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**NATURAL RESOURCE EXPLOITATION AND HUMAN RIGHTS
IN THE DEMOCRATIC REPUBLIC OF CONGO
1993 to 2003**

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Global Witness investigates and campaigns to prevent natural resource-related conflict and corruption and associated environmental and human rights abuses.

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**NATURAL RESOURCE EXPLOITATION AND HUMAN RIGHTS
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1993 to 2003**

The Democratic Republic of Congo (DRC) is a country with huge natural wealth. Almost every valuable natural resource can be found there, from a multitude of minerals – including diamonds, gold, copper, cobalt, cassiterite (tin ore) and coltan – to timber and oil.¹ But this vast natural wealth has brought nothing but suffering and misery to the Congolese people. Not only has it failed to deliver economic benefits and development, but it has been the cause of numerous and grave human rights abuses. The weakness of state institutions and a pervasive culture of impunity have meant that the perpetrators of crimes connected to the illicit exploitation of natural resources have rarely, if ever, been punished.

Note on documentation on natural resource exploitation and human rights

The two issues of natural resource exploitation and human rights have been very closely linked in the DRC for many years, dating back to the pre-colonial era, the period of colonisation and the three decades of President Mobutu Sese Seko's rule.² Yet at the international level, awareness of the inter-connection between human rights and natural resource exploitation developed comparatively recently. With the exception of studies by historians and other academics, detailed documentation of abuses committed in the context of natural resource exploitation only became available from around 2000. In the following years, Congolese and international non-governmental organisations began investigating and campaigning on this issue. The reports of the UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the DRC, published between 2001 and 2003, also helped bring the issue to the fore. Indeed, most subsequent reports by other organisations relied heavily on the findings of the Panel of Experts. However, the majority of these studies still concentrated on political and economic analysis of the situation; the human rights angle received less attention.³

The Panel of Experts

The Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, established following a request by the UN Security Council in June 2000, was critical in raising awareness of the scale of illegal exploitation of natural resources in the DRC and the role natural resources played in fuelling the armed conflict. Although it did not investigate specific incidents of human rights violations, its reports made clear that the parties responsible for some of the gravest human rights violations in the DRC during this period were motivated in large part by the scramble for natural resources. Its five reports, produced between 2001 and 2003, identified some of the key individuals and entities behind the trade – both Congolese and foreign. From the outset, the Panel did not shy away from exposing the networks behind the illicit exploitation of resources; its first report, published in April 2001, contained tough conclusions and

recommendations.⁴ Subsequently, its work attracted controversy and criticism, not least from some of the governments, companies and individuals named in its reports.

Disappointingly, despite the Panel's extensive work and damning conclusions, its findings were never acted upon, and the patterns of illicit and abusive exploitation of natural resources documented in its reports have continued, almost unchanged, in the subsequent years.

The Group of Experts

The Panel of Experts was succeeded by a Group of Experts, established in 2004, which had a narrower though related mandate: its primary task was to monitor the arms embargo in force against armed groups in eastern DRC, but its secondary purpose was to investigate the natural resource trade as a source of finance for these armed groups. Like the Panel, the Group of Experts has documented the way the natural resource trade has enabled armed groups to survive and has produced several detailed reports. The work of the Group of Experts post-dates the period covered by this briefing, but it is important to take its findings into account, as many of the actors named in its reports had been engaging in these activities during previous years.

I. 1993 - 2003: An overview

Throughout the period 1993 to 2003 – as well as before and after – the exploitation of natural resources in the DRC was characterised by extensive corruption, fraud, pillage, mismanagement and lack of transparency. Political, military and business elites, as well as rebel groups and armies of neighbouring countries, plundered these resources and got rich off the back of the Congolese population. Violations of economic rights were systematic. The DRC has huge economic potential: for example, it accounts for around 17% of global production of rough diamonds⁵ and at least 4% of global tin ore production;⁶ the copper belt which runs through Katanga and Zambia contains 34% of the world's cobalt and 10% of the world's copper.⁷ But successive governments allowed this potential to go to waste. Very little of the revenues from the natural resource trade were ploughed back into the country or contributed to raising standards of living. In 2003, the DRC ranked 167th out of 177 countries in the UN Human Development Index.⁸

The two wars in 1996 and 1998 represented a further major setback to development, but even before 1996, Congo's natural wealth had never been channelled into development in any significant way. Some of the naturally richest areas are the poorest and the least developed. President Mobutu set up predatory systems to control and exploit the country's mineral wealth for his own benefit, and for those around him.⁹

Mobutu's legacy forms the backdrop for the further dramatic deterioration which occurred from 1996 onwards. President Laurent-Désiré Kabila followed in Mobutu's footsteps and was equally ruthless in his tactics to appropriate natural resource revenues. The way in which Mobutu, then Kabila used and misused the diamond sector, and set up formal and informal structures to control the trade, is one of the

clearest examples of state looting, and one of the most significant in view of the importance of diamonds to the country's economy.¹⁰

1996 marked a turning point in two respects:

- The exploitation of natural resources acquired a more violent dimension and started acting as an engine of war. The exploitation of minerals and timber became heavily militarised. Previously, it was mostly civilians who controlled these sectors, even if some of the profits were channelled to the military. Now, the mines and the forests, and those who worked in them, fell under the control of soldiers or rebel fighters.
- A number of foreign actors became directly involved in the exploitation of natural resources. The chaos and power vacuum brought about by the 1996 rebellion led to an opportunistic scramble for the DRC's resources. Everyone wanted a piece of the cake. Rebel groups and armies from neighbouring countries all helped themselves, some (such as Zimbabwe) with the blessing of the Congolese authorities, others (such as Rwanda or Uganda) by occupying territory by force or through proxy rebel groups, committing grave human rights abuses in the process.

The direct and indirect consequences of these two developments, in human rights terms, were catastrophic. The presence of natural resources can be considered to be a major contributing factor to some of the most serious human rights abuses in the DRC from 1996 onwards.

