrupt practices and systems of patronage are especially prevalent in the mining sector, in which senior political and military figures have accumulated vast wealth to the detriment of the local population. In the east, the anarchy brought about by the war has created even greater opportunities for the military to plunder these riches. The involvement of senior commanders has meant that it has been extremely difficult to challenge this behaviour. The weakness of the judiciary, whose officials are regularly subjected to threats, intimidation and interference when they attempt to investigate or prosecute crimes committed by the military, has meant that these crimes have gone unpunished.

Over the last few years, FARDC troops have been deployed in North and South Kivu in greater numbers. A miner in South Kivu told Global Witness that the FARDC had started exploiting minerals ever since they were deployed in the region in 2006, after the elections won by President Joseph Kabila.<sup>35</sup> Some of these areas were previously controlled by armed groups, but for the civilian population, the arrival of the FARDC has made little difference. Local residents and members of local NGOs told Global Witness that the FARDC and the armed groups behaved in very similar ways.

Once they find themselves posted in mineral-rich areas, the FARDC soldiers and their commanders are reluctant to move and jealously guard their positions. To do so, they are dependent on the protection of their superiors at provincial level. A source in Bukavu told Global Witness that when one FARDC brigade was due to replace another, “they don't want to leave because of the minerals [...] all the commanders send money back from the minerals to the provincial commander in Bukavu. Who is deployed where depends on the personal relationship with the commander of the 10th military region in Bukavu [General Pacifique Masunzu]. Those deployed in Mwenga and Shabunda are the favourites of the commander, for example Nakabaka's people in Mukungwe [see section on Mukungwe below] [...] Everyone knows what is happening but no one dares to say it.”<sup>36</sup>

In some cases, FARDC soldiers dig for minerals themselves,<sup>37</sup> <sup>viii</sup> but most often, they use the civilian population to dig for them. The FARDC effectively inherited a whole workforce of civilian

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<sup>viii</sup> In several cases, the bodies of FARDC soldiers have been found among the victims of accidents when mineshafts have collapsed.

artisanal miners when they took over these areas. As artisanal mining is unregulated, and the government does not have a permanent presence in the mines, artisanal miners are extremely vulnerable to exploitation and have little choice but to comply with what the FARDC ask of them. Fear of violence by the FARDC, who are notorious for committing human rights abuses, is such that few civilians even think of withdrawing their labour; they opt instead for a form of passive cooperation for the sake of their own security.

Local human rights organisations have reported cases where civilians have been arrested and tortured for not complying with soldiers' orders to work for them, for not satisfying their military "bosses", or for denouncing extortion, theft of minerals and other abuses by the military.<sup>38</sup> In one instance, in early August 2008, FARDC soldiers beat three civilian miners because one of them had lost a hammer he was using to dig for cassiterite in a mineshaft controlled by a FARDC official at Musholo, near Lemera (South Kivu). The soldiers then made the three miners work for them for ten days without pay.<sup>39</sup>

The relationship between the FARDC and artisanal miners takes various forms. Forced labour occurs in some cases; in others, the miners, who would be working in these locations anyway, resign themselves to the fact that they will have to hand over a proportion of what they produce to the military. In some locations, the FARDC may seize a miner's entire production of minerals, but more typically, they will take a share, allowing the miner to keep the rest as a form of payment. The exploitation is organised along different models: in some mines, a system has been set up in which particular days of the week are allocated for working for the soldiers. This is sometimes referred to as *salongo* (a term normally used to describe compulsory community work by the general public). An activist from South Kivu said: "In Shabunda, Mwenga and Kamituga, specific days are designated. For example, every Saturday, people go to work in a particular commander's plot. It is like *salongo*. It is well-known. The workers are not paid."<sup>40</sup> Other days are dedicated to working for local authorities or traditional chiefs, as some of these civilian officials also take a cut of the mineral production.

In many mines under FARDC control, specific mineshafts or areas are known to "belong" to particular provincial or local military officials (though not through any formal process of allocation). The production from these mineshafts is collected and sold by agents acting on behalf of these FARDC officials. Local miners get to know these agents and for whom they are working. The agents, who are usually civilians, are often present at the mines to supervise and control production. With a few exceptions, the military "owners" of the mineshafts, especially the more senior ones, are seldom seen on site. However, they sometimes post their soldiers – who may be armed and in uniform – at the mines to ensure that the miners are working for them.

In addition to their direct involvement in mining, FARDC soldiers routinely extort minerals and money from civilians at military checkpoints along the roads. A miner from Shabunda (South Kivu) described five FARDC roadblocks on a road leading from a mine at Kibila to Shabunda town: "They ask for money: sometimes 1,000 francs, sometimes 1,200 francs, 600 francs or 500 francs [between approximately US \$0.90 and 2.20]. Once, in around March 2008, they asked me for 2 kg of cassiterite. I had to give it. When you're faced with a gun, what can you do, as a simple civilian? At each barrier, there are between four and seven military, all well-armed. There are captains. It's always the same ones. Some of the soldiers are young, 15 or 17 years old. They ask for 10% of gold or cassiterite. Whatever happens, you have to give it."<sup>41</sup>

***Bisie: "a state within a state"***<sup>42</sup>

The most blatant example of FARDC involvement in mining is the Bisie mine, in Walikale, North Kivu. The largest cassiterite mine in the whole area, it accounts for an estimated 80% of cassiterite

exports from North Kivu<sup>43</sup> and is thought to produce between 800 and 1,000 tonnes a month,<sup>44</sup> selling at between US \$8.5 and \$9 per kg at the *comptoirs* in Goma in mid-2008.<sup>45</sup>

Cassiterite was discovered in Bisie several years ago, but until around 2003, it did not attract much attention as the price of tin was low. Mining in Bisie only took off in a significant way in 2004, when the price of tin rose.<sup>46</sup>

For three years – from 2006 to March 2009 – Bisie was entirely under the control of the 85th brigade of the FARDC, headed by Colonel Sammy Matumo, a former *mai-mai*. Unlike other mines under FARDC control, where the military presence is not always easily visible, soldiers of the 85th brigade, including Sammy Matumo himself, were physically present at Bisie. They operated openly, digging for minerals themselves, with Sammy Matumo personally overseeing the activities.<sup>47</sup> An estimated 200 to 350 military were present at the mine in mid-2008.<sup>48</sup>

As the largest and most productive cassiterite mine in the area, Bisie has attracted thousands of civilian miners and other men, women and children in search of work. Some people describe it as a big village. Local sources estimated that in mid-2008, between 10,000 and 15,000 people worked in and around Bisie, some as miners, others as transporters, and some trading in other goods in or around the mine.

As in other mines, health and safety standards are completely ignored in Bisie, both by the authorities and by the miners themselves. Accidents are common. The situation has been aggravated by the pressure which the military have exerted on miners to maximise production, as illustrated by the case below.

In one of the most serious incidents, several people were killed and many more injured when a mineshaft collapsed on 15 November 2007. According to an investigation by local government officials, two days before the accident, dangerous conditions had been reported after rocks began falling and two people were injured. Despite this, the military present at the site ordered miners to continue digging and forced them to enter the mineshaft, precipitating a second accident.<sup>49</sup> Officials recorded four deaths and 11 injuries, though the real number is almost certainly higher, as not all the bodies were retrieved. The report of the investigation notes that two soldiers of the 85th brigade may have been among the victims and that military uniforms and weapons were found in the mineshaft. It also states that a FARDC major of the 85th brigade, Major Ilunga, had used his own workers to dig in the mineshaft. The report complains that Major Ilunga blocked efforts to clear out the debris to try to retrieve the bodies of victims; it alleges that he was trying to stifle the truth as to the number of victims and their identities (whether civilians or military) and that he hoped to appropriate the cassiterite contained in the falling rocks.<sup>50</sup> In February 2007, the civilian authority, the *administrateur du territoire*, had issued a directive prohibiting mining in ten of the deepest and most dangerous mineshafts.<sup>51</sup> Despite this, mining had continued in these mineshafts, illustrating the incapacity of the civilian authorities to exercise control over mines run by the military.

Different FARDC officials each had “their own” mineshafts and workers at Bisie. Soldiers stood outside every mineshaft, taking a cut of all production. The FARDC sometimes asked the civilian miners which mineshafts produced the most minerals, or watched them work to find out which were the most productive; they then moved the miners off and took over by force. Some mineshafts can produce up to four tonnes a day, with 20 to 30 miners, porters and other workers at each one. Throughout 2007 and the first part of 2008, the FARDC were taking a commission of US \$0.15 on every kg of cassiterite traded in Bisie.<sup>52</sup> If Bisie produced a minimum of 800 tonnes a month (as indicated above), the FARDC based there would have been collecting at least US \$120,000 each month.

In addition to controlling the mineral production, the FARDC based at Bisie extorted money, goods and other services from the vast population which has built up around the mine, including by imposing “taxes” at Bisie itself and at the numerous checkpoints along the road leading to the mine. In 2008, there were at least eight military checkpoints between Njingala and Bisie. These included two main barriers: one at Njingala – the entrance and exit point for Bisie – and one at Bisie itself, and other, improvised barriers in between. At each of the first two barriers, people were made to hand over 10% of any manufactured goods they happened to be carrying; at each of the following two barriers, they were made to pay 10% of the cassiterite they were carrying.<sup>53</sup> A local traditional chief estimated that more than 1,000 people went in and out of Bisie every day, of whom around 700 or 800 left with cassiterite; he said that they were made to pay 3,500 Congolese francs (around US \$6.35) for each bag of cassiterite at the military checkpoint at Njingala. Every evening, the military divided up the money, giving a share to some of the civilian authorities.<sup>54</sup> People carrying food and drink to Bisie were also “taxed”, usually in kind, and were asked for various sums of money, both on the way in and on the way out.<sup>55</sup> In 2008, it was estimated that the military typically collected more than US \$100,000 through “taxes” in this way every month.<sup>56</sup>

Due to the poor condition of the roads, most of the cassiterite from Bisie is flown out by plane. It is first transported from Bisie to Njingala – painful physical labour as porters carry sacks of 50 kg of cassiterite on foot, for one or two days. Children are sometimes used as porters, splitting the 50-kg sacks between two of them.<sup>57</sup> The sacks of cassiterite are then loaded on to planes at Kilambo. Kilambo does not even have an airstrip: planes land and take off on the road. In mid-2008, between ten and 20 flights were leaving Kilambo for Goma every day, each carrying up to two tonnes of cassiterite. A man working in Walikale described the airstrip: “There are about 20 return flights a day. The airstrip at Kilambo is nicknamed Roissy Charles de Gaulle [after the airport in Paris]. The military rush around whenever there’s a plane. They don’t let civilians through until the planes have left. The airstrip is completely controlled by FARDC. Bags of cassiterite are spread out on the road... About 80% of the minerals flying out from there are from Bisie. Others are from Kalayi Boeing, another mine also controlled by the 85th brigade, about one and a half to two hours from Bisie.”<sup>58</sup> On one occasion in 2007, researchers for a Congolese human rights organisation counted as many as 32 return flights in one day.<sup>59</sup>

Each plane has to pay a tax of around US \$200 to the local government of the *territoire* of Walikale, but only a small proportion of this tax goes to the treasury; the rest is shared between military and civilian officials.<sup>60</sup>

When Global Witness researchers visited North Kivu in mid-2008, the 85th brigade had not yet been sent to *brassage*, the process through which previously hostile armed groups are integrated and trained into a unified national army. Global Witness asked General Vainqueur Mayala, the commander of the 8th military region (which has chain of command responsibility over the 85th brigade), why the 85th brigade had been allowed to remain in control of Bisie. He initially replied: “We have nothing to do with Bisie.”

He claimed that strictly speaking, the 85th brigade was not part of the FARDC, as it had not been trained and integrated into the army, “but we can’t fight a war against them. They started these activities long ago. What they’re doing is illegal.” He said he was worried about the situation in Bisie and complained that the 85th brigade was undisciplined and refused to obey orders. He claimed that the 85th brigade was about to be moved and that they were simply waiting for vehicles to transport them to the *brassage* centre.<sup>61</sup> He did not explain how this situation had been allowed to prevail for more than two years without anyone challenging the brigade’s control of the mine.

The explanation may lie in the fact that the status quo in Bisie served the interests of the military hierarchy. Several independent sources confirmed to Global Witness that Colonel Sammy Matumo

and the 85th brigade shared the proceeds from the Bisie mine with senior officers in the provincial FARDC command in Goma. In particular, Etienne Bindu, chief-of-staff of the 8th military region and fourth in command in the province of North Kivu, was cited as one of the key individuals behind the 85th brigade's control of Bisie. A journalist who visited Bisie in 2008 was shown the mineshafts which "belonged" to Bindu, as well as a whole ridge of the mine which had been set aside for military commanders: some of the mineshafts were for Bindu, some for Sammy Matumo, and some for other commanders.<sup>62</sup>

Bindu, himself a former *mai-mai*, originally from Walikale, is based in Goma but has often been seen at Bisie. He allegedly not only benefits personally from the cassiterite from Bisie but was instrumental in ensuring that Colonel Sammy Matumo remained in place there. Even a senior FARDC official of the 8th military region confirmed that Bindu had instigated "the mess in Bisie. He manipulates the 85th brigade. It is not a secret." When Global Witness representatives asked this official why neither Etienne Bindu nor Sammy Matumo had been held to account, he argued that if Bindu were arrested, the 85th brigade would never go to *brassage*; he claimed that Bindu's misdeeds were being noted and that the military authorities may take action against him "later".<sup>63</sup>

Etienne Bindu is reportedly involved in mineral exploitation in other parts of Walikale too, as well as other forms of trade.<sup>64</sup> A local source described him as more of a businessman than an army man.<sup>65</sup>

Several people interviewed by Global Witness claimed that the profits from the cassiterite in Bisie, and possibly other areas, were shared not only with FARDC officials at provincial level but with senior national military and government officials in the capital, Kinshasa. They pointed the finger, among others, at General Gabriel Amisi, nicknamed "Tango Four", chief-of-staff of the FARDC ground forces at the national level and former commander of the 8th military region in North Kivu province. Sammy Matumo is reported to be in frequent telephone communication with Amisi and, more generally, to maintain good relations with the military hierarchy in Kinshasa.<sup>66</sup> A close ally of Amisi, Adjutant Ciza, has been seen at Bisie since around 2006.<sup>67</sup> Other Kinshasa-based FARDC officials are also reported to have their "agents" or "delegates" representing their interests at Bisie.<sup>68</sup>

In 2006, Mining and Processing Congo (MPC), a division of South African company Kivu Resources, was granted exploration rights to Bisie by the government in Kinshasa. The company has faced numerous problems in carrying out its work in Bisie, ranging from serious assaults on its staff to a protracted dispute between different groups of civilians competing for control of the mine, each of which has set up a rival cooperative. One of the cooperatives, COMIMPA, is backed by the company Groupe Minier Bangandula (GMB), headed by prominent Goma businessman Alexis Makabuza, and has come into conflict with MPC on several occasions.<sup>69</sup> The control of Bisie by the FARDC presented an additional hurdle for MPC, not least because members of the 85th brigade, including Colonel Sammy Matumo himself, repeatedly threatened MPC staff. MPC formally complained to the military authorities about Colonel Sammy Matumo, several other FARDC and members of GMB, including Alexis Makabuza, for alleged offences including extortion through the imposition of illegal taxes, intimidation, death threats and attempted assassination.<sup>70</sup> The company alleged that the military and GMB were forcing miners to work like slaves and concluded that "at the very least GMB and the DRC military were operating together to extort benefit from the small scale miners at Bisie. At worst, they were directly in control of the majority of the illegal and inhumane activities on MPC's property."<sup>71</sup> Eventually, MPC decided it could not operate in such circumstances; it suspended its operations at Bisie until law and order were restored in the mine and applied for *force majeure*.<sup>72</sup>

SAESSCAM, the government body responsible for overseeing artisanal mining across the DRC, has also been unable to work in Bisie or even set up a presence there. Its officials have been

repeatedly blocked by FARDC soldiers posted at the entrance and exit of the mine. A SAESSCAM official was assaulted by a soldier at a military roadblock, and in May 2008, soldiers prevented SAESSCAM from carrying out a registration process in Bisie to establish a record of the miners working there.<sup>73 ix</sup>

In March 2009, the 85th brigade was finally redeployed. Sammy Matumo was briefly put under house arrest, then ordered to leave the area; he was posted to Beni. Global Witness is not aware that he is facing any charges in relation to illegal exploitation of minerals or human rights abuses committed during his three years in Bisie. The 85<sup>th</sup> brigade has been replaced by a newly integrated brigade, headed by a former CNDP officer and made up in part of former CNDP combatants. The provincial FARDC command had previously given its undertaking that the new brigade would not be based in Bisie itself;<sup>74</sup> Global Witness has not been able to confirm whether this commitment has been respected or whether the new brigade has entered the mine. However, soon after their deployment in March 2009, there were reports that soldiers of the new brigade had taken over some of the checkpoints and were already taxing miners.<sup>75</sup>

### ***Mineral exploitation by the FARDC in other areas***

Global Witness gathered information about FARDC involvement in mining in many other locations in North and South Kivu. Unlike the 85th brigade at Bisie, most of these military units have been through the *brassage* process, have undergone training and have been integrated into the national army.

#### Tubimbi

Military from the 12th integrated battalion of the FARDC have been systematically exploiting cassiterite and gold and extorting money and minerals from the local population in Tubimbi, located in the *territoire* of Walungu (South Kivu). Residents of Tubimbi told Global Witness that these practices were particularly common at a cassiterite mine at Karhembu and a gold mine at Mufa. In Karhembu, every Thursday's production is to be handed over to the FARDC responsible for intelligence at provincial level (known as T2), while Saturday's production goes to the local FARDC based in Tubimbi. At Mufa, specific commanders, including the commander based in Tubimbi, have "their own" mineshafts or "drains". Typically, as in other locations, the FARDC do not mine themselves but send civilian agents, sometimes known as managers, to the mines. Through these or other intermediaries, the military sell the minerals to *négociants* (buyers) who come to the mines.<sup>76</sup>

A local source in Tubimbi explained how the system worked: "The commander of the battalion from Mwenga [the neighbouring *territoire*] takes his share. The *militaire délégué* [the representative of the commander] sells the minerals locally in Tubimbi and goes once a month to hand over the money to the military chief in Mwenga. The managers go to the mines. They buy small quantities of gold or cassiterite, collect it and sell it to big buyers in Bukavu. Some of the managers are local; others are from elsewhere. The military tell me this themselves."<sup>77</sup>

In mid-July 2008, an incident occurred in Tubimbi in which two groups of FARDC clashed, apparently over control of a cassiterite mine. A few days later, the commander of the battalion went to the site, ostensibly to resolve the dispute. "On that day," a local source told Global Witness, "the commander himself asked for that day's production of cassiterite to be given to him. Then the situation calmed down. These disagreements are not in their interests."<sup>78</sup>

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<sup>ix</sup> The 2007 Annual Report of the Division des Mines for North Kivu states that SAESSCAM has been unable to establish a presence in Bisie "due to multiple blockages on the part of military and certain politico-administrative authorities".

Global Witness raised these allegations with Captain Musa Kyabele Freddy, commander of the 2nd company of the 12th integrated FARDC battalion, based in Tubimbi. Captain Musa was cited by several local sources as being personally involved in the mineral exploitation in the area.<sup>79</sup> He denied categorically that he or any other FARDC were involved in mineral exploitation in the three months that he had been in post in Tubimbi, stating: “Soldiers never mine [...] It is not possible [...] The problem of military exploiting mines doesn’t exist any more [...] The military have good relations with the population. I’ve never had any complaints.” He denied any knowledge of the July 2008 clashes between two groups of soldiers at Tubimbi.<sup>80</sup>

Global Witness also raised the case of Tubimbi with the FARDC commander of the 10th military region in Bukavu, General Pacifique Masunzu. He said he was not informed about the case and had not received any complaints about the military in Tubimbi.<sup>81</sup>

### Mukungwe

In a number of locations, military called in to defuse tensions between groups of civilians have ended up taking over the very mines over which control or ownership was in dispute. One of the most striking examples is that of a gold mining area known as Maroc, in Mukungwe, in the *groupement* of Mushinga, *territoire* of Walungu (South Kivu).<sup>82</sup> Composed of two large hills known as Kalanga and Kalazi, Mukungwe has a total of 28 mineshafts. The current level of production of the mines is not confirmed, but in around 2006-2007, the total production from Kalazi was bringing in about US \$2,000 a day and production from Kalanga at least US \$5,000 a day.<sup>83</sup>

Two groups of civilians, broadly affiliated with two local families, the Kurhengamuzimu and Chunu families,<sup>x</sup> were involved in a dispute over the rights to the gold mine. The Chunu family won a court case asserting its ownership rights in the area, but in 2006, the Kurhengamuzimu family obtained an exploration permit from the Ministry of Mines in Kinshasa, in the name of SAMIKI, a company it had created for this purpose. The dispute then escalated into violent confrontations, both sides reportedly using demobilised or dissident fighters, including former members of the armed group known as Mudundu 40.<sup>x1</sup>

The FARDC were called to restore order and were deployed to Mukungwe in mid-March 2008.<sup>84 xii</sup> The soldiers then proceeded to take over the mine and start mining themselves. Local researchers who visited the area reported seeing representatives of five different military groups at the mine, in military uniform.<sup>85</sup> In June 2008, the tension between the two families culminated in violent clashes, resulting in at least one death and one serious injury, widespread destruction, looting of property and burning of houses; it is alleged that soldiers were present when the worst episode of violence occurred, on 26 June.<sup>86</sup> In July, military reinforcements were sent from the 12th integrated battalion, based in Mwenga, on the orders of the 10th military region in Bukavu. The reinforcements included soldiers from the 2nd company of Captain Musa Kyabele Freddy – the same company reported to be involved in mineral exploitation in Tubimbi (see above).<sup>87</sup>

By August 2008, the violence at Mukungwe had stopped but the situation remained tense. In early 2009, the FARDC were still in control of the mine.

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<sup>x</sup> Some sources also referred to the Rubango family, claiming that it had replaced the Chunu family in the area and was effectively acting on its behalf.

<sup>x1</sup> Mudundu 40 is a militia group associated with the *mai-mai* and primarily made up of members of the Bashi ethnic group.

<sup>xii</sup> Global Witness received contradictory information about whether the FARDC sided with one side or the other in the dispute. The Kurhengamuzimu family accused the FARDC of acting on behalf of the Rubango family and filed a formal complaint with the provincial and national authorities to this effect. However, an NGO source told Global Witness that the FARDC helped whichever side asked them to and that both families manipulated the FARDC by paying them.