Patterns of human rights abuses

The patterns of human rights abuses fall into three broad categories:

- Human rights abuses committed by state and non-state groups in the course of seeking physical control over resource-rich areas, as well as trade routes, border posts and commercial centres. These abuses were particularly severe in areas affected by the armed conflict in eastern DRC, but also occurred in other areas.
- Human rights abuses committed by these groups once they had conquered these areas, in order to retain control. Once again, these were mostly committed by warring parties in the context of the armed conflict. The exploitation of natural resources was a motivation for these parties to keep fighting; a major source of finance which sustained their activities and enabled them to continue perpetrating acts of violence against civilians; and a factor which prolonged the conflict.
- Systematic violations of economic rights resulting from large-scale looting, theft and corruption, both in conflict and non-conflict areas.

Perpetrators

The perpetrators of all three categories of abuses have included:

- the Congolese government and security forces
- a range of Congolese non-state armed groups, including the *Rassemblement congolais pour la démocratie* (RCD) – and its three factions RCD-Goma, RCD-Mouvement de libération (RCD-ML) and RCD-National –, the *Mouvement de la libération du Congo* (MLC), the *Union des patriotes congolais* (UPC), the *Front des nationalistes et intégrationnistes* (FNI), the *Forces armées du peuple congolais* (FAPC), the *Forces de résistance patriotique d'Ituri* (FRPI), and a host of *mai-mai* and other groups
- foreign armies, in particular those of Rwanda, Uganda and Zimbabwe, with the knowledge and collusion of senior military and political officials in these countries.¹¹

Companies and individual traders who were prepared to trade in natural resources produced in these conditions, or to trade with groups with notoriously bad human rights records, can also be considered to have contributed to, or even enabled, these human rights abuses. In some cases, they were directly implicated.

Persecution of Kasaiens in Shaba¹²

From 1991 to 1993, the province of Shaba, now known as Katanga, was the scene of mass expulsions of people originally from the Kasai provinces. In the culmination of an "anti-Kasaien" campaign, led by Governor Kyungu wa Kumwanza, hundreds of thousands of Kasaiens were expelled from their homes and driven out of the province by gangs of youths. An unknown number are believed to have died as a result of violence or from the harsh conditions they endured as they were forced to travel back to the Kasais. Many of these Kasaiens had lived in Shaba all their lives.

These events were partly motivated by a desire, on the part of the Katangese movement, to reclaim economic control of the region, though there were also political considerations at play.¹³ The mining sector symbolised that control. Shaba was one of the country's richest provinces, with huge copper and cobalt mines. Many Kasaiens worked for the state mining company Gécamines, and their expulsion centred, first and foremost, on removing them from key jobs in the mining sector.

II. Natural resource exploitation and human rights abuses in areas directly affected by the conflict

It is no coincidence that some of the gravest and most widespread human rights abuses between 1996 and 2003 occurred in areas rich in natural resources and that the armed conflict was played out in these areas: in the provinces of North and South Kivu, where the 1996 and 1998 wars were launched, and in Province Orientale and

the northern part of Katanga, where the fighting spread in the following years. These areas fell under the control of a succession of rebel groups and foreign armies, spurred on by the lure of the natural resources. There was little or no state presence and no law enforcement in these regions, other than that the brutal regime imposed by the rebels and their supporters. Thus eastern DRC's rich mineral deposits and extensive forests were suddenly within reach of any group which was determined and violent enough to impose control.

The eastern provinces of the DRC were also attractive because of their easy access to the export routes of the east, via towns close to the eastern border such as Goma, Bukavu, Bunia and Butembo, avoiding government-held Kinshasa. Goods exported through Uganda, Rwanda and Burundi would then transit through Tanzania and Kenya, and on to the international markets in the Middle East, Asia or Europe.

The patterns of natural resource exploitation and human rights abuses were very similar in the Kivus and in Ituri (see below). Congolese rebel groups, the Congolese military and foreign armies which occupied these areas all used the same tactics to seize control of territory rich in natural resources: widespread killings of unarmed civilians, rape, torture, arbitrary arrests and detention, and forced displacement. In the mines, forced labour and use of child labour were widespread.

Some of these actors, such as the Rwandan and Ugandan military, had a far-reaching strategy to occupy these areas, which they implemented through well-organised military operations.¹⁴ Others, such as some of the smaller Congolese rebel groups and the different factions into which they splintered, were more opportunistic, seizing chances as they arose or doing the bidding of their backers. The common thread linking the behaviour of all these actors was the extreme suffering they inflicted on the civilian population. Congolese in eastern DRC often told human rights organisations that it made no difference who was in control: they all came to loot the minerals and killed those who got in their way.

The profits were such that within a short time, the war became self-financing. All the parties to the conflict, including the Congolese government, raised significant amounts through the natural resource trade, using a variety of means, including formal or semi-formal systems of taxation, licences and fees; extortion at mining sites, roadblocks and borders; and requisitioning stockpiles of timber and minerals. There were also more organised systems, such as the arrangements set up between the Congolese government and parastatals (see below); the creation of front companies, notably to serve Ugandan interests;¹⁵ and networks set up by the Rwandan and Ugandan armies in collaboration with the RCD and other rebel groups they supported.¹⁶

The motivations behind the conflict

The warring parties' motives evolved as the conflict unravelled. Initially, in 1996, the conflict appeared to be driven primarily by political, ethnic, and, to an extent, security considerations. However, as the parties became more entrenched, the exploitation of natural resources became increasingly attractive, not only because it enabled these groups to sustain their war efforts but because it was a source of personal enrichment.

Natural resources provided an incentive to keep on fighting. This was a "war for profit".¹⁷

For example, initially, Rwanda presented security concerns as the justification for its invasion of eastern DRC in 1996, at a time when more than a million predominantly Hutu refugees, including some who participated in the 1994 genocide in Rwanda, were living close to its borders. Rwanda continued invoking the security factor in the years that followed, long after the bulk of the refugees had returned to Rwanda in late 1996, thousands of others had been killed in refugee camps and in the Congolese forests in 1996 and 1997, and incursions by Rwandan armed groups from the DRC into Rwanda had all but ceased. In reality, it appears that Rwanda's strategy was designed, in large part, to further its economic interests, first in the Kivus and, later, in Ituri.