Local sources, including activists who investigated the case, stated that senior FARDC provincial-level officials from the 10th military region were involved in gold mining at Mukungwe. One of them told Global Witness that there was even a mineshaft nicknamed “10th military region”, which, he said, no one else could touch.<sup>88</sup> Global Witness has a copy of a letter dated 19 March 2008, signed by a FARDC captain responsible for intelligence for the 10th military region, addressed to the FARDC commander based in Mukungwe. Beginning with the sentence “There is too much noise coming from Mukungwe (Maroc), be very, very careful,” the letter instructs the commander to allow civilians to mine there, not to let the military go into the mines, but to collect a percentage of mineral production for the 10th military region. This letter, as well as other correspondence relating to Mukungwe, is also quoted in a letter by a police officer addressed to the commander of the 10th military region,<sup>89</sup> denouncing the behaviour of the FARDC in Mukungwe.<sup>90</sup>

One of the FARDC names cited most often in connection with mineral exploitation in Mukungwe was that of Colonel Baudouin Nakabaka, deputy commander of the 10th military region, based in Bukavu. Colonel Nakabaka was allegedly seen at the mine, in the company of the soldiers who were initially sent there to restore order. Just before the violent clashes in June 2008, he reportedly sent two FARDC soldiers to oversee the mining and represent his interests at the mine; one of them, Lieutenant Eric Mudemi, was mentioned by several people as often present in Mukungwe.<sup>91</sup> Local sources mentioned the names of several other FARDC military, of various ranks, who allegedly “owned” mineshafts at Mukungwe, sent representatives there to act on their behalf and made large profits from the gold trade.<sup>92</sup>

Global Witness representatives met Colonel Nakabaka, along with his superior, the commander of the 10th military region, General Pacifique Masunzu, and raised the case of Mukungwe. Colonel Nakabaka himself did not comment or respond. General Masunzu denied that the FARDC were involved in mineral exploitation in Mukungwe – or, for that matter, anywhere else – and stated that soldiers had been sent there solely to end the fighting between the two families.<sup>93</sup>

The gold mine at Mukungwe is located in a concession to which the Canadian company Banro has exploration rights. Inevitably, Banro has been dragged into the dispute, and each side has accused Banro of supporting the other. When Global Witness met Banro’s representatives in Bukavu in August 2008, they claimed to be handling the situation in an even-handed way and trying to resolve the conflict peacefully. The provincial government had become involved and organised a number of meetings and visits to the site; Banro said it would resume activities if the government could guarantee a return to order.<sup>94</sup>

### Lemera

The FARDC have been heavily involved in cassiterite mining in and around the town of Lemera, in South Kivu. Among the names cited to Global Witness in this connection in 2008 was that of Colonel Biau Futi, nicknamed “Magie”. Based in Lemera since 2007, Colonel Magie was reportedly taking a proportion of the cassiterite from each tunnel at the main cassiterite mine at Lemera. One local source told Global Witness: “He gives his bag to a military there who gives it to the miners. The colonel’s bag goes down as soon as a tunnel starts producing. Magie personally goes to the mine every day. I’ve seen him several times. People have accepted this as normal, but it’s collected by force. He takes a share of every production. They sell it in Lemera.”<sup>95</sup> Another said he had seen Colonel Magie visiting the mine in late 2007: “Magie used to come to the mine with his jeep and ask the president of the committee in charge of the mine to give him cassiterite, and they would give him two or three bags [...] I have seen four military in the mine, in military uniform. The military don’t dig themselves but go down into the holes to ask for minerals.”<sup>96</sup> During 2007, FARDC soldiers often stole minerals from the mine at Lemera, and there were sometimes clashes

between soldiers and civilians when soldiers tried to seize cassiterite which the civilians had produced.<sup>97</sup>

Lemera is also a centre where minerals from other locations are traded. Many minerals bought and sold there are produced not by the FARDC but by the FDLR, notably from the Itombwe forest (see section 6).

### *The response of the FARDC*

The involvement of the FARDC in the exploitation and trade of minerals is in direct contravention of Congolese legislation, in particular the Mining Code, which prohibits members of the armed forces from trading in minerals.<sup>98</sup> The FARDC officials whom Global Witness interviewed, including the provincial commanders of North and South Kivu, did not attempt to justify this behaviour. On the contrary, they denied it and claimed that if it were to occur, or in the few cases where it did occur, those responsible would be brought to justice.

Despite overwhelming evidence of the impunity which protects the FARDC, the commander of the 8th military region in North Kivu, General Vainqueur Mayala, claimed that there were “many FARDC soldiers in prison, including for the illegal exploitation of natural resources”. He said that the military prosecutor’s office was investigating the involvement of high level military in mining and stated: “We cannot accept that officers are involved in mining”.<sup>99</sup> He and his deputy provided information on the case of a senior officer, Lieutenant Colonel Mawa Hans Andomba, who was suspended on 29 July 2008, on the orders of General Mayala, after his vehicle was intercepted carrying around 700 kg of cassiterite. The military disciplinary council concluded that he had used military vehicles abusively for private ends and had taken part in commercial activities which were not allowed within the FARDC and were incompatible with his responsibilities as an officer.<sup>100</sup> The case was transferred to the chief-of-staff of the army in Kinshasa, who had to decide whether to refer it to the military justice system. Three other military, including the driver of the vehicle which was transporting the cassiterite and other members of his escort, were let off on the basis that they were just executing orders.<sup>101</sup>

This is one of the very few cases where action has been taken against a senior FARDC officer for illegal mining or mineral trading activities. Global Witness has not been able to confirm whether it resulted in prosecution. In a number of other cases, bags of minerals belonging to FARDC officials, or transported in their vehicles, have been intercepted, but released following interventions by more senior members of the military hierarchy. In a typical example, a local official of the Division des Mines told how on one occasion, in August 2008, he and other officials stopped a truck carrying ten tonnes of cassiterite at the road toll at Baraka because it did not have the necessary paperwork: “We stopped it because it didn’t have the right documents for South Kivu. Then the 10th military region called us and told us to let it through. They intimidated us. The general of the 10th region called the Bureau 2 (security agents) and ordered them to let the truck through to Bukavu. He said ‘do this, do that’. I was obliged to let it through.”<sup>102</sup> Global Witness was informed of a small number of cases where the military responsible for trading in minerals, or more often the lower-ranking soldiers acting on their behalf, were arrested, but released within a short time, again on the orders of their superiors, and no charges brought. However, in the vast majority of instances, no action whatsoever is taken against FARDC soldiers and their commanders involved in trading in minerals. Global Witness is not aware of any case where a FARDC official has been successfully prosecuted for the illegal exploitation or trade in minerals in North or South Kivu.

## 6. The FDLR: “*les grands commerçants*”

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“They don’t want to leave because of the natural wealth.  
They are like bees swarming on honey. They prefer to die there.”  
Resident of Bukavu, 26 July 2008

The FDLR’s stranglehold on the mineral trade in parts of eastern DRC, particularly in South Kivu, provides a textbook example of the consequences of allowing an armed group to exploit natural resources unchallenged over a prolonged period. A human rights activist from Walungu (South Kivu) told Global Witness: “The Congolese can’t set up business in competition with the FDLR. They may just sell minerals which belong to the FDLR. The FDLR are becoming very rich. They have been sitting on these minerals for 14 years.”<sup>103</sup>

Although the exploitation of natural resources was not the main *raison d’être* of the FDLR when it was first formed, the opportunities which presented themselves in North and South Kivu proved to be irresistible. As time went on, the FDLR’s economic activities became increasingly important, and the profits increasingly significant. The UN Group of Experts estimated that the FDLR were making profits “possibly worth millions of dollars a year from the trade of minerals” and described the minerals business as “a high priority for FDLR”.<sup>104</sup>

Thanks to these profits, the FDLR have set up efficient and extensive business networks and are able to obtain many other supplies, including weapons, without difficulty. In some areas, they have also set up political, economic and social structures and administration, including, for example, their own parallel justice system.<sup>105</sup> In some cases, the FDLR live and work alongside the Congolese population (there are inter-marriages between the FDLR and Congolese civilians) – a relationship on which they depend for their economic survival; in other cases, their structures and modes of operation remain quite separate. The FDLR have become so well-established in some locations that the local population treats them as if they were state authorities, but in an atmosphere of fear, as the FDLR imposed itself through violence and extreme brutality. For example, in the context of a dispute between two traditional leaders over rights to exploit newly discovered cassiterite at Lwindi, in Mwenga, one of the traditional chiefs reportedly approached the FDLR and asked for their “protection and support” (against potential rivals) in exchange for half the mineral production.<sup>106</sup> This mirrors the way communities approach the FARDC for support, in exchange for a cut of mineral production, in areas under government control.

In South Kivu, the FDLR’s trading activity appears to have become an end in itself, and minerals form the backbone of that activity. The FDLR have become very well entrenched in parts of the *territoires* of Shabunda, Mwenga, Walungu, Uvira and Fizi – all of which contain gold or cassiterite mines – and have tended to settle in areas which are rich in minerals. As an illustration, one source explained that in the local area known as the *collectivité-chefferie* of Burhinyi (in Walungu), the FDLR controlled nine out of 18 *groupements*, all in Bas-Burhinyi; these include areas rich in minerals, forests and agricultural land. The FDLR sell their products in the nearby markets.<sup>107</sup>

Many Congolese interviewed by Global Witness described the FDLR as “*les grands commerçants*” (the big businessmen). They conduct their business openly, unchallenged, wandering around in towns and villages with or without their arms. For example, Global Witness researchers saw and spoke to FDLR members selling cassiterite in Lemera, a small market town in South Kivu, in August 2008. Similar patterns are observed in North Kivu, especially in Walikale. A member of an NGO from Walikale told Global Witness that in December 2006, he had seen a FDLR captain going to the market at Rusamambo, in *groupement* Ikobo, with large milk tins filled with gold.<sup>108</sup>

The FDLR go to great lengths to buy and sell goods, often travelling for several days on foot from the forested areas where they live to reach the nearest trading centre. In South Kivu, they have bases in several locations. Among these are the Itombwe forest, in the *territoire* of Mwenga; parts of the area known as the Moyen Plateau, near Minembwe, in the *territoire* of Fizi; the areas around Lulingu and Nzovu, in Shabunda; and the western and northern parts of the Kahuzi Biega Park. A young Rwandan man, believed to be a FDLR member, told Global Witness that he, together with a number of people he described as traders, had walked for four days from Kitopo, in the Itombwe forest, where he lived, to the town of Lemera to try to sell 40 kg of cassiterite. Another, who had made the same journey, said he had 300 kg of cassiterite “stocked somewhere else”. They were expecting to sell their cassiterite at Lemera for US \$7.5 a kg.<sup>109</sup>

A local researcher described how the FDLR travelled and traded in parts of South Kivu:

“Towards Mwenga and Kamituga, you see FDLR with their families and children. I have seen them: the men are armed and move like a column. At the market, the men stay one km outside and send their families in. The FDLR have agreed with the FARDC not to enter the market with arms. Women go into the market, buy and sell things including minerals, then go back to the men and they all go back into the forest together. Some women are in uniforms. Occasionally the men go into the markets but without arms.

The big markets have become big meeting places. The FDLR order things, send a column of people to go and buy them and return to the forest. I have seen this in Kasika. They walk from the forest for about six hours – groups of about 20 people with about four armed men in front, behind and in the middle. They have AK-47s, guns, rocket-launchers, chains of bullets and submachine-guns. In Mwenga and Kasika, I saw six or seven groups, each with about 20 people, and even more before and after.

They use the local population to support them, to collect their loot and ensure transport, accompanied by one or two FDLR soldiers. They go through FARDC barriers without any problems.”<sup>110</sup>

Like the FARDC, the FDLR use the local population to dig and work for them. They rarely dig in the mines themselves. A man believed to be an FDLR member told Global Witness: “The Hutu don’t exploit. The Bashi and Babembe [two other Congolese ethnic groups] exploit and the Hutu buy.”<sup>111</sup>

As with the FARDC, there are instances of forced labour by the FDLR, as well as a more passive form of cooperation on the part of the civilian population which has effectively been taken hostage. According to a member of a local NGO, “if a mine is discovered by the population, the FDLR come and take it over [...] No one can stop them. People just observe.”<sup>112</sup> The threat of violence always looms large over the relationship between the FDLR and Congolese civilians; one activist said “people simply can’t refuse to work for them”.<sup>113</sup> Eventually, in some locations, the population has reached an uneasy form of cohabitation with the FDLR, though privately they express frustration and resentment. In Kisimba nord, in Walikale (North Kivu), in a gold mine known as “*mali mingi*” (“lots of wealth”), the FDLR pay the miners to dig for them but give them a deadline by which they are expected to produce a certain amount. “If they don’t deliver the gold by that date, they have problems.”<sup>114</sup> They also sometimes use civilians as porters to carry minerals from one site to another – a practice used, for example, in the village of Lutika, 180 km north-east of Shabunda, where Congolese porters bring out wolframite, gold and cassiterite produced by the FDLR.<sup>115</sup>

In many locations, the imposition of “taxes” has taken the place of forced labour. In Kalehe and Mwenga, the FDLR charge miners a flat fee of 30% on mining proceeds in exchange for “protection and support”.<sup>116</sup> In Shabunda, the FDLR were collecting 2 kg of coltan or cassiterite every week from each mining site (there are at least 250 mining sites in the FDLR-controlled areas of Shabunda)<sup>117</sup> and a minimum of one gramme of gold (or its equivalent) from each mineshaft (each mining site has several mineshafts).<sup>118</sup> In other parts of Shabunda, the FDLR were collecting “taxes” in cash: US \$1 for every 30 kg of cassiterite. The money quickly adds up: for example, in 2008, there were at least seven FDLR roadblocks on the road from Kigulube to Bukavu, passing through Walungu.<sup>119</sup> A UN source estimated that between Shabunda and Bukavu, there were 14 barriers, around nine of which were controlled by the FDLR and around five by the FARDC. People travelling along this road each had to pay a total of about US \$20 for every journey.<sup>120</sup>

A miner from Shabunda was regularly subjected to extortion at FDLR roadblocks as he made the 340-km trek from Shabunda to Bukavu on foot: “It took me one week. It is dangerous. There are Hutu military [FDLR] on the road at Kigulube, Mitala, Nyalubemba, Lubimbe, Kishatu, Chulwe, Kisuku. There are 12 barriers on the roads from Shabunda, all controlled by Hutu. They ask for money [different amounts]. The total is US \$40. They are well armed [...] We are their meat, their animals. We have nothing to say.”<sup>121</sup>

At the local level, the FDLR often sell the minerals themselves, sometimes at the mines, sometimes in nearby locations. Once the minerals reach the larger towns, they are usually handled by Congolese civilians acting or trading on their behalf. The ranks of the FDLR are primarily made up of Rwandans, but they depend heavily on the Congolese population for their business dealings. These intermediaries, described by an activist as “the economic axis of the FDLR”,<sup>122</sup> are an important link in the chain. The system is highly organised. Although there are occasions when members of the FDLR are seen openly trading minerals, the more substantial sales are conducted through their Congolese intermediaries. These intermediaries buy other goods for the FDLR from towns such as Bukavu with the money made from the sales of minerals. Sometimes they are literally given a shopping list. One source told Global Witness: “The FDLR relay through Congolese. The Congolese transport the minerals from the forests and sell them to exporters. They then take other goods back to supply the FDLR in the forests. When the FDLR sell cassiterite, they specify what they want in exchange.”<sup>123</sup> According to another source, these intermediaries’ families are kept under close watch to make sure that the intermediaries return and do not run off with the money from the mineral sales.<sup>124</sup>

In the southern part of South Kivu – for example the areas around Minembwe in the *territoire* of Fizi – the FDLR, as well as some *mai-mai* and smaller armed groups, have been able to control mines with even less interference than elsewhere. Parts of this region are remote and heavily forested, making access and oversight very difficult. The main mineral found in these areas is gold; there are also some cassiterite and coltan deposits and precious stones.

With bases in Kilembwe and Kingizi, the FDLR have a near-monopoly on gold mining in this area. Kingizi, in particular, is a strategically important base which they use to stock up on minerals, food and other goods and supply their troops in other locations. Local residents sometimes see them carrying these goods on foot to their command post at Kilembwe.<sup>125</sup>

A mineral trader from Fizi told Global Witness:

“The FDLR buy minerals at the mines. I’ve seen them often, for example at Make Makilu, Kachoka, Ndolo and Kitumba, towards Nganja Milima. We know them. They wander around with arms. They tie their guns to their bicycles. They buy gold especially. They take it on motorised wooden boats across the lake. Kingizi is their base, on the shore. They can cross easily and go in and out. They have a short-cut from there to the mines, without going through the towns. They buy fish and take it to the mines where they sell it and buy minerals in exchange. They are big traders and buyers.”<sup>126</sup>

The minerals exploited in this area are exported by road or by lake to Burundi or across Lake Tanganyika into Tanzania, on canoes or small motorised boats. A number of gold traders based in the town of Uvira sell their gold to buyers in the Burundian capital, Bujumbura.

While the FDLR dominance of the mining trade is stronger in South Kivu, they also control mining areas and trade routes in North Kivu, for example in parts of Walikale. A provincial government official estimated that around 60% of cassiterite production in the *territoire* of Walikale was produced, directly or indirectly, by the FDLR. He described them as “strong and better organised than the local population”.<sup>127</sup> The FDLR’s presence in North Kivu is also important for maximising its profits from mineral production in South Kivu. There are many commercial links between the two provinces and some of the minerals produced by the FDLR in South Kivu are sold to *comptoirs* in Goma, in North Kivu, and exported from there.

Overall, the FDLR’s control of the mineral trade in large swathes of both provinces has presented a significant challenge to initiatives to dislodge them. Having established long-term economic bases, they are extremely reluctant to move away from these locations. At different times, the FDLR have apparently foreseen and anticipated operations planned against them. A source in Bukavu told Global Witness: “When the Nairobi and Goma accords were signed [in November 2007 and January 2008], the FDLR here reorganised and retrained and intensified their supplies. Their headquarters are mobile.”<sup>128</sup> More recently, since January 2009, one of the FDLR’s responses to the Rwandan and Congolese joint military operation against them has been to turn against the local civilian population, accusing them of betrayal. As they have dug in, the FDLR have become increasingly violent, killing and raping civilians in a bid to hold on to their territory.<sup>129</sup>

The FDLR have categorically rejected all allegations that they are involved in the mineral trade. The commander of an FDLR brigade in South Kivu told Global Witness: “No FDLR military can go into the mines or do business [...] We are only involved in agricultural activities [...] It is totally false that the FDLR are involved in mining in this area. All we do is buy things like soap [...] We are just passing through. We don’t control territory.”<sup>130</sup> Reacting to Global Witness’s press release of 10 September 2008, which denounced the FDLR’s extensive involvement in mining, the FDLR issued a statement claiming: “We do not need to get involved in activities or exploitation or traffic of gold to attain our noble objective, the liberation of our country.”<sup>131</sup> Likewise, in a response to the report of the Group of Experts, they stated: “The FDLR have never financed their activities with revenues from any illegal trade of mining resources of the DRC.”<sup>132</sup>

## 7. The relationship between the FDLR and the FARDC

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“The collaboration is quasi-official.”  
Human rights activist, Goma, 8 August 2008

Although the FARDC have been deployed to areas where the FDLR operate, their presence has not had any effect in curbing the FDLR’s exploitation of minerals or other activities. On the contrary, through mutual agreement, the FARDC and the FDLR have operated side by side, granting each other freedom of movement through each other’s territories and allowing each other to trade without interference.

The relationship between the FDLR and the FARDC is rooted in the earlier years of the war, when the two groups collaborated against a common enemy: Rwanda. The FDLR, allied with the Congolese national army, fought Rwandan troops and their allies, the RCD-Goma. The RCD seized control of large parts of eastern DRC from 1998 and remained in a position of power in the Kivus until it eventually joined the transitional government in 2003. Following the demise of the RCD, which suffered a heavy defeat in the 2006 elections, a new Tutsi-dominated rebel movement was formed, the CNDP, some of whose leaders had previously been members or sympathisers of the RCD. In particular, Laurent Nkunda, the CNDP’s leader until January 2009, had a long history of fighting alongside the Rwandan army and with the RCD. Many among the senior ranks of the FARDC therefore still feel sympathy for the FDLR, despite their history of extreme violence in both Congo and Rwanda. There are frequent reports that members of the FARDC supply the FDLR with arms, ammunition and uniforms.<sup>133</sup>

Global Witness researchers met senior FARDC commanders who did not attempt to conceal these sympathies. They used the term “we” when referring to the FDLR, describing them as “our brothers” and identifying with their demands, in particular for political dialogue with the Rwandan government. One senior FARDC official, speaking in a personal capacity, told Global Witness: “They [the FDLR] just want guarantees of security [...] You have to get to know them and get to know their reality here [...] The FDLR survive from natural resources because they have no money or help. God did this – made for them to be in an area where there are natural resources. Otherwise [...] people would have died.”<sup>134</sup>

Congolese civilians interviewed by Global Witness in North and South Kivu described a happy co-existence between the FARDC and the FDLR in certain areas. For example, one man said that the FDLR and FARDC were sometimes seen fraternising in a market at Birhala, in Haut-Burhinyi (Walungu, South Kivu), an area nominally under FARDC control.<sup>135</sup> In parts of North Kivu, the system is slightly more formalised, with the FDLR and the FARDC having to obtain advance permission to travel into each other’s areas. The FDLR then use roads controlled by the FARDC, and vice versa, without difficulty. However, this apparent harmony between the two groups can be misleading: many Congolese civilians, including local authorities and community leaders, describe a brutal forced cohabitation with the FDLR, in which they have no choice but to submit to the FDLR’s military and administrative control.

A human rights activist explained that the proximity of the relationship between the FDLR and the FARDC sometimes depended on external developments: “In North Kivu, the FARDC and FDLR are sometimes close, sometimes separate. But they don’t attack each other. Where both are present, they share the spoils and both extort from the population. When there is a Rwandan or CNDP presence, they get closer together.”<sup>136</sup>

These dynamics may change in 2009 following the joint Congolese and Rwandan military operation to dislodge the FDLR. At the time of writing, it is too early to assess the lasting impact of this operation – a new collaboration between two armies which have been sworn enemies for more than ten years. The joint operation could have tested the resolve of the FARDC to tackle the presence of the FDLR; in practice, it appears that the FARDC left most of the implementation of the operation to the better-trained and better-motivated Rwandan forces.

In the second half of 2008, local sources reported that the FARDC rarely challenged the FDLR, and that if anything, the FDLR had the upper hand in terms of military strength. It is an uneven balance of power, as despite foreign training and attempted reform programmes, the FARDC remains a disorganised and ill-disciplined army. An NGO representative in Goma told Global Witness: “Around Walikale, the FDLR are in control even when the FARDC are there. They are stronger and more numerous than the FARDC. They are experienced soldiers, much more experienced than the *mai-mai* or the FARDC. They are masters of the place.”<sup>137</sup> A similar situation prevailed in South Kivu.

A source in Bukavu described seeing a group of around 20 or 30 FDLR, wearing new FARDC uniforms, carrying new weapons, radios and other equipment. Soldiers from a nearby FARDC camp said that they had seen the FDLR column, but had not reacted as they had not received orders to do anything about it; and that anyway, they had neither the transport nor other means to block an armed FDLR battalion.<sup>138</sup>

It is not clear to what extent the FDLR and the FARDC systematically share the proceeds of mining. Overall, it appears that they each exploit the mines in the areas they control, independently of each other but with mutual consent – an arrangement which has proved highly beneficial for both parties. Some sources allege a more active form of collaboration; for example, Global Witness was informed that the FDLR sometimes give money to FARDC officers to buy cassiterite in Walikale and sell it in Goma.<sup>139</sup> There are also frequent reports of FARDC and FDLR dividing up the “taxes” they collect from the civilian population at roadblocks. Along some roads in South Kivu, there may be successive FDLR and FARDC roadblocks. According to a source from Shabunda, in some locations, the FDLR and the FARDC are both present at the same roadblock; this was the case, for example, at Nyalubemba, a location where minerals are traded, about 100km from Bukavu.<sup>140</sup>

A researcher explained the arrangements between the FARDC and the FDLR in strategic locations in the *territoire* of Shabunda:

“The *groupement* Bamuguba Sud used to be entirely controlled by the FDLR, from the border with Walungu *territoire*. Since the end of 2007, the FARDC have been deployed there. The headquarters of the FARDC is Kigulube, a big mining centre. The aerodrome is at Nzovu, another mining centre [...] Yet the FDLR are still there too. They have divided up the zones. They have contact with each other. More than 70% of zones in this area are controlled by the FDLR. FARDC have to go through FDLR areas. They negotiate with each other. They agree not to attack each other. They respect each other’s zones. They each administer their own zones and collect ‘taxes’. In this *groupement*, it is mostly cassiterite, especially in Nzovu and Kigulube [...]