The Ugandan army, for its part, justified its presence in Ituri on the basis that it was trying to defuse tensions between the Hema and the Lendu. In practice, it did the opposite: it pursued a strategy of war in the name of peace, sometimes deliberately stoking ethnic tensions and escalating the conflict, providing military assistance to various increasingly violent Congolese armed groups as a pretext for prolonging its own presence in Ituri.

The Rwandan and Ugandan armies' pretext of security concerns acted as a cover for large-scale looting – a form of "military commercialism", with "entrepreneurial considerations as a key consideration in the deployment of national armies".¹⁸ Even after they withdrew from the DRC, both armies continued profiting through their proxies. These included the various rebel groups they had backed; businessmen with whom they maintained close links; and companies, some of which they had set up for this very purpose. For example, the Panel of Experts noted that even though the withdrawal of Ugandan troops had "given the impression that the exploitation activities have been reduced, they are in fact continuing [...] UPDF have thus been able to pull out their troops, while leaving behind structures that permit military officers and associates, including rebel leaders, to continue profiting."¹⁹ It also described tactics deployed by the Rwandan Patriotic Army (RPA) which had "prepared for withdrawal by putting in place economic control mechanisms that do not rely on [its] explicit presence."²⁰

The various armed groups which were supported, or, in some cases, created, by the Rwandan or Ugandan armies to further their own interests turned out to be the perpetrators of some of the worst atrocities against civilians in the DRC's recent history.

By 2003, five years after the start of the second war, Amnesty International was describing the ambition of Congolese and foreign combatant forces to exploit eastern DRC's mineral and economic wealth as the biggest single factor in the violence.²¹

The increasing importance of the economic factor explains the shifting alliances between armed groups and armies throughout the conflict. While political calculations undoubtedly underpinned these frequent changes in alignment, economic motivations also influenced the decisions as to who was going to fight whom and for how long. This helps explain how opponents suddenly joined ranks and how the closest allies

turned against each other, time and again, in North and South Kivu and in Ituri. The fighting between Rwandan and Ugandan forces in Kisangani (described below) was perhaps the starkest illustration of this phenomenon.

In addition, opponents could become allies in business while continuing to fight each other on the ground. In North and South Kivu, battlefield enemies momentarily overcame their political and ethnic differences for the sake of extracting maximum profits from the mineral trade. For example, members of the Rwandan military ended up buying minerals produced by Rwandan Hutu militia, believed to include individuals who participated in the 1994 genocide in Rwanda, or by the *mai-mai*, thus effectively helping finance their activities.²² The Panel of Experts described this situation as a "win-win" situation for all belligerents" with "the only loser in this huge business venture" being the Congolese people.²³

The importance of the economic agenda is exemplified by battles which were fought for the control of specific mines or lucrative customs posts. On every occasion, civilians got caught in between, and more often than not, were directly targeted by one or both sides. Fighting around the gold mining town of Mongwbalu in Ituri (described below) was one of the most striking examples, but there were numerous other instances of clashes for control of natural resources between, for example, troops of different factions of the RCD, the MLC, different *mai-mai* groups and the Rwandan army.²⁴

North and South Kivu

In terms of natural resource exploitation, the 1996 war can be seen, in some respects, as a rehearsal for the 1998 war. The circumstances of the two wars were different, but Laurent-Désiré Kabila's *Alliance des forces démocratiques pour la libération du Congo-Zaïre* (AFDL) and his Rwandan and Ugandan backers set the scene for the patterns of brutal appropriation of natural resources in the years that followed.

The plunder of North and South Kivu in the first war has been less well documented than that in the second. Yet there is little doubt that the first war gave the DRC's neighbours – in particular Rwanda and Uganda – an opportunity to see how easy it was to seize control of coltan, cassiterite, gold and diamond mines and to make vast profits from this trade.²⁵

By the time the second war was launched in 1998, the parties knew where their interests lay and wasted no time in securing them. The RCD, which seized control of large parts of North and South Kivu before splintering into three different factions, quickly secured the mineral-rich areas and imposed a stranglehold on the trade. Despite presenting themselves as "liberators", the RCD did not use revenues from the natural resource trade for the benefit of the population in the territories they occupied; nor did they channel the money they collected from mineral taxes into even the most basic services.²⁶ The money was used for the war effort and for personal enrichment.

The main minerals found in North and South Kivu are coltan, cassiterite and gold, but when the price of coltan rose sharply in 2000, it became the most attractive of all, triggering a scramble which some described as the "coltan rush".²⁷ The high prices were short lived, and the value of coltan crashed in 2001, but it had peaked long

enough for the RCD and the Rwandan and Ugandan armies to make considerable profits.²⁸ The coltan trade continued after 2001, but was gradually overtaken by cassiterite.

The civilian population of North and South Kivu suffered devastating human rights abuses during the period that the RCD was in control: massacres, summary executions, torture and arbitrary arrests were the norm. Thousands of people were killed during this period.²⁹

The RCD (and, following its internal split, the RCD-Goma) imposed itself brutally to ensure that it could control the mineral trade unopposed. Initially, it was acting principally on behalf of the Rwandan military and political elite, but it also took a significant share of the wealth for itself. As time passed, the RCD, and other rebel groups, became less dependent on Rwanda or Uganda and found ways of raising money for themselves through the natural resource trade.³⁰

The new RCD "administration" took over what was left of the machinery of state in North and South Kivu. Among other things, it collected licence fees and taxes on mineral exports. All payments which would previously have been made to Congolese government state agencies were now made to the RCD. Between November 2000 and March 2001, the RCD set up a monopoly on all coltan exports in the territories under its control through the company SOMIGL, set up to finance the war effort.³¹

Behind the RCD, Rwanda had its own methods of syphoning off the profits from the mineral trade. Aside from the physical presence of Rwandan troops in North and South Kivu, who were often on site to ensure that miners worked for them, it controlled most of the main mineral *comptoirs* (trading houses) during the war.³² It also had a well-organised system for receiving funds within Rwanda. The Congo Desk, located in the Department of External Security in Kigali, was the central point for administering revenues from the mineral trade in eastern DRC and dealing with financial and economic matters for the RPA.³³ According to some estimates, the income received by the Congo Desk provided 80% of all the RPA's expenditure in 1999.³⁴ Amnesty International described the RPA's extraction and transfer of coltan and other natural resources to Rwanda as "a carefully managed military operation".³⁵

The Panel of Experts concluded in 2002 that "no coltan exits from the eastern Democratic Republic of Congo without benefiting either the rebel group or foreign armies."³⁶

The cost of this plunder, in human rights terms, was enormous. Civilians who attempted to resist the theft of their natural resources, or who did not collaborate with those in power, were subjected to attacks. Coltan traders were among the victims of unlawful killings, torture, ill-treatment and arbitrary detention.³⁷ The RCD and the Rwandan army were responsible for the forcible displacement of whole villages to make way for mining or logging operations and carried out killings, sexual violence and other abuses in the process.³⁸ They also attacked and burned villages to seize coltan which had been produced locally.³⁹

The national parks of Virunga and Kahuzi-Biega were particular magnets for rebel and military forces, because of the mineral deposits and wildlife found there, and the

ivory which could be obtained from poaching elephants. Dozens of staff members of these and other parks in eastern DRC were killed in confrontations with armed groups.⁴⁰

To ensure maximum profits, the RCD and Rwandan troops used forced labour, including children, in coltan mines in North and South Kivu. The Panel of Experts reported that "with minor exceptions, the objective of military activity is to secure access to mining sites or ensure a supply of captive labour." The local population was forced to abandon agriculture and turn to mining.⁴¹ In some cases, people were made to work at gunpoint. The miners were usually Congolese civilians, but the workforce was supplemented by prisoners brought from Rwanda.⁴² The conditions in the mines were extremely dangerous (see section on labour conditions below). In one incident in 2001, in Masisi, North Kivu, more than 50 people, including a six-year-old child, reportedly died in a landslide in a coltan mine under Rwandan army control.⁴³

Province Orientale

Province Orientale held even greater promise in terms of natural resources. With its diamond fields, gold mines, vast expanses of forests with valuable timber and barely explored oil reserves, Province Orientale was, in some ways, the biggest prize.

The battles for Kisangani

The Rwandan and Ugandan armies and the RCD-Goma derived significant revenue from the diamond trade in and around Kisangani, the country's third largest city. Even after Rwandan and Ugandan troops turned against each other in 1999, and the RCD-Goma managed to keep control of Kisangani itself, each continued to profit from the diamond trade in the territories they controlled.⁴⁴ As in other parts of eastern DRC, these armies used violence to impose themselves and to counter any attempts at obstructing their access to the diamond market.⁴⁵

In 1999, 2000 and again in 2002, fierce battles took place for the control of Kisangani, first between the armies of Rwanda and Uganda – former allies – then between a group of RCD soldiers who launched a mutiny, and troops sent by their commanders to crush their revolt. In all three instances, competition over the natural wealth of the area and the strategic importance of the town were among the factors which precipitated the fighting. Not only is the town of Kisangani located in an area rich in diamonds and timber, but, situated on the river, it acts as important trade and transport hub, linking the east of the DRC to the rest of the country. The UN Special Rapporteur on the human rights situation in the DRC described the conflict in Kisangani as the one which "best illustrates Rwanda's and Uganda's lust for conquest" and stated: "The cause of the conflict is both economic (both armies want the huge wealth of Orientale province) and political (control of the territory)."⁴⁶ An official of Rwanda's Congo Desk told a Belgian parliamentary commission of inquiry that Rwanda had gone to war against Uganda because it alone wanted to control the diamonds.⁴⁷

More than a thousand civilians were killed in the three waves of fighting between Rwandan and Ugandan troops in Kisangani. Around 200 civilians were killed in the

crossfire in the first outbreak of hostilities in 1999, while around 1,200 were killed in June 2002.⁴⁸

In May 2002, a number of RCD soldiers launched an anti-Rwandan mutiny in Kisangani, provoking a brutal crackdown by their officers. Human Rights Watch reported that more than 80 people were killed in total, but quoted the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions as saying that the RCD had been responsible for more than 160 deaths. RCD troops also carried out rapes and beatings during the crackdown.⁴⁹

Ituri

The conflict in Ituri between the Hema and Lendu ethnic groups – originally a dispute over land – began in 1999, but when the Ugandan and Rwandan armies became directly involved, the violence escalated to unprecedented levels. From 2002 onwards, Ituri became the scene of some of the bloodiest events since the start of the 1998 war, with tens of thousands of people dying as a direct result of the violence.⁵⁰

The conflict in Ituri was originally distinct from the conflict in the Kivus, but gradually, interests merged as the attention of neighbouring countries shifted northwards. The presence of gold and timber was a major factor in fuelling the conflict in Ituri, and the plunder of these resources was at least as violent as it had been in the Kivus. In 2003, the UN Special Rapporteur on Human Rights in the DRC stated: "Despite the ethnic appearance of the conflict, its root causes are of an economic nature."⁵¹ Amnesty International described the competition for control of natural resources by combatant forces as "a major – if not the main – factor in the evolution and prolongation of the crisis in Ituri."⁵²

Although most of the human rights abuses in Ituri in 2002 and 2003 were carried out on an ethnic basis, reflecting the original tensions between Hema and Lendu, the economic agendas of the parties to the conflict became increasingly obvious as events unfolded.