Before 2007, all the centres were controlled by the FDLR. When the FARDC came, they agreed that the FDLR would liberate the commercial centres. These came under the control of the FARDC but other areas are still under the control of the FDLR.”<sup>141</sup>

The situation in Shabunda illustrates the extent of collaboration between the FARDC and the FDLR. The FDLR control large parts of Shabunda and the mineral production there. In order to transport their minerals out of Shabunda, they are dependent on the cooperation of the FARDC, who control the local airports. Thus minerals produced and sold by the FDLR are accompanied to the planes by FARDC soldiers; from the local airstrips in Shabunda, the minerals are then flown to Bukavu or Goma.<sup>142</sup> Although the airstrips are under FARDC control, a miner from Shabunda reported seeing some FDLR members at Nzovu airstrip in early 2008.<sup>143</sup> Another local source reported that in 2007, a FARDC colonel used to personally take the FDLR's cargo to Lulingu aerodrome.<sup>144</sup>

The collaboration between the FARDC and the FDLR is particularly significant at Lulingu, one of the main aerodromes from which minerals produced by the FDLR are flown out to Bukavu or Goma.<sup>xiii</sup> The Group of Experts reported that more than 90% of minerals arriving at the airstrip at Lulingu come from FDLR-controlled areas.<sup>145</sup> The FDLR regularly sell their minerals to traders in Lulingu, apparently in full view of local civilian and military authorities, without anyone challenging them.<sup>146</sup>

The FARDC based at Lulingu profit directly, both from their own trade and that of the FDLR. A local researcher told Global Witness:

“Minerals leave from there [Lulingu] in big quantities. The centre is built on cassiterite. It is controlled by FARDC. Minerals go out by plane from Lulingu to either Kavumu (Bukavu) or Goma. They use Antonovs or other planes. They go out with cassiterite and come back with oil. The airport is controlled by FARDC for ‘official’ traffic. State agents are there and tax it. The FARDC don’t tax at the airport. They use civilians to export their minerals for them, using civilian names. The commanders are big traders but they don’t show themselves. Their wives or commissionnaires sell it and travel for them. Commanders feel lucky to be posted there. All fines, bribes, etc are paid in cassiterite.”<sup>147</sup>

Officially, the FARDC, and the Congolese government, deny collaborating with the FDLR. The commander of the 10th military region in Bukavu, General Pacifique Masunzu, told Global Witness: “There are no places where the FDLR and FARDC are together [...] It is not true that the FDLR and FARDC have relations or share minerals. We are not allowed to collaborate with foreign armed groups. There are directives from our hierarchy. We respect them at the level of our units. There is no case of military collaboration with the FDLR.” He confirmed that FARDC military were present at Shabunda, Lulingu and Nzovu airports “for security” but denied that the FDLR sent their goods out through Shabunda or came to the airports themselves.<sup>148</sup>

The FDLR have also vehemently denied any form of collaboration with the FARDC.<sup>149</sup>

In practical terms, the close ties felt by many FARDC towards the FDLR pose a serious challenge for the broader strategy to disarm and disband the FDLR. In November 2007, as a result of the Nairobi agreement signed between the Congolese and Rwandan governments, MONUC developed plans to work alongside the FARDC in a series of joint operations against the FDLR. One of the elements of this strategy was to take steps to cut off the FDLR's economic bases, including by reducing the FDLR's ability to control mines in four designated areas – two in North Kivu and two in South Kivu. The FARDC, with MONUC support, were also supposed to search aircraft and deploy in markets, trading centres and trafficking routes.<sup>150</sup> However, when Global Witness met MONUC military officials in Goma in July and August 2008, just before this phase of the operation

<sup>xiii</sup> There are eight airstrips in Shabunda. The main ones are Lulingu, Shabunda, and Nzovu. The others, which are apparently used less regularly, are Mulungu, Kama, Nyalukungu, Katanti and Kachungu.

was scheduled to begin, it was apparent that the impact of the relationship between the FDLR and the FARDC on these plans had not yet been addressed.<sup>151</sup> Yet senior MONUC personnel were clearly aware of the challenge it would pose. One MONUC official told Global Witness: “There is informal, unofficial collusion between FARDC and FDLR. It is not necessarily structural. The government denies it but we see it. There are local relationships but also at some senior levels. This makes it difficult for our operations as the FARDC are not necessarily committed.”<sup>152</sup>

This phase of MONUC’s operations was due to begin in September 2008, but was delayed by the resurgence of fighting in North Kivu between the CNDP and the FARDC. Ten FARDC battalions which were supposed to be deployed in operations against the FDLR were diverted to fight the CNDP.<sup>153</sup> MONUC was planning to resume these operations in December 2008, but in January 2009, Rwanda and Congo launched their own joint military operation against the FDLR in North Kivu, in which MONUC was not directly involved.<sup>154</sup> The Rwandan troops officially withdrew at the end of February 2009, with Rwandan and Congolese officials declaring “success” in breaking some of the key FDLR command structures.<sup>155</sup>

In February 2009, the Congolese government announced that further FARDC operations against the FDLR, with MONUC support, were planned for South Kivu.<sup>156</sup> The status of these operations remained unclear for several weeks. Eventually, on 28 April, Minister of Defence Charles Mwando Nsimba announced publicly that the operation would be launched around ten days later and would last three months.<sup>157</sup> In the meantime, the March 2009 report of the UN Secretary-General had noted that “the continued presence of the FDLR in key areas remained a source of concern [...] FDLR elements are present in Mwenga territory [South Kivu] and control the area both militarily and economically. The FDLR also controls the mines and collects ‘taxes’ from civilians in the territory.”<sup>158</sup>

## **8. Other armed groups involved in the mineral trade**

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### *The CNDP*

The CNDP has not relied as heavily on the mineral trade as the FDLR, as the territories under its control, in North Kivu, tend to contain fewer large deposits of minerals. Primarily for this reason, Global Witness did not carry out detailed first-hand investigations into the CNDP’s involvement in the mineral trade and did not visit areas under its control. However, several sources provided information to Global Witness on the CNDP’s operations and activities and described ways in which it benefited from the mineral trade, in particular through an efficient system of “taxation”.

The CNDP controls some areas where mineral deposits are found. These include a coltan mine at Bibatama, for which Senator Edouard Mwangachuchu holds the mining rights, through his company Mwangachuchu Hizi International (MHI); a wolframite mine at Bishasha; and cassiterite deposits in other locations.<sup>159</sup>

Like other armed groups, the CNDP has relied on the civilian population to dig for minerals and taken a proportion of the production. More significantly, CNDP troops have found other ways of cashing in on the mineral trade, through extortion and the imposition of “taxes” – which they collect in cash or in kind – along the roads, at checkpoints and at border crossings. A particularly lucrative source of revenue for the CNDP has been the crossing at Bunagana, at the DRC-Uganda border.<sup>160</sup> CNDP troops have also been involved in the charcoal trade from the Virunga national park and collect significant sums from “taxing” it.<sup>161</sup>

The CNDP has derived most of its support from Rwanda and from other Tutsi individuals in the DRC, in Rwanda and elsewhere in the diaspora.<sup>162</sup> It has also enjoyed political and financial backing from businesses in these and other locations. A number of businessmen voluntarily donate to the CNDP; they reportedly include individuals or companies active in the mineral trade.<sup>163</sup>

At the time of writing, CNDP troops are going through a process of integration into the FARDC. There is a strong likelihood that they will continue to exploit minerals or derive benefits from the trade in the areas where they are deployed, alongside or in parallel with their FARDC colleagues.

### ***PARECO and the mai-mai***

Other armed groups, such as PA RECO and different *mai-mai* groups in North and South Kivu, are sometimes involved in mining too, but in an opportunistic way rather than as part of a well organised strategy. This reflects the nature of these groups, which tend to be less homogenous than some of their counterparts and have a less well defined political or economic agenda. Members of the *mai-mai* Yakutumba group, for example, exploit gold in parts of the *territoire* of Fizi, in South Kivu; they dig alongside the civilian population and extort “taxes”. In North Kivu, other *mai-mai* exploit gold, cassiterite and coltan in locations such as Munjuli and Usala (Walikale) and Mahanga (Masisi), sometimes in collaboration with the FDLR. The *mai-mai* also make arrangements with local traditional chiefs who “own” certain mines, ensuring that each profit from the production of artisanal miners.

### ***The FRF***

Global Witness received reports that the FRF, a Tutsi armed group active in the southern part of South Kivu, in the area known as the Haut Plateau near Minembwe, is present in some gold mining areas and may be profiting from the trade there.<sup>164</sup> Global Witness has been unable to verify these reports.

### ***Ex-combatants***

Demobilised *mai-mai* and other former combatants who have been unable to find employment sometimes turn to mining, both in North Kivu (particularly around Walikale) and South Kivu. Some have been responsible for incidents of violence and intimidation. A miner, himself a former *mai-mai*, who worked in a gold mine at Kasonge, in Basimukuma Sud, *collectivité* Mutambala, in the *territoire* of Fizi, said there were many former combatants in this and other mines in the area. He told Global Witness: “The ex-combatants in the mines behave like military... They come into the concession. They dig, but if they don’t produce enough, they try to ‘judge’ and collect ‘fines’. They have their own mineshafts. There are *ex-mai-mai*, ex-RCD, ex-FARDC. Some have weapons but don’t take them into the mines.” He attributed this phenomenon to the failures of the demobilisation programme, which, he said, had abandoned many former combatants without any training, social or economic prospects.<sup>165</sup> Some of these demobilised combatants have retained their weapons; others have handed them in, but the proliferation of small arms means that it is very easy for them to acquire new ones. A local development worker said that *mai-mai* were involved in gold mining in Mukera, about 21 km from Fizi: “The *mai-mai* dig there. Sometimes they are in civilian clothes but still carry arms. I’ve seen them. There is ‘community work’. They extort from people if they don’t participate. They sometimes use the population as hostages to dig in their mineshafts. The *mai-mai* take everything. They don’t give anything to the miners.”<sup>166</sup>

## 9. The Congolese government's difficulties in controlling the mining sector

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“The state itself has destroyed all the structures of the state.”

Senior civil servant, Bukavu, 28 July 2008

Faced with successive rebellions, the Congolese government has failed to control the eastern provinces for most of the last ten years. Located on the opposite side of this huge country from the capital, Kinshasa, more than 1,000 km away, the provinces of North and South Kivu have retained a distinct identity and are more closely bound up with events in neighbouring countries to the east – Rwanda, Burundi and Uganda – than with Kinshasa. Despite nationwide elections in 2006, in which the majority of people in the east voted for the incumbent president, Joseph Kabila, the government's political control over this region has remained tenuous.

### ***Box: Congolese civilian government agencies working in the mining sector***

**Division des Mines:** the provincial representation of the Ministry of Mines. Responsible for overseeing the mining sector.

**Service d'assistance et d'encadrement du small scale mining (SAESSCAM):** government agency, within the Ministry of Mines, responsible for overseeing and regulating the artisanal mining sector.

**Centre d'évaluation, d'expertise et de certification (CEEC):** government agency, within the Ministry of Mines, responsible for certifying minerals. Originally set up to certify diamonds as part of the Kimberley Process, the CEEC has since extended its work to other minerals including gold, cassiterite, coltan and wolframite. It also collects data on mineral production, purchases by *comptoirs* and exports.

**Office congolais de contrôle (OCC):** national government agency responsible for controlling the quality, quantity and conformity of exports.

**Office des douanes et accises (OFIDA):** national customs agency responsible, among other things, for controlling exports.

The result is that provincial government officials find it extremely difficult to enforce the law. Not only does the Kinshasa government lack authority in the east, depriving them of meaningful political support, but the area has become so heavily militarised that many civilian officials are powerless to do their jobs. The challenge is particularly striking in the mining sector. Global Witness met several provincial officials who were concerned about the illicit exploitation and exports of minerals and who were trying, to the best of their ability, to curb these practices, but were unable to exercise their authority in the face of the threat of violence by armed groups or their own national army. In response to the military presence at the mine in Mukungwe, for example (see section 5), the head of the Division des Mines wrote to the Governor of South Kivu in March 2008 asking for the military to be removed from the mine.<sup>167</sup> The Vice-Governor supported this request and wrote to the commander of the 10th military region, asking him to withdraw all his military from Mukungwe as well as from all other mining sites in South Kivu.<sup>168</sup>

Several months later, no action had been taken. The military were still present in Mukungwe and, if anything, had reinforced their control of the mine. FARDC mining at other sites in South Kivu continued unabated.

At times, provincial government officials in North and South Kivu, for example in the Division des Mines, have tried to implement measures to limit illicit exports and tighten regulations. Some of these measures have had a positive effect in improving the accuracy of statistics and in raising the level of officially declared exports and revenues, especially since 2007. However, smuggling and fraud are still commonplace. The situation is aggravated by pervasive corruption within the government's own ranks, hindering efforts by well-intentioned officials to clean up the sector.<sup>169</sup>

In its 2007 annual report, the Division des Mines in North Kivu noted that fraud had gone down considerably since 2006 but had not been totally eradicated. It identified some of the likely causes of fraud and of the unreliability of the government's own statistics, including the absence of statistics on minerals transported by road, for example between Goma and Bukavu and between Walikale and Goma; imperfect procedures and negligence on the part of some officials in the collection of statistics; unrecorded consignments of wolframite, in particular from the Bishasa mine in Masisi and the island of Idjwi in South Kivu; and more favourable tax rates in neighbouring countries.<sup>170</sup>

Smuggling of gold is especially rife. Officials from several agencies responsible for export statistics told Global Witness that they did not have any figures for gold exports at all. They attributed this in part to the high rate of taxation in the DRC and in part to the fact that gold is easier to smuggle than cassiterite.<sup>171</sup> The head of the Division des Mines in South Kivu estimated that at least 90% of gold exports were not declared. Only 20 kg a month was officially recorded, whereas gold production for the province was estimated, on average, at 300 to 400 kg a month.<sup>172</sup>

Government systems for recording mineral production and exports still do not provide sufficiently precise information to ascertain whether, and which, minerals may have passed through the hands of armed groups. The Division des Mines in North Kivu told Global Witness that they were making greater efforts to trace the origins of minerals.<sup>173</sup> Such initiatives are to be encouraged. However, in order to be used effectively, these systems will need to be accompanied by much stronger law enforcement measures. The collection of information alone will not succeed in stamping out the illicit trade.

Indeed, none of the measures set up by the government so far has affected the capacity of armed groups or the FARDC to continue trading in minerals. While some of the problems stem from administrative and bureaucratic obstacles – for example provincial mining inspectors may have to wait several months for authorisation to visit mines – others are a direct consequence of the militarisation of mining across the region, with members of the FARDC or armed groups actively blocking civilian authorities from doing their work. This has been the case with Bisie mine, for example, where the FARDC have prevented SAESSCAM from operating (see section on Bisie above).

Some mining inspectors and other civil servants have become so afraid of the actions of FARDC soldiers or armed groups that they no longer dare to visit the mines or even complain about the presence of these groups there.<sup>174</sup> Other officials have simply given up trying to report abuses or to control what is clearly uncontrollable. A senior official stated that the FARDC were systematically involved in instances of fraud, even for minerals that they had not produced themselves: “You can't export fraudulently if you don't have the support of the army [...] The state itself has destroyed all the structures of the state [...] Fraud is the rule.”<sup>175</sup> A provincial customs official complained that at Kiliba, near the border with Burundi, and Baraka (both in South Kivu), the FDLR intimidated and blocked the work of customs agents in order to force their products through; economic operators were having to pay “taxes” to armed groups in front of customs officials.<sup>176</sup>

More broadly, provincial government officials admit that they struggle to control their frontiers, even those where there are official border crossings and customs posts. Lake Kivu and Lake Tanganyika are among the easiest routes for smuggling goods out of the country, especially at night, as there are no controls there at all. The Vice-Governor of South Kivu described the houses on the shores of Lake Kivu as “nocturnal ports”; small motorised boats, carrying minerals and other goods, cross the lake several times a night.<sup>177</sup>

At the national level, the government in Kinshasa has failed to take effective action to demilitarise the mining sector in North and South Kivu. On several occasions, the Ministry of Mines has announced its intention to crack down on the illegal trade and on companies buying minerals produced by armed groups. However, to date, these promises have not materialised. Through a combination of inability and lack of political will to confront the military, the government has also allowed senior FARDC officers, and those under their command, to continue profiting from the trade with impunity.

One of the more radical measures imposed by the Minister of Mines in Kinshasa was a temporary suspension of mining in Walikale in February 2008, supposedly to stop illicit movements of minerals and, more specifically, to address the situation at Bisie. The measure was short-lived: after a few weeks, following intensive lobbying by traders, as well as by the local population who complained that the planes which used to fly out with cassiterite were no longer bringing food and other supplies into Bisie, the Governor of North Kivu lifted the suspension in April 2008, and the transport of minerals from Walikale resumed. Even during the period of the suspension, mining did not stop: buyers and traders simply switched to other routes to export their minerals, for example via Bukavu in South Kivu. This example is typical of the way in which decisions made in Kinshasa are quickly over-ruled by local interests.

## 10. The role of the *comptoirs*

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“We all end up buying minerals which, in some way, have been produced illegally. You can’t just ask us to stop. We have no alternatives other than closing.”  
 Representative of a *comptoir* speaking to Global Witness, Goma, 9 August 2008

The *comptoirs* – trading houses based in the towns of Goma and Bukavu<sup>xiv</sup> – are a critical point in the chain of supply and export of minerals from eastern DRC. The *comptoirs* buy minerals from all over North and South Kivu (as well as other locations), including those produced by and benefiting armed groups and the FARDC, then sell them on, primarily to foreign companies. This trade accounts for the majority of exports from the two provinces, with the *comptoirs* effectively acting as a gateway to the international markets. The South Kivu branch of the *Fédération des Entreprises du Congo* (FEC), the federation of Congolese businesses to which most of the main *comptoirs* are affiliated, estimated that in 2007, official *comptoirs* in South Kivu exported each month an average of 450 tonnes of cassiterite, 45 tonnes of wolframite, 16 tonnes of coltan and 10 kg of gold.<sup>178</sup>

Officially registered *comptoirs* are required to obtain a licence from the Ministry of Mines. Thereafter, they are operating “legally”, at least from a technical point of view. Likewise, the *négociants* who supply them with minerals are also required to register with the authorities and obtain a licence.

The *comptoirs*’ official status has allowed them to claim a certain legitimacy. This in turn has enabled the foreign purchasers who buy minerals from them to claim that they buy only from

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<sup>xiv</sup> Other unofficial trading companies and buyers, sometimes calling themselves *comptoirs* too, operate in smaller towns and other locations in North and South Kivu.

“legal” sources. In reality, several of these *comptoirs* and foreign purchasing companies are buying and selling minerals produced by armed groups or FARDC units entirely illegally.

In 2008, there were approximately 40 licensed *comptoirs* in North and South Kivu.<sup>179</sup> Many of these *comptoirs* are run by individuals who have been buying and selling minerals throughout the war. Their businesses have survived, or even thrived, as they have been willing to trade with armed groups, directly or indirectly, regardless of their record of violence and human rights abuse.

Some of these individuals are powerful businessmen in Goma or Bukavu, with strong political connections inside the DRC and in neighbouring countries. Among them are Mudekereza Namegabe, who heads the *comptoirs* Groupe Olive and MDM, and is president of the South Kivu branch of the FEC; Muyeye Byaboshi, who runs Etablissement Muyeye, another prominent *comptoir* in Bukavu; and Alexis Makabuza, a businessman in Goma who heads Groupe Minier Bangandula (GMB), a company which has been in conflict with MPC over rights to mine cassiterite at Bisie. GMB controls mining areas adjacent to Bisie. Alexis Makabuza also works for Global Mining Company (GMC), another mineral *comptoir* in Goma. In August 2008, he informed Global Witness that GMC had hired him as a consultant, to set up the company’s mineral treatment factory; he stressed that he did not own shares in the company.<sup>180</sup>

Several of these *comptoirs*, and the individuals running them, have been named by the Group of Experts as trading in minerals produced by armed groups. In particular, Groupe Olive, Muyeye, MDM, WMC, Panju and Namukaya (all major *comptoirs* in South Kivu) are cited as knowingly trading in minerals produced or handled by the FDLR, notably through pre-financing *négociants* who work closely with the FDLR.<sup>181</sup> The *comptoir* Munsad is cited as buying coltan from the Bibatama mine, under CNDP control.<sup>182</sup>

Groupe Olive has been granted exploration permits for cassiterite mines at Lemera,<sup>183</sup> an area used both by the FARDC and the FDLR to trade in minerals (see sections 5 and 6).

The *comptoirs* buy from the FDLR and the FARDC through intermediaries, who, according to local sources, are well-known to everyone in the trade. They also buy minerals through official *négociants*, with whom they have built close and sustained relationships; some of these *négociants* have connections with armed groups.<sup>184</sup> One source told Global Witness:

“Everyone knows who the FDLR intermediaries are but they won’t say in case it implicates them. The FARDC are also involved. Everyone, including the authorities, is involved [...] They all know each other but won’t say [their names]. But we know which *comptoirs* they sell to in Bukavu [...] Muyeye, MDM. They buy cassiterite, coltan and gold from Shabunda, Mwenga, Hombo and Bunyakiri, either from FDLR areas or through the civilian population used by the FDLR. The intermediaries then send the minerals by plane or trucks to Bukavu. They sell to those particular *comptoirs*. Everyone knows what’s going on but the authorities don’t control the situation.”<sup>185</sup>

### ***A string of excuses: the responses of comptoirs***

Global Witness met representatives of many of the main *comptoirs* in Goma and Bukavu in July and August 2008, as well as the presidents of the FEC in North and South Kivu and the chairman of the association of *comptoirs* in North Kivu. Global Witness asked them what measures they were taking to ensure that they were not purchasing minerals from armed groups or military units and that their trade was not fuelling the conflict. Representatives of several *comptoirs* claimed that they could not know exactly where the minerals came from, as it was not possible to distinguish minerals

from different sites, and that minerals from different locations were often mixed together before reaching them.<sup>186</sup>

These claims do not stand up to scrutiny when confronted with the reality on the ground. The individuals running the main *comptoirs* are, for the most part, Congolese businessmen from the region with many years' experience in trading in minerals. They have extensive networks of contacts in the mining areas of both provinces and use local agents to visit mining sites and trading centres on their behalf; some of them reportedly even visit these sites themselves. A humanitarian source from Walikale told Global Witness: "The *comptoirs* are seen everywhere around the mines".<sup>187</sup> A local buyer in Uvira claimed that all the main *comptoirs* based in Bukavu know exactly where their supplies originate from: they usually ask the *négociants* for information about the origin of the minerals as the quality varies from mine to mine.<sup>188</sup> Thus statements by Mudekereza Namegabe that "*comptoirs* find it difficult to know what's happening in the mines and who's exploiting what"<sup>189</sup> or by Alexis Makabuza that *négociants* could deceive *comptoirs* about the origin of minerals<sup>190</sup> seem implausible.

More generally, within North and South Kivu, the fact that certain territories and mines are controlled by particular armed groups or army units is common knowledge. A range of different people interviewed by Global Witness within a period of just a few weeks were able to provide precise local information to this effect. It is therefore highly unlikely that well-placed individuals involved in the mineral trade and based in the heart of the region would not have access to this information. Even if some did not, they have a duty to obtain it and the means to do so.

Independently, the Group of Experts reached a similar conclusion: "it is clear that the traders named below [in the section of its report on the FDLR's financing through natural resources] are aware of the profits these [armed] groups derive from this trade, and that they are not vigilant enough in the sourcing of minerals they purchase".<sup>191</sup>

In a meeting with Global Witness, representatives of several *comptoirs* affirmed that none of them bought minerals from the FARDC.<sup>192</sup> Yet at least one subsequently informed Global Witness that it purchased and sold minerals from mines widely known to be under the control of the FARDC. In response to a letter from Global Witness about due diligence policies, the *comptoir* Pan African Business Group stated that it bought cassiterite from Bisie and Njingala in Walikale (as well as mines in Maniema province) and that it had representatives on site in these locations.<sup>193</sup> Other sources informed Global Witness that the *comptoirs* Sodexmines and Amur were among the biggest buyers of cassiterite from Bisie, with Sodexmines exporting around seven containers a week (each container carrying 22-24 tonnes); both *comptoirs* export the cassiterite to Belgium (see section 11).<sup>194</sup> Sodexmines is one of the largest *comptoirs* in North Kivu.

Since mid 2008, the *comptoirs* in Goma and Bukavu have been coming under increasing pressure to exercise greater care in verifying the origin of their purchases. Some have reacted defensively to allegations that they may be trading in minerals produced by armed groups. In December 2008, FEC North Kivu wrote a letter to the Minister of Mines in Kinshasa complaining that the *comptoirs* were coming under attack by the Group of Experts and NGOs.<sup>195</sup>

In meetings and correspondence with Global Witness, representatives of *comptoirs* stressed that they were not knowingly doing business with armed groups. Muyeye Byaboshi – whose *comptoir* is named by the Group of Experts as buying minerals produced by the FDLR – minimised the involvement of the FDLR in the mineral trade. He denied that there was any link between artisanal mining and the FDLR and claimed that the FDLR did not exploit gold, or only a very small amount.<sup>196</sup> The Director of Pan African Business Group said his *comptoir* only bought cassiterite

originating from government-controlled zones; he did not comment on the fact that the profits from minerals in these zones often go straight into the pockets of the FARDC.<sup>197</sup>

Some *comptoirs* stated that they were adopting new ethical policies.<sup>198</sup> In correspondence with Global Witness, Pan African Business Group stated that it had set up a system whereby its representatives would check the origin of all minerals from the *négociants* who supplied them.<sup>199</sup> Zulfikarali Panju, head of Panju *comptoir*, claimed that before any purchase, he sought as much information as possible about the identity of the supplier and the origin of minerals; he had concluded that most of the minerals purchased came from the provinces of Maniema or northern Katanga.<sup>200</sup> Yet the Group of Experts names Panju as one of the *comptoirs* which are directly complicit in pre-financing *négociants* who work closely with the FDLR and are aware that some of the mines they buy from are controlled by the FDLR.<sup>201</sup>

The *comptoirs* have tended to blame the Congolese state for its failure to control the mining sector rather than address the question of their own responsibility to exercise due diligence.<sup>202</sup> They have also shifted the focus of the discussion on to what might happen if mining in eastern DRC were stopped altogether, justifying their activities on the basis that a large proportion of the population in eastern DRC would be left without any source of income if the trade were shut down. The FEC in South Kivu described international campaigns linking the ongoing conflict with the mineral trade as “a plot against the Congolese population with a view to making them ever poorer”.<sup>203</sup> In early 2009, several mineral *comptoirs* in South Kivu claimed to have suspended their activities in response to allegations that they were fuelling the conflict.<sup>204</sup>

Global Witness would welcome measures by the *comptoirs* to adopt ethical policies as a first step towards ensuring that their trade is not contributing to the conflict. However, until such policies are implemented, and for as long as these *comptoirs* continue to purchase and sell minerals which have passed through the hands of armed groups or FARDC units, their promises remain hollow.

## **11. Foreign companies buying or handling minerals from eastern DRC**

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Foreign companies who buy minerals from North and South Kivu also have a responsibility to ensure that their trade is not benefiting any of the warring parties. Yet some of these companies, based in Europe, Asia and elsewhere, have been buying minerals from *comptoirs* known to be trading with armed groups for several years, apparently without adjusting their practices in light of the conflict or carrying out sufficient due diligence to ensure that their trade is not fuelling the violence.

According to Congolese government statistics, companies registered in Belgium accounted for the largest proportion of cassiterite, wolframite and coltan imports from North and South Kivu in 2007 and from North Kivu from January to September 2008.<sup>205</sup> The main Belgian companies are Trademet, Traxys, SDE, STI and Specialty Metals.<sup>206</sup>

After these Belgian companies, the largest buyers of cassiterite from North and South Kivu in 2007 were the Thailand Smelting and Refining Corporation (THAISARCO), the world’s fifth-largest tin-producing company<sup>207</sup> owned by the large British metals company Amalgamated Metal Corporation (AMC) Group,<sup>208</sup> Afrimex, a UK-registered company (see below); and MPA, the Rwanda-based subsidiary of South-African owned Kivu Resources. These were followed by the Malaysian Smelting Corporation Berhad (the world’s fourth-largest tin-producing company),<sup>209</sup> and companies based in China, India, Austria, the Netherlands and Russia.<sup>210</sup> Four other companies – African Ventures Ltd in China, Met Trade India Ltd in India, Eurosib Logistics JSC in Russia and BEB

Investment Inc. in Canada – accounted for an increasing proportion of cassiterite imports from North Kivu between January and September 2008.<sup>211</sup>

For coltan, the largest importers in 2007 were Traxys, THAISARCO and companies based in Hong Kong and South Africa.<sup>212</sup>

For wolframite, Belgian companies (Trademet and Specialty Metals) were once again the largest buyers in 2007. Other buyers included Afrimex, THAISARCO and companies registered in the Netherlands, China, Austria, United Arab Emirates and Russia.<sup>213</sup>

There are no reliable statistics for gold exports from North or South Kivu. Even for cassiterite, wolframite and coltan, Congolese government statistics are incomplete, and there are large discrepancies with corresponding statistics from importing countries. For example, statistics from Thailand and Malaysia report much higher figures for cassiterite imports from the DRC than those cited by the Congolese government.<sup>214</sup> There may be a number of explanations for these discrepancies, including inaccuracy of statistics; smuggling and failure to declare a significant proportion of mineral exports from the DRC; and a common practice among exporters of under-declaring both the value and quantity of exports. In addition, Congolese government statistics sometimes list the transport or freight company, rather than the buyer, as the importer. In some cases, this may distort the picture as the transport company may not be based in the same country as the buyer.

Some of the *comptoirs* provided Global Witness with additional information on their clients. For example, in December 2008, the *comptoir* Pan African Business Group informed Global Witness that in the 13 months that it had been trading, it had bought 850 tonnes of cassiterite and that its business partner was a Russian company, Novosibirsk Integrated Tin Works.<sup>215</sup> If all or most of the 850 tonnes were sold to this one company, it would make it one of the biggest buyers of cassiterite from the region.<sup>xv</sup>

The December 2008 report of the Group of Experts names Trademet, Traxys, Afrimex and THAISARCO as buying from *comptoirs* which are directly complicit in pre-financing *négociants*, who in turn work closely with armed groups.<sup>216</sup>

Previously, Trademet, Specialty Metals, Afrimex, AMC and the Malaysian Smelting Corporation were all included in a list of companies considered by the Panel of Experts to be in violation of the OECD Guidelines for Multinational Enterprises in 2002.<sup>217 xvi</sup>

The mandate of the Group of Experts is limited to investigating sources of finance for non-state armed groups. However, Global Witness has confirmed that some of these foreign companies are also using suppliers who buy minerals produced by the FARDC.

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<sup>xv</sup> Government statistics from North Kivu for January to September 2008 show that Russian company Eurosib Logistics bought 700.59 tonnes of cassiterite from Pan African Business Group. Eurosib Logistics is a transport company, based in Saint Petersburg, Russia, which may be providing a service to cassiterite buyers such as Novosibirsk Integrated Tin Works.

<sup>xvi</sup> Some companies cited in the Panel of Experts' October 2002 report as being in breach of the OECD Guidelines for Multinational Enterprises claimed to have been subsequently "cleared" by the Panel. However, the process of resolution of these cases was seriously flawed. It left many questions unanswered and gave the impression that certain cases had been satisfactorily resolved when, in fact, many of the specific concerns raised by the Panel had not been addressed. For further details, see Rights and Accountability in Development (RAID), "Unanswered Questions: Companies, Conflict and the Democratic Republic of Congo", May 2004, and Global Witness, "Afrimex (UK) – DRC: Complaint to the UK National Contact Point under the Specific Instance Procedure of the OECD Guidelines for Multinational Enterprises", 20 February 2007.

For example, SDE bought cassiterite from Sodexmines, one of the main buyers of cassiterite from Bisie, when the mine was still under the control of the 85<sup>th</sup> brigade of the FARDC (see section 5).<sup>218</sup>

SDE and Sodexmines are both part of the Blattner Elwyn group,<sup>219</sup> a group of companies owned by Elwyn Blattner, an American national who has been based in the DRC for many years.<sup>220</sup>

According to the company's website, the group operates in several different sectors in the DRC; apart from its mineral trading activities through Sodexmines and SDE, it works in the agriculture, telecommunications, banking and logistics sectors. Most of the group's operations are based in the DRC, but it has also operations in Europe, for example in Belgium and France.<sup>221</sup>

**Box: AMC and THAISARCO**<sup>222</sup>

The Amalgamated Metal Corporation (AMC) group is a large international group which trades, distributes and manufactures metals, metal products and construction materials. Amalgamated Metal Corporation PLC, London, is the group's holding company. The AMC Group operates through subsidiaries or associates in Europe, North America, Africa, Asia and Australasia. AMC was a founder member of the London Metal Exchange.<sup>223</sup>

The AMC group includes four UK-based entities:

- AMCO Investments Ltd
- Amalgamated Metal Corporation PLC
- Amalgamated Metal Investment Holdings Ltd
- British Amalgamated Metal Investments Ltd

These four companies are the principal owners of the Thailand Smelting and Refining Corporation (THAISARCO), the fifth-largest tin-producing company in the world. AMC PLC's 2007 Annual Report and Accounts refer to THAISARCO as a principal subsidiary and operating unit of AMC PLC and state that AMC PLC owns 75.25% of THAISARCO.<sup>224</sup>

THAISARCO's chairman and three of its directors own shares in two of the UK-registered entities within the AMC Group: AMCO Investments Ltd and Amalgamated Metal Corporation PLC.<sup>225</sup>

Global Witness is concerned that THAISARCO's trading practices are fuelling the conflict in eastern DRC. THAISARCO's main supplier in South Kivu is Panju, one of the *comptoirs* identified by the Group of Experts as complicit in pre-financing *négociants* who work closely with the FDLR and are aware that certain mines they buy from are controlled by the FDLR.<sup>226</sup> Congolese government statistics show that THAISARCO purchased minerals from Panju in 2007 and 2008.<sup>227</sup> The Group of Experts states that it obtained documents showing that all Panju's minerals purchases were sold to THAISARCO.<sup>228</sup>

Global Witness is calling on the UK government to request that the UN Sanctions Committee add the UK-based entities of AMC and their directors to the list of companies and individuals against whom sanctions should be imposed. UN Security Council Resolution 1857 (2008) states that "individuals or entities supporting the illegal armed groups in the eastern part of the Democratic Republic of the Congo through illicit trade of natural resources" should be subjected to sanctions, including travel restrictions and an assets freeze.<sup>229</sup>

***Responses from companies: no coherent plan to address the conflict dimension of the mineral trade***

Global Witness wrote to more than 200 companies in December 2008 and January 2009 inquiring about their trade with the DRC and their due diligence policies. The companies, based in a range of countries and continents, included small and large trading companies, processing companies, mining companies, manufacturers, major electronics companies and industry bodies in the mining and metals sectors. Some of the replies from companies are quoted below. A full list of the companies which had replied to Global Witness by the end of April 2009 is contained in Annex C of this report.

Overall, companies' responses were disappointingly evasive. Few have a coherent or comprehensive plan for addressing the impact of their trade on the violence and human rights abuses in eastern DRC. Some mention their intentions to tighten their due diligence procedures, but these rarely go beyond their immediate suppliers and do not provide details of independent verification or checks of the entire chain of supply. Very few companies even mention the specific context of armed conflict in eastern DRC or the fact that the warring parties are heavily involved in the mineral trade.

One of the recurring arguments in companies' responses is that it would be extremely difficult or impractical for them to track every stage of their supply chain and obtain information about the suppliers and origin of every single component, in part because of the many sources of supplies and large number of suppliers. Global Witness appreciates that this might be an onerous and costly process but believes that companies have no alternative but to invest in it, and to make such a process systematic, if they want to be sure that their business is not associated with human rights abuses and conflict in eastern DRC. Some of the positive measures which companies mention, for example imposing tighter requirements on their direct suppliers and observing codes of conduct, will be of limited use if they are not accompanied by corresponding steps all along the supply chain.

Another common argument is that companies deal only with "legal" or "licensed" traders. As demonstrated elsewhere in this report, this argument quickly becomes irrelevant in the context of eastern DRC, as it is often licensed traders who buy and export minerals produced by or benefiting the warring parties. Furthermore, by using this argument, companies are effectively legitimising suppliers whose trading practices may be fuelling the conflict.

Trading and processing companies

Most of the letters to Global Witness from trading and processing companies failed to address the specific question of how they ensure that their trade is not contributing to the conflict. Many referred to general standards of corporate social responsibility, but few described specific measures they were taking to identify the exact origin of their supplies.

Some companies, such as THAISARCO and its parent company AMC, attempted to create a distance between their trade and the situation in eastern DRC by stating that they do not operate "directly" in the DRC.<sup>230</sup> Others replicated arguments used by the *comptoirs*, relating, in particular, to the "legal" nature of their suppliers. The fact that this "legal" status has been acting as a cover for some of these suppliers to trade with the warring parties in eastern DRC was not acknowledged. For example, Malaysia Smelting Corporation Berhad (MSC) stated that the tin concentrates it obtained from the DRC were acquired "through licensed traders who are authorised to perform the trade. They have also confirmed to us that the material arises from legitimate sources recognised by the host government."<sup>231</sup> This would seem to indicate that they are content to do business with these traders simply on the basis that they are licensed – a status which does not imply any comment on

the nature of these traders' activities or on their relationships with their own suppliers, some of whom may have links with armed groups. Their response would also indicate that they accept at face value these traders' assurances that the minerals come from "legitimate sources recognised by the host government"; there is no indication that MSC has attempted to verify these assurances or find out exactly what these "legitimate sources" are.

Like the *comptoirs* – and many other foreign companies who replied to Global Witness's letter – MSC stated: "We consider total disengagement not to be an ethical option as this would deprive those dependent on artisanal cassiterite production of their only livelihood."<sup>232</sup> THAISARCO made a similar argument, claiming that "most parties and commentators appear to be in agreement that the continued trade in minerals from DRC is fundamental to the well being of the artisanal mining communities".<sup>233</sup> Apart from the fact that Global Witness has not called for total disengagement or a complete ban on the trade (see section 2), these arguments fail to take into account that, as illustrated in this report, the artisanal miners whose interests these companies are claiming to serve are the first to suffer exploitation and human rights abuses at the hands of the warring parties and derive few, if any, benefits from working in these conditions. Companies have used the "ethical" argument to distract attention from the profoundly unethical nature of some of the practices underpinning this trade.

Belgian company Trademet was among those which tried to shift the burden of responsibility onto the Congolese government. It claimed to be asking its suppliers to confirm the origin of their purchases in writing, yet described Global Witness's recommendation that companies verify "the exact origin of every kilo of exported material" as "inappropriate in the current context in Congo", stating that this was the exclusive responsibility of the Congolese state, not that of companies like Trademet.<sup>234</sup>

Some of the companies which replied to Global Witness stated that they were committed to upholding and improving due diligence policies. However, the policies or internal codes of conduct they refer to are fairly general and do not include specific safeguards against the mineral trade fuelling armed conflict. For example, AMC, MSC, THA ISARCO and Trademet refer to the policies of the tin industry body, ITRI.<sup>235</sup> The main document to which they refer is ITRI's Artisanal and Small Scale Mining Policy; this policy covers a number of issues relating to artisanal mining and corporate social responsibility, but does not include specific measures for ensuring that its members' trade does not contribute to financing armed groups in the DRC or elsewhere.<sup>236</sup>

More recently, ITRI posted a document on its website entitled "Progress report: towards a responsible cassiterite supply chain", which appears to be a more tailored response to some of the questions arising specifically from the trade in cassiterite from the DRC. However, even this document does not explicitly refer to the risks of trading in minerals produced by the warring parties. Instead, it uses general phrases such as "concern [...] regarding the circumstances surrounding cassiterite production and trade in, and from, the Democratic Republic of Congo". The document states that ITRI and its members "have committed to take steps to improve and encourage the adoption of appropriate due diligence procedures throughout the supply chain in that region". Among these steps is an action plan which is to consider "options for extending due diligence procedures [...] as well as the longer-term possibility of industry self-declaration and audited certification". However, the statement notes that "while significant efforts will be made to identify the source of materials from the DRC it may remain impossible to demonstrate exactly what taxes or informal payments may have been made during transportation of that material. In light of this, provision of definitive evidence proving no unofficial payments across the entire supply chain may therefore be considered impractical under circumstances currently prevailing in the DRC."<sup>237</sup>

Global Witness welcomes ITRI's commitment to extending due diligence procedures. However, the examples of information which ITRI will ask suppliers to provide, cited in the progress report, still do not address the involvement of the warring parties in the mineral trade. ITRI states that the information requirements will cover aspects such as "whether suppliers are officially recognised organisations with appropriate local authorisation to carry out the activities in which they are engaged; whether locally required operating and export licences are held" and "whether appropriate taxes and other royalties have been paid only to the appropriate bodies".<sup>238</sup> As explained above, in the current context of eastern DRC, these criteria do not provide any guarantee that suppliers are ensuring that their minerals are "conflict free". On the contrary, as illustrated by the behaviour of some of the main *comptoirs*, suppliers can meet all these conditions of "legality", yet continue to deal in minerals produced by armed groups or the military. A system of due diligence based solely on this type of information would not succeed in excluding such sources from the supply chain.

Furthermore, ITRI's statement that it may be "impractical" to demonstrate that no unofficial payments have been made along the supply chain could discourage companies from performing careful due diligence. ITRI and other industry bodies should be encouraging the opposite attitude among their members and urging them to uphold the highest standards at all times. The circumstances which make it difficult to operate in eastern DRC are precisely those which require an even higher level of due diligence than companies might perform in a more stable environment. Standards should not be set on the basis of what is practical. Companies have a responsibility to ensure that their trading practices are not causing human rights abuses, directly or indirectly, or supporting groups responsible for human rights abuses.

### Mining companies

Not surprisingly, the few companies which did specifically address the question of the presence of armed or military groups in their correspondence with Global Witness are mining companies which have several years' first-hand experience of the situation in the DRC.

MPC formulates a clear position on ensuring that its activities do not contribute to the conflict, although the company does not have a formal due diligence policy.<sup>239</sup> Its sensitivity to this question may have been brought about by its negative experiences at Bisie, where it has been unable to operate due to obstruction by FARDC soldiers and confrontations with GMB and the COMIMPA cooperative (see section 5). In a letter to Global Witness, MPC's parent company, Kivu Resources, states that MPC "applies significant emphasis on understanding the origin of the material purchased [...] and if there is any military involvement in the mining, or logistics of the material offered for purchase". The letter explains that MPC follows a procedure of physically visiting its properties and reporting any instances of military presence. It states: "Where there is any doubt as to the security of the company personnel, or as to the involvement of the military in any small scale mining that may be taking place [...] appropriate action [is] taken to reschedule or discontinue exploration activities. In such cases MPC would treat this area as a 'no go' area for the purchase of mineral concentrates." The measures which the company would take "to avoid contributing to the conflict or benefiting armed groups or the DRC army" include "not purchasing material from such an area, notwithstanding the significant profits that could be made from such activities".<sup>240</sup> In February 2009, MPC informed Global Witness that for the past three years, it had only purchased minerals from Maniema and Katanga provinces on the basis that these areas were "not the subject of control by any renegade military group".<sup>241</sup>

Similarly, Banro, a gold mining company present in South Kivu, stated to Global Witness that its company, employees, contractors and consultants "are expressively [sic] prohibited from any dealings with illegal armed groups". However, it claimed that "the movement or presence of armed militia groups at or near our projects in the DRC has not been a pressing issue for the Company, as

any such presence has been peripheral and very rare. On those rare occasions when a militia group has been in the vicinity of our operations, we have withdrawn our people from that particular locale and waited for the armed group to leave before resuming our activities.”<sup>242</sup> This does not correspond to information gathered by Global Witness in South Kivu indicating that the presence of armed groups had been widespread for several years in areas where Banro’s concessions are located.

### Electronics companies

In their letters to Global Witness, several of the large electronics companies, including HP, Nokia, Dell and Motorola, refer to their involvement in the Electronics Industry Citizenship Coalition (EICC) or the Global e-Sustainability Initiative (GeSI), and a report prepared for the EICC and GeSI entitled “Social and Environmental Responsibility in Metals Supply to the Electronic Industry”.<sup>243</sup> The report is a desk-based study of how the trade in certain metals (including tin) is structured and how these metals are used in electronic products. It provides an overview of some of the social and environmental issues associated with this trade across the world, as well as recommendations “on whether and how the members of these organizations [GeSI and EICC] can effectively influence social and environmental issues associated with production of metals used in electronic products”. It touches on some of the difficulties electronics companies might face in tracing the sources of metals, due, for example, to the fact that supplies of many different origins are often mixed together long before they reach the electronics companies.

Although the report is more than 80 pages long, it contains only three, short recommendations, which are very weak and general and provide no precise guidance. With regard to social and environmental responsibility (one of the main themes of the report), the report simply recommends that the electronics industry engage with appropriate existing initiatives and stakeholders to strengthen efforts and reduce proliferation of overlapping initiatives. With regard to chain of supply, it recommends that electronics companies further characterise special metal content and use in electronic products which would support the tracking of metals used in electronics and help trace sources of materials.<sup>244</sup>

Prior to commissioning this study, the EICC adopted an Electronic Industry Code of Conduct. The Code of Conduct includes provisions on labour conditions, health and safety and the environment, most of them based on international standards. The introduction states: “For the code to be successful, it is acknowledged the Participants should regard the code as a total supply chain initiative. At a minimum, Participants shall require its next tier suppliers to acknowledge and implement the Code.”<sup>245</sup>

The response by Hewlett-Packard (HP) to Global Witness is one of the few that refers specifically to efforts to “minimize the risk that electronics manufacturing is supporting the parties responsible for violence in the eastern DRC.” It mentions the Electronic Industry Code of Conduct and the company’s own efforts to ensure that its suppliers respect it, including through “onsite supplier audits to ensure suppliers understand our expectations and have defined corrective actions where needed to meet them”. HP states: “We have focused on our first tier suppliers, where we think we have the most influence. HP has also been successful in reaching down to the second tier through many of our first tier suppliers.” However, it points to some of its limitations in engaging directly with all its suppliers beyond the first tier, stating: “It is the responsibility of our first tier suppliers to require the EICC to be followed by their suppliers, and so on down the supply chain. An increasing number of our suppliers have active programs to do so.”<sup>246</sup> There are a number of inconsistencies in the response: for example, on the one hand, the company declares its intention to “map the supply chain down to the extractives level”, beyond the first and even second tiers of suppliers, yet it seems reluctant to take responsibility for the practices of its suppliers further down the chain.

Nokia's response is less detailed but accepts that the company has "the responsibility over everything that goes into making a Nokia product. We exercise this responsibility by a stringent supplier selection and monitoring process." It states that all its suppliers are contractually obliged to follow a set of specific requirements which are systematically monitored; it does not provide details on how this monitoring is conducted or by whom. Nokia has its own Code of Conduct, which contains guidance on human rights, anti-corruption measures and other ethical questions.<sup>247</sup> In its letter to Global Witness, the company states: "We absolutely do not accept or support any illegal activity or abuse of human rights. We require all of our suppliers to only use legal sources of materials." It does not question whether some of these "legal" sources may in fact be sourcing their products from warring parties. It simply states that "the current situation with the supply chain of metals and other minerals from war zones such as Congo is [not] acceptable" and refers to efforts to explore ways of tracing metals along the supply chain.<sup>248</sup>

### *The Afrimex case*

In February 2007, Global Witness filed a complaint against Afrimex for breaches of the OECD Guidelines for Multinational Enterprises, in connection with its trade in minerals during the war from 1998.<sup>249</sup> Afrimex is a UK-registered company which operates in eastern DRC through the Congolese registered companies Societe Kotecha and SOCOMI, both based in Bukavu. The UK Government's National Contact Point (NCP) for the OECD Guidelines investigated the case and, in August 2008, published its final statement, upholding the majority of Global Witness's allegations. It concluded that Afrimex had failed to ensure that its trading activities did not support armed conflict and forced labour. A significant part of its conclusions rested upon the fact that Afrimex had not exercised sufficient due diligence with regard to its supply chain, and that some of its suppliers – which included the *comptoirs* Etablissement Muyeye and Groupe Olive – would have made payments to rebel groups (at that time, the RCD Goma), thus contributing to the conflict.<sup>250</sup>

The NCP made a number of recommendations to Afrimex, relating, among other things, to the formulation, implementation and periodic review of a corporate responsibility policy which should take into account the human rights impact of the company's activities. By February 2009, almost six months after its final statement, the NCP had not received any information from Afrimex about the implementation of its recommendations.