These economic agendas, and the political strategies which ensued as Uganda and Rwanda alternately backed a series of extremely violent rebel groups, led to a massive loss of human life. According to Human Rights Watch, an estimated 5,000 civilians died from direct violence in Ituri between July 2002 and March 2003 alone.⁵³ Further killings took place after that date, and all sides carried out systematic human rights abuses against the civilian population. The number of armed groups escalated as militia split into different factions, re-armed and launched fresh attacks. Additional armed groups, such as Jean-Pierre Bemba's MLC, were drawn in from areas as far away as Equateur; the joint MLC/RCD-N onslaught on Mambasa in 2002, nicknamed "*Effacer le tableau*" ("Wipe the slate clean"), led to a new wave of killings and systematic looting.⁵⁴

The fight for Mongbwalu

Events in and around the town of Mongbwalu, in the heart of the gold mining area, illustrate the direct link between human rights abuses and the scramble for resources. Mongbwalu changed hands several times in 2002 and 2003, and as Hema and Lendu

armed groups fought to control it, each carried out widespread killings of civilians and other abuses.⁵⁵ The UPC and the FNI both used forced labour in the gold mines in 2002 and 2003,⁵⁶ including children in mines controlled by the UPC.⁵⁷

As the conflict spiralled, other groups joined in. The involvement of these different groups was largely dictated by economic interests: all had their eyes on the gold mines.⁵⁸ A MONUC report described Mongbwalu as "a town to conquer for its natural resources."⁵⁹ Aside from the prospects of personal enrichment, the armed groups made no secret of the fact that they used the proceeds from gold mining to buy weapons and ammunition.⁶⁰

Human Rights Watch documented the killing of at least 2,000 civilians in the Mongbwalu area between June 2002 and September 2004, as well as cases of rape, torture, arbitrary arrests and detention. Tens of thousands of people were forced to flee their homes.⁶¹ The perpetrators included members of the RCD-ML, the Hema-dominated UPC (backed first by Uganda, then by Rwanda), the Lendu-dominated FNI and other armed groups, including the FAPC headed by Jérôme Kakwavu.

Abuses by the FAPC

The activities of the FAPC received less attention than those of the UPC and the FNI. In 2003, Commandant Jérôme Kakwavu controlled key commercial centres and gold trading routes through the towns of Aru and Ariwara and made substantial profits from taxing gold exports at the borders with Uganda.⁶² Constantly changing sides during the conflict, he had collaborated, at different times, with the RCD-ML, the UPC and with the FNI, always with a view to maximising profits from the gold trade. The FAPC forces may not have massacred as many people as some of the other armed groups in Ituri, but they were responsible for acts of particular cruelty, many of them directly connected with the gold trade. These included public executions and torture, at which Commandant Jérôme Kakwavu was personally present, and the arbitrary arrest and torture of several gold traders, at least one of whom died. Omar Oriia, a Ugandan gold trader with whom Commandant Jérôme Kakwavu had close business relations, was also involved in some of these abuses.⁶³

The role of the Ugandan and Rwandan military

The Ugandan military, who were deployed in the area from 1998 to 2003, were key players in the conflict in Ituri. They switched support from one side to another in order to continue profiting from the gold trade, backing or strengthening the Congolese armed groups which seemed most likely to be able to seize or retain control of the gold mines.⁶⁴ Different elements of the Ugandan army sometimes supported opposing rebel groups at the same time.⁶⁵ They deliberately sowed divisions between armed groups, exacerbating the ethnic conflict for the sake of economic interests.

The Ugandan army exploited gold not only in Ituri, but in the neighbouring district of Haut-Uele, from 1998 to 2002. In 1999, unsafe mining practices used by the Ugandan military led to the collapse of the Gorumbwa gold mine, killing around 100 miners.⁶⁶

In the mines in both Haut-Uele and Ituri (in particular in Mongbwalu), Ugandan forces used forced labour and arrested, detained and ill-treated those who refused to cooperate with them.⁶⁷

Individuals within the Ugandan military and political establishment are believed to have made substantial profits from the gold trade. In addition, much of the gold produced in Ituri was exported through Uganda⁶⁸, then re-exported as if it were its domestic production – a pattern similar to that which characterised its exports of diamonds, as well as Rwanda and Burundi's exports of coltan, cassiterite and other minerals produced in the Kivus.

The Rwandan army also supported armed groups in Ituri, notably the UPC. Its backing was less widely publicised than that of the Ugandan army but was well documented by human rights organisations and the Panel of Experts.⁶⁹

Oil

In addition to minerals and timber, oil is found in Ituri, in Lake Albert, on the border with Uganda. In June 2002, Canadian-British company Heritage Oil Corp. announced that it had signed an exploration agreement with the Congolese government. At the time, the region was under the control of various rebels groups.⁷⁰ The announcement of this contract could have precipitated further conflict in an area which was already torn apart by violence. In fact, the armed groups in Ituri seemed more preoccupied with gold, which was easier to get hold of than oil. Nevertheless, the presence of oil in this region has the potential to lead to further conflict, not only between parties in the DRC but between the DRC and Uganda, as evidenced by fatal clashes between Congolese and Ugandan military several years later, in 2007.⁷¹

The MLC

The MLC, under Jean-Pierre Bemba, profited from minerals, timber and coffee during the conflict, in its heartland of Equateur Province as well as in Ituri and other parts of Province Orientale. More self-sufficient than some of the other armed groups, the MLC managed to finance a significant part of its war efforts without resorting too heavily on foreign backers.⁷²

The MLC secured a monopoly on coffee exports from Equateur.⁷³ It also took over parts of the timber sector, initially seizing and smuggling timber stockpiles which had been left behind by logging companies, then collecting taxes from logging companies when they restarted operations.⁷⁴ Like other armed groups, and like the Congolese government, the MLC granted mining concessions in the territories it controlled in exchange for military equipment and other forms of support, primarily from Uganda.⁷⁵

Diamonds were an important source of finance for the MLC, and it was easy to smuggle diamonds out from Equateur Province into neighbouring Central African Republic (CAR).⁷⁶ The MLC then also became embroiled in the conflict in the CAR from 2001; the mineral and timber trade from which it had derived significant profits served to fuel human rights abuses not only in the DRC itself but in the CAR too.⁷⁷

MLC troops carried out serious human rights abuses in Equateur and Province Orientale in their bid to gain or maintain control of territory (see section on Ituri above). They also used forced labour and violence against artisanal miners who refused to work for them, for example in some of the diamond mines in Province Orientale.⁷⁸