Information gathered by Global Witness confirms that Afrimex continued to trade in minerals from eastern DRC after the complaint was filed in February 2007, albeit not on as large a scale as during the earlier years of the war. One of its suppliers in 2007 and 2008 was Muyeye, named by the Group of Experts as buying minerals produced by the FDLR. Congolese government statistics list Afrimex as having imported 382.5 tonnes of cassiterite from Goma and 1,102.5 tonnes of cassiterite and 112.5 tonnes of wolframite from the *comptoirs* Muyeye and Bakulikira in South Kivu in 2007.<sup>251</sup> A sample of the CEEC's monthly reports for 2008 shows Afrimex as having imported 22.5 tonnes of cassiterite from Muyeye on 27 May 2008 and 45 tonnes from Bakulikira and 90 tonnes from Muyeye in June 2008.<sup>252</sup> Afrimex's mineral *comptoir*, SOCOMI, is listed as an officially licensed *comptoir* for cassiterite in South Kivu, having paid its licence fee of US \$9,000 for 2008.<sup>253</sup> Several other sources interviewed by Global Witness in mid-2008 confirmed that SOCOMI and Société Kotecha were still operating and handling minerals.<sup>254</sup>

In February 2009, Global Witness wrote to Afrimex asking, among other things, for an update on the company's progress in implementing the NCP's recommendations.<sup>255</sup> In March 2009, Afrimex replied to the NCP, with a copy to Global Witness, stating that it had stopped trading in minerals and that its last shipment of minerals left the DRC in around the first week of September 2008.<sup>256</sup>

Global Witness is urging the UK government to carry out an independent verification of Afrimex's claim that it has ceased trading in minerals.

Global Witness welcomes the UK National Contact Point's final statement on the Afrimex case and supports many of its recommendations. However, the case illustrates the severe limitations of relying on voluntary guidelines to hold companies to account. The OECD Guidelines for Multinational Enterprises remain a weak, non-binding mechanism.

The NCP does not have the legal powers to enforce decisions arising from its conclusions and there is no in-built mechanism for following up its recommendations. The UK government will have to take further action to ensure that the investigation and conclusions of the NCP are more than just a theoretical exercise.

The UK government, at a senior political level, should send a clear signal to Afrimex and other UK-registered companies that it expects them to carry out careful due diligence to ensure that their trade is not funding any of the warring parties in the DRC, and that this is not an optional extra. One way of doing this would be for the UK government to recommend to the UN Sanctions Committee that Afrimex, and any other UK-registered companies found to be trading in minerals produced by armed groups, be included in the list of companies and individuals against whom sanctions should be imposed (see section 13).<sup>257</sup>

If backed up with strong political support, the UK government's findings on the Afrimex case could set an important precedent in holding companies accountable for their activities in conflict zones and could set an example for other governments.

## 12. The role of transit countries

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Minerals from North and South Kivu are first transported to neighbouring Rwanda, Burundi or Uganda, usually by road.<sup>xvii</sup> Once they have transited through these countries, the minerals usually leave Africa through the ports of Dar es Salaam (Tanzania) or Mombasa (Kenya).<sup>258</sup>

Some of the minerals produced in South Kivu are transported to North Kivu and exported from there, as the town of Goma is a larger commercial hub than Bukavu and has better transport and connections with Rwanda.

### *Rwanda*

Rwanda has long been one of the main routes through which minerals leave eastern DRC. Weak controls on the Congolese side of the border have been compounded by Rwanda's unwillingness to ensure that the minerals it imports have not been produced by or benefited any of the warring parties in the DRC. These factors have meant that Rwanda has effectively provided these warring parties with access to export routes and international markets. The armed groups profiting from the trade with or through Rwanda have included not only those actively supported by Rwanda, such as the CNDP, but even the FDLR, Rwanda's fiercest enemy.

During the earlier phases of the war, from 1998 onwards, when Rwandan troops were present in the DRC, the Rwandan government and army profited directly from illicit mineral exploitation in North and South Kivu. Rwandan government and military officials took advantage of the chaos to plunder

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<sup>xvii</sup> Most of the minerals produced in the areas of North and South Kivu covered by this report leave the DRC through Rwanda or Burundi. Minerals produced in the northern parts of North Kivu are more likely to be exported through Uganda or Rwanda. Global Witness did not carry out research for this report in the northern part of North Kivu or in Uganda.

the DRC's resources and to enrich themselves.<sup>259</sup> In more recent years, Rwandan government and military involvement in mineral exploitation in the DRC has been less visible, but the political and business elite has continued to profit through Congolese armed groups which the Rwandan government has backed – such as the CNDP and previously the RCD-Goma – and through Congolese businessmen who maintain close personal and business links with Rwanda.

Rwanda has its own mineral deposits, and a developing domestic mining sector which accounts for an increasing proportion of its exports, but it continues to import and re-export significant amounts of minerals from eastern DRC. Congolese minerals exported from Rwanda are not always distinguished from minerals produced in Rwanda.<sup>260</sup>

### The growth of Rwanda's mining sector

Rwanda's mining sector has grown steadily since around 2005. The value of its mineral exports increased from US \$38m in 2005 to US \$130m in 2008.<sup>261</sup> The continuing rise in production has been due in large part to an influx of foreign investment from 2006, which allowed the privatisation of 20 concessions previously managed by REDEMI, Rwanda's now defunct state-owned mining company.<sup>262</sup>

Artisanal and small-scale mining accounted for over half Rwanda's domestic mineral production in 2008;<sup>263</sup> artisanal mining cooperatives sell their goods to larger mining companies or to traders based in the capital, Kigali.<sup>264</sup> According to documents which the Rwandan Minister of Mines provided to Global Witness in March 2009, there are seven foreign companies mining cassiterite, coltan and wolframite on ex-REDEMI concessions.<sup>265</sup> An article published in 2008 by the Rwanda Investment and Export Promotion Agency (RIEPA) – a body set up by the government – states that 36 private mineral firms are operational in Rwanda; most of these are involved in trading rather than mineral extraction.<sup>266</sup>

In addition to fostering the growth of its own mineral production, Rwanda has the potential to develop mineral-processing facilities, which could be beneficial for neighbouring countries, such as the DRC. The Rwandan government is planning to improve its energy supply and encourage further foreign investment.

### Rwanda as a channel for "conflict minerals" from eastern DRC

“How can you ask a trader, a mining company, a [...] smuggler to track where the minerals they buy are coming from? Put yourself in their shoes.”

Rwandan Minister of Mines Vincent Karega to Global Witness, Kigali, 6 March 2009

The expansion of Rwanda's mining sector and processing capacity may prove positive for Rwanda's economy, but doubts will continue to be cast on the origin of these minerals for as long as the government fails to address the role of Rwanda as a channel and trading post for products which are benefiting the warring parties in eastern DRC.

Congolese government statistics and reports by the Group of Experts and NGOs have all demonstrated that Rwanda is one of the main conduits for minerals leaving North and South Kivu. Rwanda's government agencies and border controls are better organised than those of the DRC. In theory, Rwandan customs officials check the paperwork accompanying all consignments from the DRC, but the government has not been pro-active in delving deeper into the origins of the minerals transported across the border. Neither the Rwandan government nor mineral trading companies operating in Rwanda are conducting careful due diligence to ensure that this trade is not benefiting any of the warring parties in eastern DRC. Global Witness researchers who visited Rwanda in

March 2009 found that there was widespread acknowledgement in Rwanda that minerals from eastern DRC pass through the country, either in transit or as goods to be traded and processed domestically prior to export. The Minister of Mines told Global Witness that approximately a quarter of Rwanda's mineral exports in 2008 originated from the DRC.<sup>267</sup> Statistics from the Office de Géologie et des Mines du Rwanda (OGMR), the Rwanda Geology and Mines Authority, indicate that the proportion may be even higher: figures based on customs declarations show that in 2008, nearly half the minerals exported (by weight) from Rwanda were re-exports, therefore not of Rwandan origin.<sup>268</sup> The RIEPA article mentioned above states that "a large proportion of [Rwandan mineral] exports are simply minerals transiting Rwanda" and goes on to say that only 20% of Rwanda's coltan and wolframite exports is produced domestically.<sup>269</sup> In view of regional production and trade patterns, the remaining proportion is almost certainly Congolese. Other sources working in the mining sector in Rwanda confirmed that although Rwanda's domestic production has increased, most of the minerals traded in Rwanda in early 2009 still originate from the DRC.<sup>270</sup>

In discussions with Global Witness, the Rwandan Minister of Mines, Vincent Karega, did not appear to consider Rwanda's trade in Congolese minerals to be problematic. He explained that raw materials from the DRC come through Rwanda because Rwanda has a greater processing capacity than the DRC. He stated that the Rwandan government had no objection to this trade or to mineral traders from eastern DRC holding bank accounts in Rwanda.<sup>271</sup> He did not address the fact that a significant proportion of the Congolese minerals entering Rwanda may be benefiting parties responsible for grave human rights abuses in eastern DRC and that the ease with which these minerals can cross the border is helping to fuel the conflict.

Global Witness representatives raised with the Minister of Mines the particular responsibility of neighbouring states to ensure that minerals produced by or benefiting the warring parties in eastern DRC do not enter the supply chain. This responsibility is reiterated in UN Security Council Resolution 1856 (2008) which requires "all States, especially those in the region, to take appropriate steps to end the illicit trade in natural resources, including if necessary through judicial means". The Minister of Mines acknowledged that private companies have a moral responsibility that comes with buying minerals from or near a war zone, but considered that due diligence measures would simply "discourage traders from coming into Rwanda". He claimed that the volume of trade coming into Rwanda from the DRC was too small to justify setting up an elaborate system of due diligence, despite stating himself that around 25% of Rwanda's mineral exports in 2008 originated from the DRC. Nevertheless, he indicated that if an organisation such as Global Witness presented him with "a budget and a plan", he would be prepared to start developing due diligence procedures.<sup>272</sup>

Global Witness would be interested in pursuing these discussions with the Rwandan authorities, but it is the responsibility of the government itself to take the lead in such initiatives, without waiting for plans from outside. Concrete measures, such as tightening controls and performing thorough checks of mineral imports at the borders with the DRC, are not dependent on the input of NGOs and should be implemented without delay. Companies and traders operating in Rwanda have shown little commitment to exercising control over their supply chain and have failed to put in place procedures which would ensure that the minerals they are purchasing are not benefiting any of the warring parties in eastern DRC. A mineral trader in Kigali told Global Witness that 40% of his supplies came from the DRC. He explained that he bought these goods from a middleman who brought them over the border. He claimed to "know his suppliers" well enough to be "fairly certain" that the majority of his supplies from the DRC did not come from mines controlled by armed groups, but did not explain on what basis he made this assertion. However, he also said that if he were to ask questions of his suppliers, "they will go somewhere else".<sup>273</sup>

Given Rwanda's proximity to eastern DRC, and the close business links between the two countries, it would not be difficult for traders and companies based in Rwanda to check the origin of their mineral supplies. The Rwandan government should work with these traders and companies to develop due diligence procedures regarding their supply chain. The gravity of the human rights situation in eastern DRC and the continuing violence by armed groups who are benefiting from the mineral trade should make this a priority for the Rwandan government.

### ***Burundi***

Burundi is one of the main conduits for minerals produced in South Kivu, especially gold. A former member of the Burundian National Assembly told Global Witness: "Burundi is like a transfer hub for minerals from Congo."<sup>274</sup> As documented in this report, a significant proportion of the gold mined in South Kivu is controlled by armed groups (notably the FDLR) or by the FARDC. Burundi offers an easy exit route for minerals produced by these groups. Burundian customs controls are extremely weak – sometimes non-existent – and customs officials may be complicit in facilitating illegal imports from eastern DRC.

From the southern part of South Kivu, gold is often smuggled into Burundi across Lake Tanganyika – a route favoured by the FDLR – or through the many informal crossing points along the Ruzizi river that marks the Burundi-DRC border north of the lake.<sup>275</sup> The gold is then sold to traders in the capital, Bujumbura, and exported from there. The international airport in Bujumbura is one of the most direct routes through which gold from South Kivu leaves the region and reaches world markets.

#### The mining sector in Burundi

Burundi's domestic mineral output is not globally significant. Gold, cassiterite, coltan and wolframite are exploited by around 100,000 artisanal miners,<sup>276</sup> but quantities are difficult to ascertain in the absence of reliable production statistics. Government statistics claim that in 2007, Burundi produced 50.6 tonnes of cassiterite, 51.5 tonnes of coltan, 443.4 tonnes of wolframite and 2,422.75 kg of gold. Between January and September 2008, it produced 33 tonnes of cassiterite, 91.28 tonnes of coltan, 342.27 tonnes of wolframite and 1,826.85 kg of gold.<sup>277</sup> However, the director of the Burundian Mines Directorate explained that these figures were collected at the point of export and therefore refer to Burundi's mineral exports rather than its domestic production.<sup>278</sup> Global Witness also obtained extracts of export statistics collected by the Burundian customs authorities, which provide different figures for mineral exports; in some cases, these are higher, in others, lower than those collected by the Ministry of Mines. The discrepancies could be explained in part by a high level of fraud. The government's own report on the mining sector states: "Fraud is so intense that the production recorded by state agencies only represents a tiny part of the reality."<sup>279</sup> The report states that cross-border trade between Burundi and the DRC has always existed and that minerals originating from the DRC, such as gold, cassiterite and coltan, transit through the port and airport in Bujumbura before being exported further afield. It does not provide any figures or indication of the proportion of Congolese minerals passing through Burundi.

Global Witness also contacted the Institute for Statistics and the Ministry of Commerce to try to obtain official production and export statistics. The latest figures available from both offices dated from 2006; no figures were available for 2007 or 2008.

The director of the Burundian Mines Directorate informed Global Witness that in March 2009, there were 64 officially registered *comptoirs* in Burundi. Most of these sold wolframite; some sold cassiterite and coltan. There was only one licensed gold *comptoir* (see below). Global Witness asked him for a list of the licensed *comptoirs* and information about export destinations. He was not

forthcoming with information; he told Global Witness he did not know about the export destinations and was not interested.<sup>280</sup>

### “Burundian gold”

“Why are you talking to me about Congo when we are in Burundi?”

Director of the Burundian Mines Directorate to Global Witness, Bujumbura, 12 March 2009

Gold produced in South Kivu is exported from Burundi and passed off as Burundian gold. The fact that only a tiny proportion of gold exports from the DRC are officially declared means that it is easy for the Burundian government to claim that these exports are part of their country’s domestic production.

A Burundian businessman, who is an economic adviser to Burundian President Pierre Nkurunziza, told Global Witness that 75% of gold available in Burundi comes from the DRC and that “to get gold, you need to have contacts, that’s all”.<sup>281</sup> Several jewellers in Bujumbura also said that they had no difficulty obtaining regular supplies of gold, either from Burundi or from the DRC.<sup>282</sup> A Rwandan diplomat told Global Witness that the FDLR come to Bujumbura to sell their gold there.<sup>283</sup>

The Burundian government does not appear willing to acknowledge that a significant proportion of the gold exported from Burundi originates from the DRC, nor that some of this gold has been produced or sold by Congolese armed groups or military units. The director of the Burundian Mines Directorate denied that any Congolese gold comes across the border, although he admitted that it is difficult to differentiate Congolese gold from Burundian gold.<sup>284</sup>

### “The pillar of the gold trade”

The Group of Experts’ December 2008 report names two companies in Burundi involved in the trade in Congolese gold: Farrel Trade and Investment Corporation (which appeared to have closed by early 2009) and Gold Link Burundi Trading, run by Mutoka Ruganyira. The director of the Burundian Mines Directorate confirmed to Global Witness that Mutoka Ruganyira’s company was the only licensed gold trading and exporting *comptoir* operating in Burundi in early 2009; it changed its name to Berkenrode in mid-2008.<sup>285</sup> Mutoka Ruganyira admitted to the Group of Experts that he purchased Congolese gold.<sup>286</sup>

Mutoka Ruganyira is referred to in Burundi as “one of the pillars of the gold trade”, “the boss of gold trafficking in Burundi” and “a financial heavyweight”.<sup>287</sup> Several different sources told Global Witness that he enjoys the protection of the security forces of the ruling party (the CNDD-FDD) and high ranking officials in the Burundian government.<sup>288</sup> Jewellers and others involved in the gold trade explained to Global Witness that Mutoka Ruganyira buys almost all the gold which comes through Bujumbura, including gold from the DRC which is brought to him by intermediaries. President Nkurunziza’s economic adviser, who is also the director of the Burundi subsidiary of an international mining company, told Global Witness that whenever people come to him with gold from the DRC, he directs them to Mutoka Ruganyira.<sup>289</sup>

Global Witness researchers repeatedly tried to contact Mutoka Ruganyira during their visit to Burundi, but he was unreachable; he was apparently travelling outside the country. Several individuals who knew him personally said he often travelled for business, particularly to Dubai and sometimes to the DRC.<sup>290</sup>

## The need for action

The fact that Congolese minerals are transiting through Burundi and that some of these may have been produced by the warring parties in eastern DRC is common knowledge in Burundi. Burundi is a small country, with a small number of mineral traders who are well-known to the authorities. Yet the Burundian government has shown little interest in cracking down on this trade. Likewise, companies and traders based in Burundi have not taken any action to ensure that their trade is not fuelling the conflict in eastern DRC, safe in the knowledge that they have little to fear in terms of government checks or controls. The Burundian government should address this situation urgently by tightening its border controls and exercising oversight over companies and traders who are importing and exporting minerals. These companies should put in place due diligence measures to ascertain the origin of the goods they buy and to ensure that their purchases are not fuelling conflict in the DRC. The government should demonstrate a commitment to holding to account companies and individuals who fail to do so.

### **13. Recent international initiatives**

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“Natural resources are not on the table of topics in peace talks. Almost every other issue is. Yet it’s one of the keys to resolution of the conflict.”

UN official, Goma, 22 July 2008

#### *Diplomatic dialogue and mediation efforts*

At the diplomatic level, there has been increasing recognition of the role natural resources continue to play in fuelling the conflict in eastern DRC, but little corresponding action to tackle the problem. Rather than using their influence to break the links between mineral exploitation and the armed conflict, governments and other international players have concentrated on the search for short-term political gains or technical solutions.

Successive rounds of peace talks and bilateral dialogues with governments of the Great Lakes region have failed to address this question in an explicit way. Neither of the two main initiatives launched in late 2007 and early 2008 – the Nairobi communiqué of November 2007 and the Amani Programme arising from the Goma agreement of January 2008<sup>xviii</sup> – included concrete actions to stop the involvement of the warring parties in the natural resource trade. The question was raised in a number of discussions as part of the Amani Programme, and parties agreed that the issue should be tackled but limited themselves to general statements of intent. Following the upsurge in fighting between the CNDP and the FARDC in the second half of 2008, further peace talks and mediation meetings took place, but the primary emphasis was on securing a ceasefire and limiting the immediate humanitarian crisis.

A number of Western diplomats admitted to Global Witness that they and others had not discussed the issue of natural resources with the governments of DRC, Rwanda and other neighbouring countries because they judged it too sensitive.<sup>291</sup> A UN source said: “Natural resources are not on the table of topics in peace talks. Almost every other issue is. Yet it’s one of the keys to resolution

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<sup>xviii</sup> The Nairobi communiqué, signed by the Congolese and Rwandan governments in November 2007, was aimed primarily at addressing the threat posed by the FDLR. The Goma agreement, signed by the Congolese government and 22 armed groups in North and South Kivu in January 2008, led to the Amani Programme, a wide-ranging programme of talks between these groups. Both these initiatives were set back by the resurgence of fighting between the CNDP, the Congolese army and *mai-mai* groups in North Kivu in the second half of 2008.

of the conflict. The peace talks discussed the framework for the army, *brassage*, demobilisation, etc but not natural resources. Yet the armed groups are not prepared to leave the resources behind.”<sup>292</sup>

Global Witness believes that agreements reached without addressing the fundamental dynamics of the conflict – in this instance, the warring parties’ economic agendas – are unlikely to produce lasting results. Some of the armed groups may be willing to make political compromises, but they are unlikely to give up the wealth derived from the mineral trade of their own accord. Indeed, while peace talks and mediation efforts have been ongoing, armed groups and the Congolese army alike have continued to loot eastern DRC’s natural resources with impunity, and neighbouring countries have continued to facilitate this illicit trade without fear of international scrutiny. Failure to take this dimension of the conflict into account could undermine peace agreements and create a misleading outcome: combatants could go through the motions of disarmament and demobilisation while retaining the economic means to go back to war, or threaten to do so as soon as they perceive it to be in their interests. Given the frequent recurrence of conflict in eastern DRC, this is not an abstract risk but an immediate threat. Concerted action will be needed at the international level to break these patterns.

### *Initiatives by donors and governments of home states*

“We need to see more action to tackle and prevent conflict.

Because conflict not only ruins lives – it chokes development.”

Douglas Alexander, UK Secretary of State for International Development, in a speech to the British Overseas NGOs for Development (BOND), Annual General Meeting, 24 October 2007<sup>293</sup>

A number of governments, including those of the United Kingdom, Belgium and France, as well as the European Commission, have commissioned studies and initiated discussions on the question of natural resource exploitation in the DRC through their ministries of foreign affairs or development. Most of these have tended to avoid the politically sensitive issues – such as the involvement of senior political or military figures in the mineral trade – focusing instead on technical measures such as the harmonisation of tax systems in the region or the development of mineral certification schemes (see below). Such measures could lead to improvements in the long term, if they are backed up by strong political commitment, but the gravity of the conflict and the level of human rights abuse in eastern DRC call for more immediate and harder-hitting actions. The impact of strategies which do not address the high-level involvement of all the parties in the mineral trade – including the Congolese army – and which do not seek to end the impunity protecting the perpetrators is likely to be limited. Ultimately, technical solutions will not succeed in resolving political problems. On the contrary, they may prove to be a distraction.

The weakness of donor governments’ approach to the question of natural resource exploitation by the warring parties also undermines these governments’ aid programmes in the DRC. Western governments, in particular, have been pouring huge sums of money into the reconstruction and development of the DRC, but the effectiveness of this assistance has been severely hampered by the continuing violence in the east. There is broad international consensus that conflict is one of the greatest obstacles to development. Yet donors have failed to tackle directly one of the main factors prolonging the conflict in eastern DRC: the warring parties’ access to natural resources.

In recognition of the urgency of the situation, governments should agree on actions which can be implemented without delay to cut off the finances which the warring parties in eastern DRC derive from the mineral trade. These could include supporting MONUC’s efforts to curtail this trade; applying sanctions against individuals and companies knowingly trading with armed groups; and investigating and, where appropriate, prosecuting such individuals or companies. In parallel, donor

governments should pursue the longer-term goal of developing and reinforcing the Congolese government's ability to control and regulate the mining sector.