III. The role of the formal sector

Contributions of state-owned enterprises to Kabila's war effort

State-owned enterprises, such as the diamond company, MIBA, made direct financial contributions to the AFDL and Kabila's war efforts between 1998 and 2001. Congolese government and MIBA officials confirmed to Amnesty International that MIBA was "a key part of the war effort".⁷⁹

The Panel of Experts reported that in 1999, over 30% of MIBA's first semester earnings were transferred to accounts of the Congolese government (for unspecified purposes) and another 11% were funnelled directly to the Congolese armed forces. Additional payments from MIBA revenues, worth tens of millions of dollars, were described in official documents as "deductions for the war effort". The Panel concluded that between 1998 and 2001, "a hefty percentage of MIBA earnings" had been diverted "to high level government officials for their personal benefit, as well as to cover war or military-related expenses." It goes on to describe diamond deals which appeared to have been concluded "because they were linked, directly or indirectly, to arms and military support."⁸⁰ In its October 2002 report, the Panel reported that diamond revenues were used to buy arms for the Congolese army and to contribute to the salaries of the Zimbabwean military.⁸¹

For a period, the state copper and cobalt mining company Gécamines was used to similar ends,⁸² as were the gold company OKIMO and oil companies, which made significant payments to the government.⁸³

Paying back Kabila's allies

Zimbabwe's military intervention and political support were critical to Laurent-Désiré Kabila during the war. From Zimbabwe's point of view, there was much to be gained. In 2001, the Panel of Experts described Zimbabwe as "the most active of the [government's] allies" in terms of the exploitation of natural resources.⁸⁴ In order to repay his debt to Zimbabwe, Kabila granted President Robert Mugabe's government the rights to significant diamond, copper, cobalt and timber concessions in the DRC. He also allowed Zimbabwean troops to deploy in some of the richest mining areas, where they became involved in human rights abuses, particularly in the diamond mines in Mbuji-Mayi, as described below.

Although the deals which Kabila struck with Zimbabwe entirely lacked transparency and accountability, they were official agreements between the two governments, with Kabila giving away enormously valuable state resources in order to pay back some of his war debt. A number of joint venture companies were formed in the mining and forest sectors. Several of these involved COSLEG, a joint venture company formed

between the DRC government and senior Zimbabwean military and political officials.⁸⁵

The deals between the governments of the DRC and Zimbabwe were probably most significant in the diamond sector. In 1999, President Kabila gave the rights to exploit one of the richest diamond mining concessions previously held by the parastatal, MIBA, to a joint venture company, Sengamines, partly owned by Zimbabwean interests.⁸⁶

Other, existing companies, such as the state mining enterprise Gécamines in Katanga, were taken over by Congolese and Zimbabwean political interests and subverted to serve Kabila's purposes; this was notably the case when Zimbabwean Billy Rautenbach was appointed managing director of Gécamines from 1998 to 1999.⁸⁷

In 2000, COSLEG set up a subsidiary, SOCEBO, to exploit four timber concessions, in Katanga, Kasai, Bandundu and Bas-Congo. In this way, the Zimbabweans gained the rights to exploit 33 million hectares of forests, or 15% of the DRC's total land area. However, due to a combination of factors including financial problems and poorly elaborated plans, logging did not begin as planned, and the Zimbabweans were not able to recoup as much as they might have anticipated.⁸⁸ In any case, in both the timber and the mineral deals, the main beneficiaries were not the Zimbabwean state as a whole, but senior political and military officials close to President Mugabe's Zanu-PF party. Those who lost out, as ever, were the Congolese people.

It was not only Zimbabwe which was handsomely repaid for its military support to Kabila. Kabila also rewarded his other allies, Angola and Namibia, with favourable diamond and oil deals.⁸⁹

Illegal or unfavourable contracts

When Laurent-Désiré Kabila launched his rebellion in 1996, one of his priorities was to take over and, in many cases, cancel or modify, mining contracts which had been signed by President Mobutu. Many of these transactions were conducted illegally. The consequences for the country, as a whole, were serious, as millions of dollars were tied up in these contracts for several decades

Kabila allocated major mining concessions during the AFDL's advance on Kinshasa in 1996, before he had even formed a government. In 1997 and 1998, he proceeded to sign, then revoke and modify a number of gold, copper and cobalt contracts, causing confusion among companies, as some of the concessions he allocated had already been granted to other companies under Mobutu.⁹⁰ Large mining companies, such as American Mineral Fields and Anglo American, jostled for Kabila's favours; in some cases, competition resulted in litigation, then in agreements to split joint ventures.⁹¹

Rebel groups also allocated concessions to mining and logging companies illegally. For example, DARA Forest, a Ugandan-Thai logging company, first had its application turned down by the government in Kinshasa in 1998. It engaged in logging and timber trading nonetheless, in parts of North Kivu and Ituri controlled by the RCD-ML and the Ugandan army, and was granted a concession by the RCD-ML

in 2000. Between 1998 and 2003, the company was exporting approximately 48,000 cubic metres of timber every year.⁹²

The Lutundula Commission

It was not until 2003, at the start of the transition, that these contracts came under scrutiny. Set up by the transitional National Assembly following the 2003 peace agreements, the Lutundula Commission (named after its chairman, Christophe Lutundula) was tasked with analysing the legality of economic and financial contracts signed between 1996 and 2003; many of these contracts concerned mineral rights. The Commission was made up of parliamentarians from the different parties in the transitional government, including representatives of former rebel groups such as the RCD and the MLC.

The Lutundula Commission faced a difficult task as its remit touched on high level political and financial interests on all sides, particularly within the ranks of President Joseph Kabila's party. Despite coming under enormous pressure from individuals with vested interests, the Commission produced a detailed report, which was courageous and frank in parts, if incomplete.⁹³ The report concluded that dozens of contracts were either illegal or of limited value for the development of the country and recommended that they be revoked or renegotiated. It also recommended judicial action against a number of senior political and corporate actors.

Following the completion of their report in 2005, some of the members of the Commission received threats. The National Assembly strongly resisted publishing the report, but eventually agreed to do so after the report was leaked.⁹⁴ The report was never discussed by the National Assembly and its findings and recommendations were never acted upon.