Governments and inter-governmental organisations should ensure that any measures they adopt apply not only to armed groups but also to army units engaged in the illicit exploitation of natural resources. Until now, international attention on the mineral trade in eastern DRC has focused almost exclusively on the role of non-state armed groups, in line with the UN arms embargo and the mandate of the Group of Experts (see below). Yet, as illustrated in this report, the FARDC are at least as involved as other armed groups in the mineral trade, and their close alliances with some of the groups which are the focus of the arms embargo – for example the FDLR – make it even more pressing to address their involvement.

In more recent months, some governments have engaged more actively in debating ways of curbing the illicit exploitation of natural resources. In February 2009, in an initiative arising from the Great Lakes Contact Group, members of donor and other governments set up a taskforce to discuss natural resource exploitation in the DRC and to pursue, in a more concerted way, various ideas already under consideration by individual governments.

Global Witness welcomes this heightened interest. Yet there are a number of contradictions in the international approach, as some of the same governments which have started exploring ways of halting the illicit trade – for example the UK and Belgium – have shown a reluctance to hold to account companies registered in their own countries who are fuelling this trade.

Overall, governments have tended to adopt a timid line with regard to the role of economic actors. Some have engaged in dialogue with companies, and even with some of the *comptoirs* based in the DRC, for example on the adoption of codes of conduct, but have rarely challenged companies' excuses or justification for their trading practices (see section 11). Voluntary standards, such as the OECD Guidelines for Multinational Enterprises, and industry codes of conduct can be useful tools, but they have so far failed to change companies' behaviour, as they rely entirely on the goodwill of companies themselves to uphold certain principles. This highlights the need for stronger enforcement measures by home states, for example the adoption of legislation which requires companies to carry out thorough due diligence and imposes penalties on those who fail to do so.

#### The response of the Belgian government

In view of the fact that Belgian-registered companies account for the largest proportion of mineral imports from North and South Kivu, the Belgian government has a particular responsibility to provide firm guidance to companies and make clear its resolve to put an end to trading practices which are fuelling armed conflict and grave human rights abuses.

In January 2009, the Belgian Ministry of Foreign Affairs called meetings with Trademet and Traxys, two of the Belgian companies cited in the December 2008 report of the Group of Experts. Belgian government officials told Global Witness that they reminded these companies of the importance of respecting the OECD Guidelines for Multinational Enterprises and offered to facilitate contacts between the companies and the Group of Experts, with a view to “avoid being named in future reports”.<sup>294</sup> They encouraged the companies to tighten their due diligence procedures. The companies told them that they believed the Group of Experts' due diligence recommendations – which are very similar to Global Witness's – were too far-reaching and unrealistic. The Belgian National Contact Point for the OECD Guidelines then also wrote to Trademet and Traxys asking for a meeting.<sup>295</sup>

The Belgian government's initiative to meet these companies is a welcome first step. However, Foreign Ministry officials indicated to Global Witness that they were not envisaging stronger action – despite evidence in the Group of Experts' report that these companies are buying from *comptoirs* which handle minerals produced by armed groups. The priority of the Belgian government appears to be to engage in dialogue with these companies and “find workable solutions with them”. Belgian government officials described this strategy as “much more forward looking than holding them to account”. They expressed fears that if these companies stopped trading with the DRC, they would be replaced by other companies which it might be more difficult to influence, and added that they did not want the situation to “revert to the black market”. This strategy does not appear to take into account the fact that the Belgian companies in question have not taken responsibility for breaking the links between their trade and the armed conflict and have continued trading with *comptoirs* which deal with groups responsible for grave human rights abuses. Most disappointingly, the Belgian officials stated that the Belgian government “did not want to take sides”, preferring not to be “directly engaged on this issue” and “to stay on the margins”.<sup>296</sup>

The Belgian government's response on this issue is all the more surprising given the laudable role Belgium has played in raising the issue of natural resources and conflict at the UN over the past two years. Belgium has been one of the leading governments behind international moves to attach a higher importance to the role of natural resources in fuelling the conflict in the DRC and was instrumental in ensuring that measures on the illicit natural resource trade were included in UN Security Council resolutions 1856 and 1857 (2008) (see below). In November 2008, Global Witness had a positive meeting with Belgian Foreign Affairs Minister Karel de Gucht, who has shown a strong personal commitment to these issues; he promised to look into the role of Belgian companies buying minerals from eastern DRC.<sup>297</sup> The Belgian government's subsequent contacts with two of these companies were positive steps, but if these companies are to alter their trading practices in a meaningful way, the government will need to send a much clearer message to them than that expressed by the officials who spoke to Global Witness in April 2009.

### ***The work of the UN Group of Experts***

The Group of Experts set up by the UN Security Council in 2004 to monitor the arms embargo against armed groups in eastern DRC (in force since 2003) has continued to investigate the natural resource trade as a source of finance for these groups. Its December 2008 report contained detailed information about the mineral trade, particularly the relationships between armed groups, *comptoirs* and other buyers.<sup>298</sup> The Group of Experts recommended that UN member states “take appropriate measures to ensure that exporters and consumers of Congolese mineral products under their jurisdiction conduct due diligence on their suppliers and not accept verbal assurances from buyers regarding the origin of their product”.<sup>299</sup> The previous report of the Group of Experts, published in February 2008, had also stressed the importance of due diligence and concluded that individuals or companies failing to carry out basic due diligence steps to ensure that their purchases were not providing assistance to armed groups could be considered to be in violation of the arms embargo for provision of assistance to armed groups.<sup>300</sup>

The work of the Group of Experts has been important in highlighting the role of the illicit natural resource trade in financing armed groups and fuelling the conflict in eastern DRC. However, its reports alone will not achieve real change unless governments take concrete action on the basis of their findings and recommendations, including against the individuals and companies recommended for sanctions.<sup>301</sup> Numerous reports, reaching similar conclusions, have been issued since 2001. Before the current Group of Experts, a Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the DRC had produced several reports between 2001 and 2003, describing the illicit natural resource trade in the earlier phases of the conflict and identifying a number of companies and individuals involved. Disappointingly, governments took little action in

relation to its findings. Global Witness urges UN member states to ensure that the work of the Group of Experts is followed up in a more effective way.

### ***The December 2008 UN Security Council resolutions***

On 22 December 2008, ten days after the publication of the Group of Experts' report, the UN Security Council adopted two resolutions containing measures to address the natural resource dimension of the conflict. Both resolutions recognise “the link between the illegal exploitation of natural resources, the illicit trade in such resources and the proliferation and trafficking of arms as one of the major factors fuelling and exacerbating conflicts in the Great Lakes region”.<sup>302</sup> Global Witness welcomes the commitment to curbing the illicit trade in natural resources contained in these two resolutions and urges UN member states to ensure that these measures are applied promptly and comprehensively.

#### MONUC's revised mandate

Resolution 1856 (2008) extends and strengthens the mandate of MONUC. Included in MONUC's mandate, for the first time, is an explicit reference to using “its monitoring and inspection capacities to curtail the provision of support to illegal armed groups derived from illicit trade in natural resources” and to coordinating and supporting operations with the FARDC with a view to, among other things, “preventing the provision of support to illegal armed groups, including support derived from illicit economic activities”. The resolution urges “all States, especially those in the region, to take appropriate steps to end the illicit trade in natural resources, including if necessary through judicial means” and encourages the Congolese government to “establish a plan for an effective and transparent control over the exploitation of natural resources”.<sup>303</sup>

The inclusion of these measures in MONUC's mandate is welcome, even though they only address the exploitation of resources by non-state armed groups, not the FARDC. However, their effective implementation will require strong commitment and resolve, not only on the part of MONUC personnel in North and South Kivu, but on the part of the UN hierarchy in Kinshasa and in New York and the UN Security Council. Until 2008, efforts by MONUC to address the natural resource dimension of the conflict have been almost entirely dependent on the personal interest and motivation of a small number of staff members within MONUC. These individuals have carried out detailed monitoring and reporting of natural resource exploitation by armed groups in certain areas, but there has been little capacity or will to act on their findings in a concerted way. The explicit inclusion of these measures in MONUC's renewed mandate should mark a significant change in the way this issue is tackled.

On 12 January 2009, Alan Doss, Special Representative of the Secretary-General for the DRC, wrote to Global Witness in connection with this aspect of MONUC's mandate. He stated that MONUC would continue to do its best within the limits of its capacity, but reiterated that the protection of civilians remained MONUC's top priority. He highlighted the primary responsibility of the government of the DRC, as well as those of neighbouring states, to stem the natural resource trade which sustains armed groups.<sup>304</sup>

In a second, more detailed letter, dated 16 February 2009, Alan Doss reiterated that in 2008, MONUC had been planning operations with the FARDC against the FDLR and that “disrupting the FDLR's presence in mining areas and driving them away from their most important trading routes was part and parcel of the plan”. He wrote that MONUC was designing a new training course for military observers and civilian staff including a specific focus on monitoring airports, ports, roads and border entry points. He stated that MONUC would continue random inspections at airports and

small landing strips during 2009. The letter refers to discussions between MONUC and agencies of the Congolese Ministry of Mines to explore the possibility of deploying mining inspectors from the Ministry of Mines to important mining sites and trading centres.<sup>305</sup>

Global Witness recognises that MONUC faces an extremely difficult task in the DRC, that it remains severely overstretched and that it is struggling to cope with many pressing demands. The security and protection of the civilian population must remain the top priority. However, the need to tackle the economic dimension of the conflict should not be seen as a separate task from ensuring protection for the civilian population. On the contrary, profits derived from the mineral trade are one of the main sources of funding which has enabled armed groups to survive and to continue committing grave abuses.

From a strategic perspective, it is therefore integral to the protection of civilians. In this respect, Global Witness welcomes the commitment by the Special Representative of the Secretary-General to ensure that actions to stem the illicit exploitation of natural resources are integrated into the work of MONUC teams deployed in the east. By implementing these plans, and by working alongside Congolese government agencies responsible for overseeing the mining sector, MONUC would be making a significant, longer-term contribution to cutting off one of the principal sources of funding of the armed groups.

### Sanctions

Resolution 1857 (2008) renews the arms embargo and travel and financial restrictions on those in breach of the embargo. It specifies that “individuals or entities supporting the illegal armed groups in the eastern part of the Democratic Republic of the Congo through illicit trade of natural resources” are among the categories of people who can now be subjected to targeted sanctions and “encourages Member States to submit to the Committee for inclusion on its list of designees, names of individuals or entities who meet the criteria [...] as well as any entities owned or controlled, directly or indirectly, by the submitted individuals or entities acting on behalf of or at the direction of the submitted entities”. Echoing the recommendations of the Group of Experts and Global Witness, the resolution also “encourages Member States to take measures, as they deem appropriate, to ensure that importers, processing industries and consumers of Congolese mineral products under their jurisdiction exercise due diligence on their suppliers and on the origin of the minerals they purchase”.<sup>306</sup>

In late January 2009, Global Witness wrote to the governments of 30 UN member states, asking what actions they were taking to implement resolutions 1856 and 1857. The letter reminded them of the 45-day deadline by which they were called upon to report to the UN Sanctions Committee on actions they had taken to implement Resolution 1857, including those relating to sanctions against parties involved in the illicit trade in natural resources.

By April 2009, Global Witness had received replies from the governments of Austria, Canada, Germany, Israel, Mexico, the Netherlands, Sweden, the UK, and a brief reply from the US Department of Commerce referring the matter to the Department of State. Most of these replies limit themselves to references to states’ minimum obligations regarding the implementation of UN sanctions and corresponding national or European legislation and regulations (see below). The UK government claims to have “actively supported the application of UN sanctions against businesses whose activities supported illegal militias in DRC and [...] will continue to do so where sufficient evidence is placed before the Sanctions Committee”. It does not provide information on any specific actions it has taken in this respect.<sup>307</sup>

The UK, German and Swedish governments refer to their support for the Extractive Industries Transparency Initiative (EITI), a voluntary mechanism which has little bearing on the current situation in conflict-affected areas of eastern DRC<sup>xix</sup>. The German government also refers to plans to develop a certification system for natural resources in eastern DRC (see below).<sup>308</sup>

The Dutch government has been more active in engaging companies on the question of responsible sourcing. In line with Resolution 1857, which encourages member states to ensure that companies under their jurisdiction exercise due diligence, the Dutch ministers for trade and for development cooperation met companies to discuss possible links between coltan used in mobile telephones sold in the Netherlands and the illegal trade in these minerals in the DRC.<sup>309</sup>

In terms of the formal process of reporting back to the UN Security Council, by the end of February 2009, the governments of Belgium, France, Serbia, Switzerland and the UK had filed reports on the implementation of Resolution 1857. With the exception of Switzerland, most simply mentioned existing national and/or European Union legislation, regulations and other measures already in place in their country to apply the sanctions on listed individuals; some also referred to domestic legislation regulating arms transfers.<sup>310</sup> In its report, the Swiss government published recommendations for Swiss economic actors on ways of avoiding violations of the sanctions in connection with the purchase of, trade in or processing of minerals from the DRC. These recommendations quote those formulated by the Group of Experts in its February 2008 report, setting out basic due diligence steps to determine the exact origin of the minerals and whether the mines are controlled or taxed by armed groups.<sup>311</sup> Global Witness welcomes these recommendations by the Swiss government and urges other governments to promote due diligence procedures with companies and traders based in their countries.

As illustrated above, most governments' responses to Resolution 1857 to date have been fairly passive. UN member states should go beyond the minimum interpretation of the implementation of Resolution 1857 and take additional steps to break the links between the mineral trade and the armed conflict in eastern DRC. In particular, they should submit to the UN Sanctions Committee the names of individuals or companies registered in their country who are known to be trading in natural resources produced by or benefiting armed groups. Resolution 1857 "encourages Member States to provide any additional information whenever such information becomes available",<sup>312</sup> yet by the end of March 2009, no state had submitted to the UN Sanctions Committee the names of individuals or entities which met the criteria for sanctions in connection with the natural resources trade, not even those named in the December 2008 report of the Group of Experts.

### ***Mineral certification***

#### The German proposal

One of the proposals put forward to address the problems in the mining sector in eastern DRC is a certification scheme developed by the German Federal Institute for Geosciences and Natural Resources (*Bundesanstalt für Geowissenschaften und Rohstoffe*, BGR) with funding from the German government.<sup>313</sup> The project has been under discussion since around 2007. The BGR signed a memorandum of understanding with the Congolese Ministry of Mines in April 2008<sup>314</sup> and the first phase of the project was intended to run from 2009 to 2011. However, in early 2009, it had not yet been set up. Originally conceived as a pilot project in South Kivu, the project would aim to certify minerals by specifying their origin and the conditions in which they are produced. At the time of writing, the precise focus of the certification, the standards to be used and the methodology

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<sup>xix</sup> EITI is a voluntary process which brings together governments, extractive companies and civil society organisations to develop a framework for companies to publish what they pay and for governments to disclose what they receive in countries that are dependent on natural resource revenues. For further information, see <http://eititransparency.org/eiti>

and timetable have not been finalised. From discussions to date, it would seem that issues such as labour standards, fair trade terms for artisanal miners and environmental considerations may form the primary basis for the certification. It is not yet clear how it would address directly the question of armed groups or military control of the mineral trade.<sup>315</sup>

The project, which would be fairly limited in scope, focusing initially on coltan, would not provide a fully fledged, comprehensive certification process for all minerals produced in North and South Kivu, at least not for several years. If indeed such a process were to be set up in the longer term, it would require significant financial investment and would be dependent on Congolese government agencies themselves exercising greater control, oversight and enforcement over mineral production and exports.

### The International Conference on the Great Lakes Region

In parallel, the International Conference on the Great Lakes Region (ICGLR) intends to develop a broader certification scheme which could apply to all minerals and timber produced in the Great Lakes region. In 2006, the 11 member states of the ICGLR (Angola, Burundi, Central African Republic, Republic of Congo, DRC, Kenya, Rwanda, Sudan, Tanzania, Uganda and Zambia) signed a Pact on Security, Stability and Development, which includes a Protocol against the Illegal Exploitation of Natural Resources. Among other things, the Protocol calls on members to establish a regional Mechanism for the Certification of Natural Resources. It also includes measures relating to protection of human rights, combating impunity, criminalisation of the illegal exploitation of natural resources and sanctions.<sup>316</sup>

A stocktaking mission to identify relevant programmes and initiatives already in place in ICGLR member states was carried out in 2008. A proposal for the regional implementation of the Protocol on natural resources was submitted to members for consideration; it suggests numerous actions ranging from legal and institutional reform to strengthening border controls and harmonising regional trade.

The first expert meeting of the Regional Initiative against the Illegal Exploitation of Natural Resources was held on 2-3 April 2009 in Bujumbura. Member states reiterated the commitments they had made in 2006, stating that “setting up a regional certification mechanism should be the utmost concern in the coming months”.<sup>317</sup> They did not reach a decision on the type of certification or on concrete steps for implementation. The ICGLR Executive Secretariat has been tasked with the development of a certification manual; this is not expected to be finalised and published until 2010 at the earliest. At the April 2009 Bujumbura meeting, member states also agreed to submit their production and trade statistics to the ICGLR Executive Secretariat for a centralised overview of the natural resource trade in the region.

If actively pursued by member states, these steps could lead to positive developments such as increased institutional capacity, greater transparency in the natural resource sector, and improved statistical reporting and information sharing among countries in the region. However, the proposal does not specifically address the ongoing insecurity in eastern DRC and the continuing problem of the trade in natural resources providing funding to warring parties.

Although most members of the ICGLR agree that greater regulation of the trade in natural resources will serve their national and regional interests, incentives to establish a certification scheme or to implement concrete measures to control the trade are not always strong. For some states in the region, there are powerful vested interests in maintaining the status quo. These may explain in part the lack of progress in implementing the Protocol since its adoption more than two years ago and regional states’ failure to curb the continuing illicit exploitation and trade of natural resources. As

illustrated in this report, and in UN Panel and NGO reports on the earlier phases of the conflict in the DRC, political and military elites of countries in the Great Lakes region have benefited directly from the absence of control or regulation of the natural resource trade. The implementation of actions by the ICGLR to halt illicit natural resource exploitation will require genuine commitment and resolve, on the part of all parties, to break the patterns of the past.

#### Certification as a long-term measure

In the long term, an international system of certification of minerals could provide benefits and a framework for tighter control of the trade. Any such system should be designed both to strengthen the capacity of the Congolese authorities to better control the mining sector and to tighten requirements on companies at the international level. The certification mechanism should be built around certain minimum conditions, including:

- transparency at all stages of the process;
- clear agreement on common definitions, standards and reporting requirements;
- the creation of coordinated structures for exchanging information;
- audited chain-of-custody arrangements, with third-party certification and credible audit procedures;
- effective complaint and enforcement measures, at national and international levels;
- the continuation of capacity-building programmes to assist the authorities of the DRC and neighbouring countries in implementing the system.<sup>318</sup>

However, Global Witness believes that in view of the urgency of the current situation in eastern DRC, governments should not pin all their hopes on the development of international certification systems, which will take considerable time and resources. The development of such systems should not be prioritised over actions which can have a more immediate impact. Nor should it delay the implementation of measures by the DRC and other governments specifically targeted at excluding the warring parties from the mining sector, such as those recommended in this report.

Likewise, international assistance to strengthen Congolese government capacity and performance in the mining sector should not be limited to the development of a certification scheme. The DRC already has a set of laws and regulations governing the mining sector and government agencies whose job it is to enforce them. At present, these laws and regulations are not being properly enforced, for a multiplicity of reasons described in this report. Donors should concentrate on developing the ability and capacity of government departments to enforce these laws, especially at provincial and local levels, as well as controlling the practices of their own domestic companies (as explained above). Strengthening provincial and local oversight will represent a significant investment for the DRC and should eventually enable the Congolese authorities to be less dependent on international interventions to manage the country's natural resources.

## **14. Conclusion**

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The combination of recent political events in eastern DRC, a greater international interest in tackling the resource dimension of the conflict and increased sensitivity to criticism on the part of companies and traders may provide a long-awaited opportunity for more effective action to break the links between the mineral trade and armed conflict in North and South Kivu. However, the momentum will need to be sustained to ensure that the issue does not fall off the agenda in the rush to find short-term solutions to the crisis.

Global Witness welcomes the increased international attention to the mineral trade in eastern DRC since 2008 and the apparent will on the part of certain governments and UN bodies to take firmer action. Certain companies' promises to develop due diligence procedures may also have a positive effect if they are applied stringently and without delay. However, given the complexity of the situation in eastern DRC and the international networks involved in the mineral trade, one or two actors alone cannot be relied upon to achieve change. There needs to be a level playing field in which companies which are prepared to perform all the necessary checks to ensure that their trade is not fuelling the conflict are not disadvantaged by those which are not. The highest standards of due diligence should become the norm. In order to prevent revenues from the mineral trade from prolonging the violence, all political and economic actors need to play their part, inside and outside the DRC: from the provinces of North and South Kivu, through to the transit countries and the final destinations of the minerals.

The stakes are high, and those benefiting from the illicit exploitation of resources will not be willing to give up these riches easily. As evidenced by the patterns of the last 12 years, it is in the interests of all sides in the conflict, as well as unscrupulous businessmen, to prolong the anarchy, as it delivers financial benefits without accountability. Any lasting solution to the problem has to be centred on restoring law and order and in bringing those responsible to justice – be it rebel leaders, army officers, companies or traders.

Action to stop the illicit trade should pay particular attention to the role of the FARDC. Efforts to dislodge rebel groups from certain mines may succeed, but safeguards are needed to prevent the FARDC from taking over their role and their trade networks – a pattern which has already been repeated numerous times as the FARDC have been deployed to areas previously held by rebel groups.

An end to hostilities would not automatically signal an end to the militarisation of the mineral trade. If anything, the FARDC – and combatants of former rebel groups within their ranks – may well try to strengthen their hold on the trade unless a clear signal is given that such behaviour will not be tolerated.

The complex and shifting relationships between the warring parties also have to be taken into account. In addition to the collusion between the FARDC and the FDLR, the recent integration of the CNDP into the FARDC, like other rebel groups before it, presents a further risk. Former CNDP commanders and their troops may now have even easier access to the mines in their new army uniforms.

Global Witness concurs with the view expressed by the Group of Experts that “it is not in the interest of certain FARDC commanders to end the conflict in eastern Democratic Republic of the Congo as long as their units are able to deploy to, and profit from, mining areas. Preventing illegal exploitation of minerals is inextricably linked to security sector reform, given the deeply rooted corruption and divided loyalties within FARDC that lends itself to deal-making with non-State armed groups.”<sup>319</sup>

At the international level, bolder action is needed to translate the discourse of concern into reality. This will require a willingness on the part of governments to broach these issues explicitly with government and military authorities in the Great Lakes region, at the highest levels, and for home states to exercise their responsibility over companies which continue to ignore the human rights impact of their trade. If eastern DRC's natural resources are to turn into a source of wealth and development for the population, governments will have to have the courage to confront those on all sides who have been plundering the country and hold them to account.