IV. Links with the arms trade

Trafficking of natural resources in the DRC, particularly during the conflict, has been closely intertwined with other criminal networks, including those involved in arms trafficking. The Panel of Experts and research institutes have documented some of these links and identified key arms traffickers and trafficking routes.⁹⁵ The Panel of Experts concluded that "it is very difficult to stem or halt illegal exploitation without also tackling the issue of arms trafficking" and highlighted the interconnection between these two activities, the conflict, insecurity and impunity.⁹⁶ Connections with these networks enabled the perpetrators of human rights abuses in the DRC to smuggle natural resources out of the country without any difficulty, often using the profits to purchase arms, and committing yet further human rights abuses. The arms trafficking networks in turn overlapped with the transport networks; certain airline companies were known to fly minerals out and fly arms back into the DRC.⁹⁷

V. The regional dimension

The involvement of so many foreign governments and armies in the DRC's conflict, and in the exploitation of natural resources, inevitably had an impact on the human rights situation in neighbouring countries. Apart from the fact that troops from several of these countries carried out serious human rights violations within the DRC, the

conflict spilled over into countries such as the CAR, the Republic of Congo or Angola, which were already wracked by war and violence.

The wealth which Rwanda, Uganda and Zimbabwe derived from their exploitation of resources in the DRC also helped shore up these governments back home and boosted the budgets of their own army and defence agencies.⁹⁸ Rwanda was probably the most successful example of this phenomenon, in that its exploitation was designed to benefit not only individual commanders but whole government and military departments. This solid economic base provided the Rwandan government with a certain stability and confidence. Since that time, Rwanda's economy has developed significantly, and it is perceived, at the international level, as an increasingly stable country. Yet Rwanda's relative stability was, and still is, inextricably intertwined with the continuing chaos and human suffering in eastern DRC. Furthermore, the period of Rwanda's most intense exploitation of the DRC's resources coincided with serious human rights abuses inside Rwanda itself.⁹⁹

Some donors, including the World Bank, actively supported the Rwandan and Ugandan governments and continued praising their economic performance at the very time that their illicit mineral trading activities in the DRC were at their peak, and their troops were engaging in serious human rights abuses there.

Four years later, a Global Witness report concluded: "It could be argued that the foundations of Rwanda's increasing stability are being built on the continuing predatory exploitation that has characterised the history of the DRC"¹⁰⁰ – a view echoed by many ordinary Congolese and Rwandans. Residents of Kigali have nicknamed a wealthy neighbourhood of newly-built luxury houses on the outskirts of the capital as "*Vive la guerre au Congo*".

In the case of Zimbabwe, the strategy may not have been so successful. Although the country's economy was in a perilous state when the government decided to send troops to the DRC, the exploitation of the DRC's resources did more to enrich top officials in the Zimbabwean army than it did to keep the country's economy afloat.

VI. The plight of artisanal miners

Labour conditions in artisanal mines

Much of the mining in the DRC is done in the informal sector, by an estimated one to two million artisanal miners. Artisanal mining accounts for the vast majority of the DRC's mineral production, as much as 90% according to some estimates.¹⁰¹

The artisanal mining sector is unregulated. Artisanal miners are extremely vulnerable to exploitation and abuse, both because they work outside the framework of the law and therefore have no legal rights or protection, and because they engage in this dangerous work out of economic desperation. They have no technical or other training in mining techniques and no special clothing or equipment.

In areas such as Katanga, parts of Kasai and North and South Kivu, minerals are found almost everywhere, not only in large, designated mines. Artisanal mining is often a spontaneous activity, so miners dig wherever they think there may be valuable

deposits. The conditions in which they dig are extremely hazardous. Mineshafts frequently collapse, killings scores of miners every year.¹⁰² It can be estimated that several hundred miners would have died between 1993 and 2003. The victims have included young children.¹⁰³

Artisanal miners work in harsh conditions for very little pay, but it is not only the miners themselves that suffer health and safety risks. Porters have to carry heavy sacks of minerals, sometimes across long distances on foot, for several days. These painful labour conditions prevail in almost all artisanal mines in the DRC, whether diamond, gold, copper, coltan or cassiterite mines.

In Katanga, those who work in uranium mines may be exposed to high levels of radiation and other health risks. One of the most serious examples is the Shinkolobwe mine. Despite the fact that the mine has been officially closed for many years, thousands of miners have continued to dig there since at least 1998, with the complicity of Congolese police or military who guard the mine, and with the full knowledge of government authorities. There have been frequent accidents at Shinkolobwe, the most serious in July 2004 when at least 60 people may have been killed in a collapsing mineshaft. Neither these incidents nor the fact that miners continue to work at Shinkolobwe have been investigated by the Congolese authorities.¹⁰⁴ Health risks associated with gold mining include the presence of mercury which miners had to handle without protection when they worked under the control of armed groups in Ituri in 2002 and 2003.¹⁰⁵

Child labour is common. Children as young as seven or eight are found working in mines. Outside the conflict areas, child labour is usually the result of families' extreme poverty, rather than a form of forced labour. Many children drop out of school in order to work in the mines. A coltan mine manager in Numbi, North Kivu, told the Pole Institute that he accepted children from the age of 12 upwards.¹⁰⁶

The Congolese authorities have failed to take responsibility for the health and safety of artisanal miners. Fatal accidents or serious injuries are only occasionally reported, and rarely investigated. There is no accurate record of the number of fatalities, no comprehensive list of the victims and no system for preventing miners from working in unsafe locations.

The DRC's *Code du Travail* (Labour Code), adopted in 2002, contains several provisions relating to health and safety at work, which are breached on a daily basis in artisanal mines. However, the Labour Code contains a loophole in that it does not explicitly cover the protection of workers who do not have an identifiable employer. The state has thus shrugged off responsibility for this entire workforce.