## Endnotes

- <sup>1</sup> Article 25, 3(c) of the Rome Statute of the International Criminal Court.
- <sup>2</sup> For details, see Global Witness report “Under-mining peace – Tin: the explosive trade in cassiterite in eastern DRC”, June 2005.
- <sup>3</sup> See Global Witness report “Under-mining peace – Tin: the explosive trade in cassiterite in eastern DRC”, June 2005; 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, and Interim 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/2002/565, 22 May 2002.
- <sup>4</sup> See, for example, Human Rights Watch press release “DR Congo: Rwandan rebels slaughter over 100 civilians”, 13 February 2009.
- <sup>5</sup> See President Joseph Kabila quoted in Radio Okapi, “Joseph Kabila à la presse : ‘L’operation conjointe FARDC Armee rwandaise n’ira pas au delà de février””, 1 February 2009, and Information Minister Lambert Mende quoted in Radio Okapi, “Kinshasa : Human Rights Watch demande à Joseph Kabila de livrer Bosco Ntaganda à la CPI”, 3 February 2009.
- <sup>6</sup> Reuters, “ICC-wanted warlord in UN-backed Congo offensive”, 29 April 2009.
- <sup>7</sup> Accord de paix entre le gouvernement et le Congrès national pour la défense du peuple (CNDP), Goma, 23 March 2009.
- <sup>8</sup> Human Rights Watch, “Killings in Kiwanja: the UN’s inability to protect civilians”, December 2008.
- <sup>9</sup> Human Rights Watch, “DR Congo: peace accord fails to end killing of civilians”, 17 July 2008.
- <sup>10</sup> Human Rights Watch, “Victim statements from eastern Democratic Republic of Congo”, 4 December 2008.
- <sup>11</sup> [http://www.itri.co.uk/pooled/articles/BF\\_TECHART/view.asp?Q=BF\\_TECHART\\_309008](http://www.itri.co.uk/pooled/articles/BF_TECHART/view.asp?Q=BF_TECHART_309008), accessed on 27 March 2009.
- <sup>12</sup> See [www.itri.co.uk](http://www.itri.co.uk). The overall percentage is not broken down by province, but can be assumed to include tin ore from North Kivu, South Kivu, Maniema and Katanga.
- <sup>13</sup> Division des Mines Nord-Kivu and Division des Mines Sud-Kivu, Rapport Annuel 2007; Division des Mines Nord-Kivu statistics for January to September 2008; Division des Mines Sud-Kivu statistics for January to June 2008. At least four different Congolese government agencies produce export statistics, but their figures do not always tally. For a more detailed breakdown of statistics from the different agencies, see Annex A of the present report.
- <sup>14</sup> See <http://www.bloomberg.com/apps/news?pid=20601087&sid=ay2vucKic4PI&refer=home>, accessed on 14 April 2009.
- <sup>15</sup> Peruvian Ministry of Mines and Energy, <http://www.minem.gob.pe/archivos/dgm/publicaciones/ANUARIOS/ANUARIO2007/ANUARIO%202.pdf>, accessed on 9 April 2009.
- <sup>16</sup> See ITRI website, [http://www.itri.co.uk/pooled/articles/BF\\_NEWSART/view.asp?Q=BF\\_NEWSART\\_310938](http://www.itri.co.uk/pooled/articles/BF_NEWSART/view.asp?Q=BF_NEWSART_310938), accessed on 14 April 2009.
- <sup>17</sup> Brazilian national department of mining production, <http://www.dnpm.gov.br/assets/galeriaDocumento/SumarioMineral2008/estanho.pdf>, accessed on 9 April 2009.
- <sup>18</sup> Division des Mines Nord-Kivu and Division des Mines Sud-Kivu, Rapport Annuel 2007; Division des Mines Nord-Kivu statistics for January to September 2008; Division des Mines Sud-Kivu statistics for January to June 2008. For a more detailed breakdown of statistics, see Annex A of the present report.
- <sup>19</sup> Global Witness estimate based on United States Geological Survey (USGS) Mineral Commodity Summaries and telephone interview with USGS country specialist, 7 April 2009.
- <sup>20</sup> 2009 USGS Mineral Commodity Summaries, available at <http://minerals.usgs.gov/minerals/pubs/commodity/niobium/mcs-2009-tanta.pdf>, accessed on 9 April 2009.
- <sup>21</sup> Global Witness estimate based on USGS Mineral Commodity Summaries and telephone interview with USGS country specialist, 7 April 2009.
- <sup>22</sup> 2009 USGS Mineral Commodity Summaries, available at <http://minerals.usgs.gov/minerals/pubs/commodity/niobium/mcs-2009-niobi.pdf>, accessed on 9 April 2009.
- <sup>23</sup> International Tungsten Industry Association Newsletter, December 2007.
- <sup>24</sup> Division des Mines Nord-Kivu and Division des Mines Sud-Kivu, Rapport Annuel 2007; Division des Mines Nord-Kivu statistics for January to September 2008; Division des Mines Sud-Kivu statistics for January to June 2008. For a more detailed breakdown of statistics, see Annex A of the present report.
- <sup>25</sup> Global Witness estimate based on USGS Mineral Commodity Summaries and telephone interview with USGS country specialist, 7 April 2009.
- <sup>26</sup> 2009 USGS Mineral Commodity Summaries, available at <http://minerals.usgs.gov/minerals/pubs/commodity/tungsten/mcs-2009-tungs.pdf>, accessed on 9 April 2009.
- <sup>27</sup> For information on the uses of pyrochlore and background on the Lueshe mine, see Division des Mines Nord-Kivu, Rapport Annuel 2007; Report of the Group of Experts on the DRC, S/2006/53, 27 January 2006, paragraphs 96-105; and Report of the Group of Experts on the DRC, S/2006/525, 18 July 2006, paragraphs 137-144.

- <sup>28</sup> 2006 Congolese government statistics quoted in Pole Institute, “Ressources naturelles et flux du commerce transfrontalier dans la region des Grands Lacs”, July 2007. These exports in 2006 were reportedly from old stock. See IPIS “Mapping conflict motives: eastern DRC”, March 2008.
- <sup>29</sup> Global Witness e-mail correspondence, 13 February 2009.
- <sup>30</sup> Letter to Global Witness from MPC Managing Director Brian Christophers, 17 February 2009.
- <sup>31</sup> Global Witness interview with MPC representatives, Goma, 8 August 2008.
- <sup>32</sup> For background information on Banro’s presence in South Kivu prior to 2004, see Koen Vlassenroot and Timothy Raeymaekers, “‘Divise endeux’: Or et identité sociale à Kamituga (Sud-Kivu)”, in *L’Afrique des Grands Lacs*, annuaire 2003-2004.
- <sup>33</sup> See Division des Mines Nord-Kivu and Division des Mines Sud-Kivu, *Rapport Annuel 2007*.
- <sup>34</sup> Global Witness interview with MONUC official, Goma, 22 July 2008.
- <sup>35</sup> Global Witness interview with miner, Tubimbi, 29 July 2008.
- <sup>36</sup> Global Witness interview, Bukavu, 28 July 2008.
- <sup>37</sup> Global Witness interviews with Division des Mines, Goma, 22 July 2008, and other sources in North and South Kivu, July and August 2008. See also CREDDHO, “Rapport sur l’exploitation et l’exportation de la cassiterite et du coltan en province du Nord-Kivu”, Goma, October 2007.
- <sup>38</sup> Global Witness interviews with members of Congolese human rights organisations, Bukavu, 24 July 2008, and Lemera, 3 August 2008.
- <sup>39</sup> Global Witness interview, Lemera, 3 August 2008.
- <sup>40</sup> Global Witness interview with human rights activist, Bukavu, 24 July 2008.
- <sup>41</sup> Global Witness interview with miner, Bukavu, 28 July 2008.
- <sup>42</sup> Global Witness interview with NGO representative, Goma, 21 July 2008.
- <sup>43</sup> Global Witness interview, Division des Mines, Goma, 22 July 2008. This estimate was backed up by a mineral trader in Goma who told Global Witness that he believed Bisie accounted for 60-70% of all exports from Goma and around 80% of all mineral exports from North and South Kivu (Global Witness interview, Goma, 8 August 2008).
- <sup>44</sup> Global Witness interviews with SAESSCAM official, Goma, 23 July 2008, and mining company representative, Goma, 7 August 2008. See also Pole Institute, “Ressources naturelles et flux du commerce transfrontalier dans la region des Grands Lacs”, July 2007.
- <sup>45</sup> Global Witness interview with mining company representative, Goma, 7 August 2008.
- <sup>46</sup> Global Witness interview with Division des Mines, Goma, 22 July 2008.
- <sup>47</sup> Global Witness interviews, Goma, 7 and 8 August 2008, and telephone interview with journalist, 10 September 2008. See also Lydia Polgreen, “Congo’s riches, looted by renegade troops”, *The New York Times*, 16 November 2008.
- <sup>48</sup> Global Witness interviews, Goma, 7 and 8 August 2008.
- <sup>49</sup> “Rapport d’enquête sur la mort d’hommes par éboulement dans le puits Safina du carre minier Bisie/Mpama le jeudi 15/11/2007, carre situe en groupement Wassa, secteur des Wanianga”, Province du Nord-Kivu, Territoire de Walikale, 30 November 2007. The report names the two FARDC second lieutenants who ordered mining to continue on 14 and 15 November as Asani and Asimbo Sileki Rasta.
- <sup>50</sup> *Ibid.*
- <sup>51</sup> Decision no. 5072/002/TW/Y6/2007 du 10/02.2007 portant interdiction de l’exploitation des mineraux dans des puits dangereux à la carrière Bisie/ Mpama, Dieudonne Tshishiku Mutoke, Administrateur du territoire de Walikale, 10 February 2007.
- <sup>52</sup> Global Witness interview, Kinshasa, 12 May 2008.
- <sup>53</sup> Global Witness interviews, Kinshasa, 12 May 2008 and Goma, 7 August 2008. See also Lydia Polgreen, “Congo’s riches, looted by renegade troops”, *The New York Times*, 16 November 2008.
- <sup>54</sup> Global Witness interview with traditional chief from Walikale, Goma, 10 August 2008. Global Witness received several other testimonies about local civilian authorities benefiting, directly or indirectly, from extortion by the FARDC at Bisie and other mines. For further information on the role of civilian authorities and the imposition of “taxes” in Bisie, see CREDDHO, “Rapport sur l’exploitation et l’exportation de la cassiterite et du coltan en province du Nord-Kivu”, Goma, October 2007.
- <sup>55</sup> Global Witness interview with representatives of local development organisation, Goma, 9 August 2008.
- <sup>56</sup> Global Witness interview, Kinshasa, 12 May 2008, and telephone interview with journalist, 19 September 2008.
- <sup>57</sup> Global Witness interview with CREDDHO, Goma, 8 August 2008. See also CREDDHO, “Rapport sur l’exploitation et l’exportation de la cassiterite et du coltan en province du Nord-Kivu”, Goma, October 2007.
- <sup>58</sup> Global Witness interview, Goma, 7 August 2008.
- <sup>59</sup> Global Witness interview with CREDDHO, Goma, 8 August 2008.
- <sup>60</sup> Global Witness interview, Goma, 7 August 2008.
- <sup>61</sup> Global Witness interview with General Vainqueur Mayala, commander of the 8th military region, and other senior FARDC officials, Goma, 11 August 2008.
- <sup>62</sup> Global Witness telephone interview with journalist, 19 September 2008.
- <sup>63</sup> Global Witness interview with senior FARDC official from the 8th military region, Goma, 11 August 2008.
- <sup>64</sup> Global Witness interviews, Goma, 7 and 10 August 2008.
- <sup>65</sup> Global Witness interview with former member of an armed group, Goma, 9 August 2008.

<sup>66</sup> Global Witness interviews with UN source, civilian government official, industry and humanitarian sources, Goma, July and August 2008; telephone interview with journalist, 19 September 2008.

<sup>67</sup> Global Witness interviews, Goma, 7 and 10 August 2008.

<sup>68</sup> Global Witness interviews with UN personnel, sources in the mining sector and Congolese human rights activists, Goma, August 2008.

<sup>69</sup> Global Witness interviews, Kinshasa, 12 May 2008, and Goma, 7 and 8 August 2008. GMB and Alexis Makabuza are also cited in the Final report of the Group of Experts on the DRC, S/2007/423, 16 July 2007. For further background on the conflict in Bisie, see Pole Institute, "Ressources naturelles et flux du commerce transfrontalier dans la region des Grands Lacs", July 2007, and CREDDHO, "Rapport sur l'exploitation et l'exportation de la cassiterite et du coltan en province du Nord-Kivu", Goma, October 2008.

<sup>70</sup> Global Witness interviews with MPC representatives, Goma, 7 and 8 August 2008; MPC letter to the military prosecutor in Kinshasa, dated 11 December 2006. MPC also presented a detailed account of events in Bisie in a letter to Global Witness dated 17 February 2009.

<sup>71</sup> MPC letter to Global Witness, 17 February 2009.

<sup>72</sup> Global Witness interview with MPC representatives, Goma, 7 August 2008, and telephone interview, 18 March 2009.

<sup>73</sup> Global Witness interviews with Division des Mines, Goma, 22 July 2008, and SAESSCAM, Goma, 23 July 2008.

<sup>74</sup> Global Witness interview with General Vainqueur Mayala, commander of the 8th military region, and other senior FARDC officials, Goma, 11 August 2008; telephone interview with MPC representative, 18 March 2009.

<sup>75</sup> Global Witness e-mail correspondence, 19 and 25 March 2009.

<sup>76</sup> Global Witness interviews with local residents, Tubimbi, 29 July 2008.

<sup>77</sup> Global Witness interview, Tubimbi, 29 July 2008.

<sup>78</sup> Global Witness interview, Tubimbi, 29 July 2008.

<sup>79</sup> Global Witness interviews with local residents, Tubimbi, 29 July 2008.

<sup>80</sup> Global Witness interview with Captain Musa Kyabele Freddy, Tubimbi, 29 July 2008.

<sup>81</sup> Global Witness interview with General Pacifique Masunzu, commander of the 10th military region, Bukavu, 30 July 2008.

<sup>82</sup> The description of events in Mukungwe in this section is based on Global Witness interviews in July and August 2008 with a range of sources in South Kivu, including provincial and local government and military officials, human rights activists, a member of the Kurhengamuzimu family and representatives of Banro; correspondence by parties to the conflict and civilian, police and military authorities; and reports by local civil society organisations.

<sup>83</sup> Global Witness interview with local civilian official, Bukavu, 27 July 2008.

<sup>84</sup> See letter from SAMIKI, signed by its managing director, Pasteur Byamungu Kurhengamuzimu, addressed to the Minister of Defence, entitled "Occupation illegale par des militaires de la 10e reg.mil.du carre minier de Mukungwe accompagne d'exactions contre la population civile" (Illegal occupation of the mining site of Mukungwe by military from the 10th military region, along with abuses against the civilian population), Kinshasa, 22 May 2008; Global Witness interviews, Bukavu, July and August 2008.

<sup>85</sup> Global Witness interview with NGO representatives, Bukavu, 25 July 2008.

<sup>86</sup> Global Witness interviews, Bukavu, 27 July and 4 August 2008.

<sup>87</sup> Global Witness interview with Captain Musa Kyabele Freddy, Tubimbi, 29 July 2008.

<sup>88</sup> Global Witness interview with member of an NGO, Bukavu, 25 July 2008.

<sup>89</sup> Letter from FARDC intelligence officer of the 10th military region, Bukavu, addressed to the commander in Mukungwe, 19 March 2008.

<sup>90</sup> Letter from a police inspector, South Kivu, addressed to the commander of the 10th military region, entitled "Denonciation mauvais comportement des Mil dans le carre minier de Mukungwe" (denunciation of bad behaviour by the military in the mining site of Mukungwe), 11 April 2008.

<sup>91</sup> Global Witness interviews with members of NGOs, Bukavu, 24-26 July 2008.

<sup>92</sup> Global Witness interviews, Bukavu, July 2008. Global Witness was not able to verify the involvement of all these officials.

<sup>93</sup> Global Witness interview with General Pacifique Masunzu, commander of the 10th military region, and Colonel Baudouin Nakabaka, 2nd commander responsible for administration and logistics, Bukavu, 30 July 2008.

<sup>94</sup> Global Witness interview with representatives of Banro, Bukavu, 4 August 2008.

<sup>95</sup> Global Witness interview, Lemera, 1 August 2008.

<sup>96</sup> Global Witness interview, Sange, 2 August 2008.

<sup>97</sup> Global Witness interview, Sange, 2 August 2008.

<sup>98</sup> Article 27 of the Mining Code specifies that members of the armed forces may not request or obtain mining rights, artisanal mining or trading cards or constitute themselves as comptoirs for the sale and purchase of artisanally produced minerals. Loi no.007/2002 du 11 juillet 2002 portant Code Minier.

<sup>99</sup> Global Witness interview with General Vainqueur Mayala, commander of the 8th military region, and Colonel Delphin Kahimbi, deputy commander responsible for operations and military intelligence, Goma, 11 August 2008.

<sup>100</sup> Letter from disciplinary council to the commander of the 8th military region, 15 July 2008.

<sup>101</sup> Global Witness interview with General Vainqueur Mayala, commander of the 8th military region, and Colonel Delphin Kahimbi, deputy commander responsible for operations and military intelligence, Goma, 11 August 2008.

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- <sup>102</sup> Global Witness interview with official of the Division des Mines, Baraka, 2 August 2008.
- <sup>103</sup> Global Witness interview with human rights activist, Bukavu, 25 July 2008.
- <sup>104</sup> Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008, paragraphs 73 and 77. Section IV, B of the report (paragraphs 72-101) describes the way in which the FDLR use the natural resource trade as a source of finance.
- <sup>105</sup> For background information on the structures of the FDLR in North and South Kivu, see Pole Institute, “La conférence de Goma et la question des FDLR au Nord et au Sud-Kivu”, Goma, June 2008.
- <sup>106</sup> Internal MONUC report, 28 May 2008.
- <sup>107</sup> Global Witness interview with member of an NGO, Bukavu, 25 July 2008.
- <sup>108</sup> Global Witness meeting with members of civil society from North and South Kivu, Goma, 22 July 2008.
- <sup>109</sup> Global Witness interviews, Lemera, 1 August 2008. The Group of Experts also found that the FDLR were bringing minerals to Lemera to sell them to traders there (see Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008, paragraph 85).
- <sup>110</sup> Global Witness interview with NGO researcher, Bukavu, 25 July 2008.
- <sup>111</sup> Global Witness interview, Lemera, 1 August 2008.
- <sup>112</sup> Global Witness meeting with members of civil society from North and South Kivu, Goma, 22 July 2008.
- <sup>113</sup> Ibid.
- <sup>114</sup> Global Witness meeting with human rights activist, Bukavu, 24 July 2008.
- <sup>115</sup> Global Witness interview with miner, Bukavu, 28 July 2008.
- <sup>116</sup> Internal MONUC memo, 2 January 2008, and draft report, 6 May 2008. A breakdown of FDLR “taxes” in mines in Mwenga is also provided in Pole Institute, “La conférence de Goma et la question des FDLR au Nord et au Sud Kivu”, Goma, June 2008.
- <sup>117</sup> Note on FDLR deployment in Shabunda by a local NGO, Bukavu, 3 November 2007.
- <sup>118</sup> Internal MONUC report, 28 May 2008.
- <sup>119</sup> Global Witness interview with researcher from Shabunda, Bukavu, 25 July 2008.
- <sup>120</sup> Global Witness interview with MONUC official, Bukavu, 28 July 2008.
- <sup>121</sup> Global Witness interview with miner, Bukavu, 28 July 2008.
- <sup>122</sup> Global Witness interview with human rights activist, Bukavu, 27 July 2008.
- <sup>123</sup> Global Witness interview, Bukavu, 26 July 2008.
- <sup>124</sup> Global Witness interview with human rights activist, Bukavu, 24 July 2008.
- <sup>125</sup> Global Witness interview with human rights researcher, Baraka, 2 August 2008.
- <sup>126</sup> Global Witness interview with mineral trader, Baraka, 2 August 2008.
- <sup>127</sup> Global Witness interview with provincial government official, Goma, 23 July 2008.
- <sup>128</sup> Global Witness interview, Bukavu, 26 July 2008.
- <sup>129</sup> See Human Rights Watch press releases “DR Congo: Brutal rapes by rebels and army”, 9 April 2009, and “DR Congo: Rwandan rebels slaughter over 100 civilians”, 13 February 2009; Twenty-seventh report of the Secretary General on the United Nations Organisation Mission in the Democratic Republic of Congo, S/2009/160, 27 March 2009; and MONUC information note, “MONUC condemns exactions and threats on Congolese civilian populations by the FDLR”, 18 February 2009.
- <sup>130</sup> Global Witness interview with FDLR members, Luvungi (South Kivu), 31 July 2008.
- <sup>131</sup> Declaration of the FDLR 03/CD/September 2008: “The FDLR categorically deny false and absolutely baseless accusations propagated by the British organization Global Witness that they have been involved in activities of mining tin and gold in the DRC”.
- <sup>132</sup> Declaration of the FDLR 02/CD/December 2008: “FDLR reaction to the final report of the Panel of UN Experts on the Democratic Republic of Congo (DRC)”.
- <sup>133</sup> For further details on military and other forms of collaboration between the FDLR and the FARDC, see Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008, section IV, C.
- <sup>134</sup> Global Witness interview with FARDC official, Bukavu, 30 July 2008.
- <sup>135</sup> Global Witness interview with member of an NGO, Bukavu, 25 July 2008.
- <sup>136</sup> Global Witness interview with human rights activist, Bukavu, 27 July 2008.
- <sup>137</sup> Global Witness interview with NGO representative, Goma, 21 July 2008.
- <sup>138</sup> Global Witness interview with UN source, Bukavu, 28 July 2008.
- <sup>139</sup> Global Witness interview with humanitarian source from Walikale, Goma, 7 August 2008.
- <sup>140</sup> Global Witness interview with member of civil society from Shabunda, Bukavu, 24 July 2008.
- <sup>141</sup> Global Witness interview with researcher from Shabunda, Bukavu, 25 July 2008.
- <sup>142</sup> Global Witness interview with human rights activist, Bukavu, 24 July 2008.
- <sup>143</sup> Global Witness interview with miner from Shabunda, Bukavu, 28 July 2008.
- <sup>144</sup> The colonel has since been sent to *brassage* and moved to another area. Global Witness interview, Bukavu, 28 July 2008.
- <sup>145</sup> Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008, paragraph 86 and Annex 14.
- <sup>146</sup> Internal MONUC report, 6 June 2008.
- <sup>147</sup> Global Witness interview with local researcher, Bukavu, 25 July 2008.

<sup>148</sup> Global Witness interview with General Pacifique Masunzu, commander of the 10th military region, Bukavu, 30 July 2008.

<sup>149</sup> See, for example, FDLR press release 02/CD/December 2008, “FDLR reaction to the final report of the Panel of UN Experts on the DRC”, 15 December 2008.

<sup>150</sup> Global Witness interviews with MONUC military personnel and Western diplomat, Goma, 22 and 23 July 2008; letter from Alan Doss, Special Representative of the Secretary-General, to Global Witness, 16 February 2009. See also “Background briefing: UN support for security and stabilization of eastern DRC”, February 2008, and Fourth special report of the Secretary-General on the United Nations Organisation Mission in the Democratic Republic of Congo, 21 November 2008.

<sup>151</sup> Global Witness interviews with MONUC military personnel, Goma, 23 July and 11 August 2008.

<sup>152</sup> Global Witness interview with MONUC military official, Goma, 23 July 2008.

<sup>153</sup> See Fourth special report of the Secretary General on the United Nations Organization Mission in the Democratic Republic of Congo, 21 November 2008, paragraph 23. The paragraph also notes that “there continue to be allegations of military and economic collusion by FARDC with FDLR”. See also letter from Alan Doss, Special Representative of the Secretary-General, to Global Witness, 16 February 2009.

<sup>154</sup> Twenty-seventh report of the Secretary-General on the United Nations Organisation Mission in the Democratic Republic of Congo, S/2009/160, 27 March 2009.

<sup>155</sup> See AFP, “RDC : départ des troupes rwandaises à partir du 25 février”, 23 February 2009, and BBC News, “Rwanda troops withdraw from Congo”, 25 February 2009.

<sup>156</sup> See Reuters, “Congo, UN to step up ops against Rwandan rebels”, 23 February 2009.

<sup>157</sup> Radio Okapi, “Sud Kivu : traque des FDLR, Charles Mwando annonce le lancement de l’opération ‘Kimya II’”, 29 April 2009.

<sup>158</sup> Twenty-seventh report of the Secretary-General on the United Nations Organisation Mission in the Democratic Republic of Congo, S/2009/160, 27 March 2009.

<sup>159</sup> Global Witness interviews, Kinshasa, 8 and 12 May 2008, and Division des Mines, Nord-Kivu, Rapport Annuel 2007. See also IPIS, “Mapping conflict motives”, March 2008. For further information on the Bibatama mine, see Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008, section III, F.

<sup>160</sup> For details of the CNDP’s control of Bunagana and the revenues it collects there, see Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008, paragraphs 35-47.

<sup>161</sup> Global Witness interviews with MONUC staff, Goma, 22 July 2008 and 9 August 2008, and Kinshasa, 8 May 2008. The CNDP’s system of “tax” collection, including from the charcoal trade, is also described in the Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008, paragraph 33.

<sup>162</sup> See Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008, in particular section III, G. For details of Rwanda’s support to Laurent Nkunda and his associates before the CNDP was formed, see Report of the Group of Experts, S/2004/551, 15 July 2004.

<sup>163</sup> Global Witness interviews, Goma and Bukavu, August 2008. See also Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008, section III.

<sup>164</sup> Global Witness interviews, Bukavu, 25 July 2008 and Baraka, 2 August 2008.

<sup>165</sup> Global Witness interview with miner, Baraka, 2 August 2008.

<sup>166</sup> Global Witness interview with member of a local human rights and development organisation, Baraka, 2 August 2008.

<sup>167</sup> Letter from the Chef de Division des Mines to the Governor of South Kivu, entitled “Occupation illegale du carre minier de Mukungwe : demande evacuation des militaires” (Illegal occupation of the mining site at Mukungwe: request for the evacuation of the military), Bukavu, 28 March 2008.

<sup>168</sup> Letter from Vice-Governor of South Kivu to the commander of the 10th military region, entitled “Evacuation des militaires dans le carre minier de Mukungwe” (Evacuation of military from the mining site at Mukungwe), Bukavu, 31 March 2008.

<sup>169</sup> For further information on the phenomenon of fraud in this context, see Pole Institute, “Ressources naturelles et flux du commerce transfrontalier dans la region des Grands Lacs”, July 2007.

<sup>170</sup> Division des Mines Nord-Kivu, Rapport Annuel 2007.

<sup>171</sup> Global Witness interviews with OCC staff, Bukavu, 28 July and 4 August 2008, OFIDA staff, Bukavu, 30 July 2008, and Division des Mines, Bukavu, 28 July 2008.

<sup>172</sup> Global Witness interview with Division des Mines, Bukavu, 28 July 2008.

<sup>173</sup> Global Witness interview with Division des Mines, Goma, 22 July 2008.

<sup>174</sup> Global Witness interviews with Division des Mines, Bukavu, 28 July 2008 and SAESSCAM, Goma, 23 July 2008.

<sup>175</sup> Global Witness interview with senior civil servant, Bukavu, 28 July 2008.

<sup>176</sup> Global Witness interview with OFIDA officials, Bukavu, 30 July 2008.

<sup>177</sup> Global Witness interview with Jean-Claude Kibala, Vice-Governor of South Kivu, Bukavu, 5 August 2008.

<sup>178</sup> “Reflexion de la Federation des Entreprises du Congo sur l’exploitation des mineraux au Kivu : ses impacts sur la situation socio économique et la recherche commune des pistes de solutions durables”, Bukavu, 24 August 2008. These figures differ from official government statistics (see Annex A of the present report).

- <sup>179</sup> Global Witness interviews with and official documents from Division des Mines, North and South Kivu, July 2008, and interviews with comptoirs in Goma and Bukavu, July and August 2008.
- <sup>180</sup> Global Witness interview with Alexis Makabuza, Goma, 10 August 2008.
- <sup>181</sup> Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008, section IV, B.
- <sup>182</sup> Ibid, paragraphs 57-60.
- <sup>183</sup> Ibid, paragraph 85; Global Witness e-mail correspondence, 13 February 2009.
- <sup>184</sup> Global Witness did not research in detail the identity and networks of négociants. More information on their role, particularly in relation to the FDLR, can be found in the Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008.
- <sup>185</sup> Global Witness interview, Bukavu, 28 July 2008.
- <sup>186</sup> For example, Global Witness interview with Mudekereza Namegabe, Groupe Olive and President of FEC South Kivu, Bukavu, 28 July 2008.
- <sup>187</sup> Global Witness interview, Goma, 7 August 2008.
- <sup>188</sup> Global Witness e-mail correspondence, 1 September 2008.
- <sup>189</sup> Global Witness interview with Mudekereza Namegabe, Groupe Olive and President of FEC South Kivu, Bukavu, 28 July 2008.
- <sup>190</sup> Global Witness meeting with comptoirs, Goma, 9 August 2008.
- <sup>191</sup> Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008, paragraph 72.
- <sup>192</sup> Global Witness meeting with 18 representatives of comptoirs, Goma, 9 August 2008.
- <sup>193</sup> Letter from Thierry Kituli Kaoma, General Director of Pan African Business Group, sent to Global Witness by e-mail on 16 December 2008.
- <sup>194</sup> Global Witness interviews, Goma, 22 July and 7 August 2008; telephone interview with journalist, 19 September 2008; Division des Mines Nord-Kivu, Rapport Annuel 2007. See also IPIS, “Culprits or scapegoats? Revisiting the role of Belgian mineral traders in eastern DRC”, May 2009.
- <sup>195</sup> Letter from FEC North Kivu to the Minister of Mines in Kinshasa, entitled “Denonciation des accusations des ONG et le Panel des Nations Unies de l’embargo sur les armes en RDC”, 11 December 2008.
- <sup>196</sup> Global Witness interview with Muyeye Byaboshi, Bukavu, 5 August 2008.
- <sup>197</sup> Letter from Thierry Kituli Kaoma, General Director of Pan African Business Group, sent to Global Witness by e-mail on 16 December 2008.
- <sup>198</sup> Global Witness interview with Mudekereza Namegabe, Groupe Olive and President of FEC South Kivu, Bukavu, 28 July 2008; Global Witness meeting with comptoirs, Goma, 9 August 2008.
- <sup>199</sup> Letter from Thierry Kituli Kaoma, General Director of Pan African Business Group, sent to Global Witness by e-mail on 16 December 2008.
- <sup>200</sup> E-mail from Zulfikarali Panju to Global Witness, 19 December 2008.
- <sup>201</sup> Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008, paragraphs 78 and 79.
- <sup>202</sup> Global Witness interview with Mudekereza Namegabe, Groupe Olive and President of FEC South Kivu, Bukavu, 28 July 2008; Global Witness meeting with comptoirs, Goma, 9 August 2008; and letter from FEC North Kivu to the Minister of Mines, 11 December 2008.
- <sup>203</sup> Speech by Mudekereza Namegabe, President of FEC South Kivu, quoted in “Reflexion de la Federation des Entreprises du Congo sur l’exploitation des mineraux au Kivu : ses impacts sur la situation socio économique et la recherche commune des pistes de solutions durables”, Bukavu, 24 August 2008.
- <sup>204</sup> See, for example, Radio Okapi, “Bukavu : accuses de financer la guerre à l’Est, les comptoirs miniers ferment”, 8 January 2009.
- <sup>205</sup> Division des Mines Nord-Kivu and Division des Mines Sud-Kivu, Rapport Annuel 2007; Division des Mines Nord Kivu, statistics for January to September 2008. See Annex B of the present report.
- <sup>206</sup> For background information on these companies, see IPIS, “Culprits or scapegoats? Revisiting the role of Belgian mineral traders in eastern DRC”, May 2009. The report also documents the trading relationships between some of these companies; it states that SDE has supplied Traxys with minerals while STI has supplied Trademet.
- <sup>207</sup> [http://www.itri.co.uk/pooled/articles/BF\\_TECHART/view.asp?Q=BF\\_TECHART\\_285697](http://www.itri.co.uk/pooled/articles/BF_TECHART/view.asp?Q=BF_TECHART_285697)
- <sup>208</sup> See [www.thaisarco.com](http://www.thaisarco.com)
- <sup>209</sup> [http://www.itri.co.uk/pooled/articles/BF\\_TECHART/view.asp?Q=BF\\_TECHART\\_285697](http://www.itri.co.uk/pooled/articles/BF_TECHART/view.asp?Q=BF_TECHART_285697)
- <sup>210</sup> Division des Mines Nord-Kivu and Division des Mines Sud-Kivu, Rapport Annuel 2007. See Annex B of the present report.
- <sup>211</sup> Division des Mines Nord-Kivu, statistics for January to September 2008.
- <sup>212</sup> Division des Mines Nord-Kivu and Division des Mines Sud-Kivu, Rapport Annuel 2007. See Annex B of the present report.
- <sup>213</sup> Division des Mines Nord-Kivu and Division des Mines Sud-Kivu, Rapport Annuel 2007. See Annex B of the present report.
- <sup>214</sup> United Nations Commodity Trade statistics database; Thailand customs statistics accessed at <http://www.customs.go.th> on 2 December 2008.
- <sup>215</sup> Letter from Thierry Kituli Kaoma, General Director of Pan African Business Group, sent to Global Witness by e-mail on 16 December 2008.

- <sup>216</sup> Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008.
- <sup>217</sup> See Annex III of the Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the DRC, S/2002/1146, 15 October 2002.
- <sup>218</sup> See, for example, Division des Mines Nord-Kivu, Rapport Annuel 2007.
- <sup>219</sup> See [www.sdee.be](http://www.sdee.be) and [www.gbedrc.com](http://www.gbedrc.com)
- <sup>220</sup> See The New York Times, “Kinshasa journal – getting rich in Zaire: An American, 33, tells how”, 20 December 1989.
- <sup>221</sup> See [www.gbedrc.com](http://www.gbedrc.com)
- <sup>222</sup> Unless otherwise indicated, the information in this section is drawn from documents obtained from UK Companies House and from THAISARCO’s website, [www.thaisarco.com](http://www.thaisarco.com), accessed on 20 March 2009.
- <sup>223</sup> See <http://www.amcgroup.com/about.html>, accessed on 3 April 2009.
- <sup>224</sup> Amalgamated Metal Corporation PLC Annual Report and Accounts 2007.
- <sup>225</sup> AMCO Investments Limited, Annual Return, period ending 7 July 2008; Amalgamated Metal Corporation PLC, Annual Return, period ending 30 April 2008.
- <sup>226</sup> Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008, paragraphs 78 and 79.
- <sup>227</sup> In 2007, THAISARCO purchased 1,945 tonnes of cassiterite, 127.34 tonnes of coltan and 19.5 tonnes of wolframite from Panju (see Division des Mines Sud-Kivu, Rapport Annuel 2007) and continued buying minerals from Panju in 2008 (see, for example, CEEC, Rapport mensuel d’activites, mois d’avril 2008, mois de mai 2008 et mois de juin 2008, Antenne de Bukavu, Sud-Kivu.).
- <sup>228</sup> Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008, paragraph 88.
- <sup>229</sup> UN Security Council Resolution S/RES/1857 (2008), 22 December 2008.
- <sup>230</sup> Letters to Global Witness from D.M. Spratt, Managing Director, THAISARCO, 20 January 2009, and from V.H.Sher, Chief Executive of AMC, 19 January 2009.
- <sup>231</sup> Letter to Global Witness from Lai Fook Hoy, Group Chief Operating Officer of Malaysia Smelting Corporation Berhad, 16 January 2009.
- <sup>232</sup> Ibid.
- <sup>233</sup> Letter to Global Witness from D.M. Spratt, Managing Director, THAISARCO, 20 January 2009.
- <sup>234</sup> Letter to Global Witness from F. Muylaert, Trademet, 22 January 2009.
- <sup>235</sup> Letters to Global Witness from AMC, 19 January 2009; Malaysia Smelting Corporation, 16 January 2009; THAISARCO, 20 January 2009; and Trademet, 22 January 2009.
- <sup>236</sup> ITRI Artisanal and Small Scale Mining Policy, 15 October 2008, available at [www.itri.co.uk](http://www.itri.co.uk)
- <sup>237</sup> “Progress report: towards a responsible cassiterite supply chain”, 12 February 2009, available at [www.itri.co.uk](http://www.itri.co.uk)
- <sup>238</sup> Ibid.
- <sup>239</sup> Letter to Global Witness from Brian Christophers, Managing Director, MPC, 17 February 2009.
- <sup>240</sup> Letter to Global Witness from Alan G. Smith, Chief Executive Officer, Kivu Resources, 18 February 2009.
- <sup>241</sup> Letter to Global Witness from Brian Christophers, Managing Director, MPC, 17 February 2009.
- <sup>242</sup> Letter to Global Witness from Michael Prinsloo, President and CEO, Banro, 19 December 2008.
- <sup>243</sup> “Social and Environmental Responsibility in Metals Supply to the Electronic Industry”, prepared for EICC and GeSI by GHGm, 20 June 2008.
- <sup>244</sup> Ibid.
- <sup>245</sup> Electronic Industry Code of Conduct, adopted in October 2004 and subsequently revised. The version consulted by Global Witness, dated October 2007, was downloaded from Hewlett-Packard’s website at [www.hp.com/hpinfo/globalcitizenship/environment/pdf/supcode.pdf](http://www.hp.com/hpinfo/globalcitizenship/environment/pdf/supcode.pdf)
- <sup>246</sup> Letter to Global Witness from Bonnie Nixon, Director of Environmental Sustainability, Hewlett-Packard, received on 4 February 2009.
- <sup>247</sup> See <http://www.nokia.com/corporate-responsibility/ethics/tools/code-of-conduct>
- <sup>248</sup> Letter to Global Witness from Pekka Isosomppi, Director of Corporate Social Responsibility, Nokia Corporation, 16 January 2009.
- <sup>249</sup> Global Witness, “Afrimex (UK) – DRC: Complaint to the UK National Contact Point under the Specific Instance Procedure of the OECD Guidelines for Multinational Enterprises”, 20 February 2007.
- <sup>250</sup> Final statement by the UK National Contact Point for the OECD Guidelines for Multinational Enterprises: Afrimex (UK) Ltd, 28 August 2008; Department for Business Enterprise and Regulatory Reform (BERR) press release “Mineral trade helped fund rebels”, 28 August 2008.
- <sup>251</sup> Division des Mines Nord-Kivu and Division des Mines Sud-Kivu Rapport Annuel 2007.
- <sup>252</sup> CEEC, Rapport mensuel d’activites, mois de mai 2008 et mois de juin 2008, Antenne de Bukavu, Sud-Kivu.
- <sup>253</sup> Performances des comptoirs du Sud-Kivu en 2008, Division des Mines Sud-Kivu, 19 July 2008.
- <sup>254</sup> Global Witness interviews in Bukavu, 28 July and 3 August, and in Goma, 7 and 8 August 2008; report by a Uvira-based human rights organisation on illicit exploitation of minerals in the territoires of Uvira and Fizi, January-July 2008. For an explanation of the relationship between Afrimex, Societe Kotecha and SOCOMI, see Final statement by the UK National Contact Point for the OECD Guidelines for Multinational Enterprises: Afrimex (UK) Ltd, 28 August 2008.
- <sup>255</sup> Global Witness letter to Afrimex, 6 February 2009.

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- <sup>256</sup> E-mail from Ketan Kotecha, director of Afrimex, to Margaret Sutherland, NCP, copied to Global Witness, 2 March 2009.
- <sup>257</sup> For further details, see UN Security Council Resolution S/RES/1857 (2008), 22 December 2008.
- <sup>258</sup> For further details on regional trade routes, see INICA, “Natural resources and trade flows in the Great Lakes region”, 2007.
- <sup>259</sup> See, for example, Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the DRC, S/2001/357, 12 April 2001; Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the DRC, S/2002/1146, 15 October 2002; Amnesty International, “Democratic Republic of Congo: our brothers who help kill us”, April 2003; and Global Witness, “Under-mining peace – Tin: the explosive trade in cassiterite in eastern DRC”, June 2005.
- <sup>260</sup> For further information, see Global Witness, “Under-mining peace – Tin: the explosive trade in cassiterite in eastern DRC”, June 2005.
- <sup>261</sup> Mining Export Statistics, Banque nationale du Rwanda (BNR), given to Global Witness by the Ministry of Mines, Kigali, 6 March 2009.
- <sup>262</sup> Global Witness interview with Vincent Karega, Minister of State in charge of Environment and Mines, Kigali, 6 March 2009.
- <sup>263</sup> Rwandan government draft document (unpublished) on the mining sector, November 2008; Global Witness interviews with mining companies, Kigali, March 2009.
- <sup>264</sup> Global Witness interview with Vincent Karega, Minister of State in charge of Environment and Mines, Kigali, 6 March 2009.
- <sup>265</sup> “Mining and geological status”, Ministry of Natural Resources, Kigali, given to Global Witness by the Ministry of Mines, Kigali, 6 March 2009.
- <sup>266</sup> Rwanda Investment and Export Promotion Agency, “The Wealth of the Land: Rwanda Minerals, Invest in Rwanda; A New Frontier of Opportunity”, 2008, page 44.
- <sup>267</sup> Global Witness interview with Vincent Karega, Minister of State in charge of Environment and Mines, Kigali, 6 March 2009.
- <sup>268</sup> Déclarations douanières d’exportation, “Exportations et re-exportations mensuelles des minerais”, 2008, given to Global Witness by the OGMR, Kigali, 4 March 2009.
- <sup>269</sup> Rwanda Investment and Export Promotion Agency, “The Wealth of the Land: Rwanda Minerals, Invest in Rwanda; A New Frontier of Opportunity”, 2008, page 44.
- <sup>270</sup> Global Witness interviews, Kigali, March 2009.
- <sup>271</sup> Global Witness interview with Vincent Karega, Minister of State in charge of Environment and Mines, Kigali, 6 March 2009.
- <sup>272</sup> Ibid.
- <sup>273</sup> Global Witness interview with director of mineral trading company, Kigali, 4 March 2009.
- <sup>274</sup> Global Witness interview with former member of the Burundian National Assembly, Bujumbura, 11 March 2009.
- <sup>275</sup> Global Witness interviews with jewellers, journalists, members of NGOs and foreign diplomats, Bujumbura, March 2009, and with a range of sources in South Kivu, July and August 2008.
- <sup>276</sup> Ministry of Water, Energy and Mines, “Production minière du Burundi”, September 2008; Global Witness interview with Damien Mbonicuye, Director, Direction des Mines et Carrieres, Ministry of Water, Energy and Mines, Bujumbura, 12 March 2009.
- <sup>277</sup> Ministry of Water, Energy and Mines, “Production minière du Burundi”, September 2008.
- <sup>278</sup> Global Witness interview with Damien Mbonicuye, Director, Direction des Mines et Carrieres, Ministry of Water, Energy and Mines, Bujumbura, 12 March 2009.
- <sup>279</sup> Ministry of Water, Energy and Mines, “Production minière du Burundi”, September 2008.
- <sup>280</sup> Global Witness interview with Damien Mbonicuye, Director, Direction des Mines et Carrieres, Ministry of Water, Energy and Mines, Bujumbura, 12 March 2009.
- <sup>281</sup> Global Witness interview with Burundian businessman and presidential adviser, Bujumbura, 11 March 2009.
- <sup>282</sup> Global Witness interviews with jewellers, Bujumbura, 14 March 2009.
- <sup>283</sup> Global Witness interview with senior Rwandan diplomat, Bujumbura, 10 March 2009.
- <sup>284</sup> Global Witness interview with Damien Mbonicuye, Director, Direction des Mines et Carrieres, Ministry of Water, Energy and Mines, Bujumbura, 12 March 2009.
- <sup>285</sup> Ibid.
- <sup>286</sup> Final report of the Group of Experts on the DRC, S/2008/773, 10 December 2008, paragraphs 90-93.
- <sup>287</sup> Global Witness interviews with jewellers, journalists, members of NGOs and foreign diplomats, Bujumbura, March 2009.
- <sup>288</sup> Global Witness interviews with foreign diplomat, NGO representative, journalists and representatives of political parties, Bujumbura, March 2009.
- <sup>289</sup> Global Witness interview with Burundian businessman and presidential adviser, Bujumbura, 11 March 2009.
- <sup>290</sup> Global Witness interviews, Bujumbura, March 2009.
- <sup>291</sup> Global Witness interviews with Western diplomat, Goma, 22 July 2008, and US government officials, Washington DC, 24 July 2007.

<sup>292</sup> Global Witness interview with MONUC official, Goma, 22 July 2008.

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[http://www.concernuniversal.org/index.php?/article/news/concern\\_universal's\\_work\\_recently\\_acknowledged\\_by\\_uk\\_secretary\\_of\\_state/18.htm](http://www.concernuniversal.org/index.php?/article/news/concern_universal's_work_recently_acknowledged_by_uk_secretary_of_state/18.htm)

<sup>294</sup> Global Witness meeting with officials from the Belgian Ministry of Foreign Affairs, Brussels, 8 April 2009.

<sup>295</sup> Ibid.

<sup>296</sup> Ibid.

<sup>297</sup> Global Witness meeting with Karel de Gucht, Minister of Foreign Affairs, New York, 25 November 2008.

<sup>298</sup> Final report of the Group of Experts on the Democratic Republic of the Congo, S/2008/773, 12 December 2008.

<sup>299</sup> Ibid, paragraph XII, 14.

<sup>300</sup> Final report of the Group of Experts on the Democratic Republic of the Congo, S/2008/43, 13 February 2008, paragraph 85.

<sup>301</sup> These were contained in a confidential annex to the Final report of the Group of Experts on the Democratic Republic of Congo, S/2008/773, 12 December 2008.

<sup>302</sup> UN Security Council resolutions S/RES/1856 (2008) and S/RES/1857 (2008), 22 December 2008.

<sup>303</sup> UN Security Council Resolution S/RES/1856 (2008), 22 December 2008.

<sup>304</sup> Letter from Alan Doss, Special Representative of the Secretary-General, to Global Witness, 12 January 2009.

<sup>305</sup> Letter from Alan Doss, Special Representative of the Secretary-General, to Global Witness, 16 February 2009.

<sup>306</sup> UN Security Council Resolution S/RES/1857 (2008), 22 December 2008.

<sup>307</sup> Letter to Global Witness from UK Foreign and Commonwealth Office, 1 April 2009.

<sup>308</sup> Letter to Global Witness from the German Federal Foreign Office, 31 March 2009.

<sup>309</sup> Letter to Global Witness from the Dutch Ministry of Foreign Affairs, 2 April 2009.

<sup>310</sup> See notes verbales of the permanent missions of these countries to the Chairman of the Security Council Committee, S/AC.43/2009/2 (Belgium), S/AC.43/2009/3 (France), S/AC.43/2009/4 (Serbia) and S/AC.43/2009/5 (UK).

<sup>311</sup> Report prepared by Switzerland pursuant to Security Council Resolution 1857 (2008) and attached recommendations, 5 February 2009, S/AC.43/2009/1.

<sup>312</sup> UN Security Council Resolution S/RES/1857 (2008), 22 December 2008, paragraph 6 (a).

<sup>313</sup> For a brief outline of the project, see "Technische Zusammenarbeit mit des Demokratischen Republik Kongo" (Technical Cooperation with the DRC) available at [www.bgr.bund.de](http://www.bgr.bund.de)

<sup>314</sup> See DRC government press release "DRC Ministry of Mines and Germany's Federal Institute for Geosciences and Natural Resources sign memorandum of understanding", 11 April 2008.

<sup>315</sup> Global Witness telephone conversations with representatives of BGR, 22 May 2008 and 28 January 2009.

<sup>316</sup> Protocol on the Illegal Exploitation of Natural Resources, International Conference for the Great Lakes Region, 30 November 2006.

<sup>317</sup> International Conference for the Great Lakes Region, press statement, Bujumbura, 7 April 2009.

<sup>318</sup> For further details of these conditions and other considerations in developing a certification system, see Corene Crossin, Gavin Hayman and Simon Taylor, "Where did it come from? Commodity tracking systems", in "Natural resources and violent conflict: Options and actions", Ian Bannon and Paul Collier (eds.), World Bank, 2003.

<sup>319</sup> Final report of the Group of Experts on the DRC, S/2008/773, 12 December 2008, paragraph 135.