Human rights abuses in the diamond polygone¹⁰⁷

The *polygone*, an area located in MIBA's diamond mining concession in Mbuji-Mayi, in Kasai Oriental, has been the scene of repeated, violent clashes between artisanal miners and law enforcement officials. Until mid 2002, security at the *polygone* was the joint responsibility of the Zimbabwean military, the Congolese mining police and MIBA guards. These different groups competed with each other for control of the diamond mines and preyed upon the artisanal miners, who were especially vulnerable

as they were not legally entitled to work there. Corruption played a big part in escalating the violence, as miners paid each side to protect them against the others. MIBA guards, as well as Zimbabwean soldiers, allowed miners into the concession in exchange for money or diamonds.¹⁰⁸

Shootings were common, and the situation soon degenerated into a situation resembling gang warfare. Dozens of people were killed and hundreds wounded in the *polygone* every year. MIBA guards were responsible for the majority of the shootings and frequently opened fire on unarmed civilians. Zimbabwean soldiers were also involved in fatal shootings. MIBA guards illegally arrested and detained miners, including many children, and held them in their own unofficial detention centres, in harsh conditions. Several journalists and activists who denounced the shootings in the MIBA concession were arrested, detained by the Congolese authorities and put under pressure not to report on these incidents.

Those responsible for the human rights abuses in the *polygone* benefited from complete impunity. In October 2002, Amnesty International reported that "not a single state agent has ever been prosecuted for the unlawful killing of a suspected illegal miner in Mbuji-Mayi. Those who are guarding the diamond concessions are acting, and killing, with utter impunity. The Congolese authorities refuse to acknowledge that these abuses are even taking place."¹⁰⁹

In 2002, the DRC signed up to the Kimberley Process, an international certification scheme that regulates the trade in rough diamonds and aims to prevent the flow of conflict diamonds while helping to protect the legitimate trade. However, the Kimberley Process only covers the diamond trade by non-state groups, and is not designed to address human rights abuses committed in the context of diamond mining outside conflict areas. It has therefore been ineffective in addressing the violence seen in areas such as the *polygone*, which persists several years later.

VII. Corporate responsibility for human rights abuses in the context of natural resource exploitation

The illicit exploitation of natural resources in the DRC, and the accompanying serious human rights abuses, would not have taken place on such a large scale if there had not been customers willing to trade in these resources. There has never been a shortage of foreign buyers willing to handle these goods – neither under Mobutu, nor under Laurent Kabila or throughout the war – despite the well-publicised abuses committed by the parties involved. Buyers have included not only individual traders in the DRC and neighbouring countries, but private companies registered in other jurisdictions, including multinationals.

Companies' involvement in human rights abuses connected to natural resource exploitation has taken various forms. Companies closest to the source of the minerals or timber – Congolese and foreign *comptoirs* or trading companies – dealt directly with rebel groups responsible for serious human rights abuses, either by trying to strike deals with them¹¹⁰ or by paying them taxes, licences and various other fees to enable them to stay in business.¹¹¹

Foreign-registered companies did not always make payments directly to the rebel groups, but their suppliers did, and the foreign companies did not perform due diligence checks.¹¹² As rebel groups took over the tax collecting functions of the state, companies continued making payments to them as they had done to government agencies in the past, ignoring the entirely different context which prevailed and the human rights abuses being perpetrated by the groups now in control.

In a number of cases, foreign or multinational companies were directly involved in negotiations with perpetrators of human rights abuses, paying armed groups or providing them with facilities or logistics in order to exploit natural resources. One example is the logging company SIFORCO, which made payments to the MLC in Equateur Province during the conflict. SIFORCO's operations were disrupted by the war, but in November 2002, it resumed logging in a forest concession near Bumba, while the area was still under the control of the MLC, and held negotiations with the MLC in order to start logging again.¹¹³

Another serious example is AngloGold Ashanti, one of the largest gold mining companies in the world. In order to be able to operate in its gold concession in Mongbwalu, in 2003 the company made payments and provided logistics to the FNI, one of the most murderous armed groups in Ituri. Not only did this relationship legitimise the FNI as the de-facto authority in the area, but it conveyed the message that AngloGold Ashanti was prepared to overlook human rights considerations for the sake of business interests. The company had previously been in discussion with the UPC (the FNI's rival at the time, also responsible for numerous human rights abuses) when the UPC was in control of the area in 2002. The FNI claimed that it had also been approached by other companies to discuss working in the area under its control.¹¹⁴

From around 2001, companies started coming under concerted pressure from the Panel of Experts and NGOs to review their practices. Their reactions to accusations that they were fuelling the conflict were not encouraging. Several companies attempted to discredit the work of the Panel of Experts, particularly its October 2002 report, which listed 29 companies (and 54 individuals) on which the Panel recommended the placing of financial restrictions and 85 companies which the Panel considered to be in violation of the OECD Guidelines for Multinational Enterprises.¹¹⁵ Certain companies which had been named in the report then quickly claimed that they had been "cleared" by the Panel. However, the process of resolution of these cases was seriously flawed. It 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.¹¹⁶

The governments of the home states in which these companies were registered were not willing to take action either and allowed the international trade to continue in ways which were clearly fuelling the conflict in the DRC. They waited for NGOs to lodge formal complaints against companies for breaches of the OECD Guidelines for Multinational Enterprises, and even then, reacted slowly and unsatisfactorily. It was not until much later, in 2008, in response to complaints brought by the NGOs RAID and Global Witness, that the UK government published stronger statements on the conduct of at least two companies – DAS Air, which had transported coltan between

eastern DRC, Rwanda and Uganda during the conflict, and Afrimex, which had traded in minerals throughout the conflict.¹¹⁷

The OECD Guidelines provided a useful tool for drawing attention to companies' role in fuelling human rights abuses, but, as a non-binding mechanism, their remit, in terms of obtaining justice, is extremely limited. There are still no strong laws to hold companies to account when they contribute to human rights abuses.

VIII. The absence of justice

Impunity has been the rule for crimes committed in the context of natural resource exploitation in the DRC, reflecting the broader absence of justice for human rights abuses across the country. Impunity for these crimes may be even more entrenched than in other types of cases, as there has never been a tradition of accountability about how the country's natural resources are used. Although many Congolese know that the way their natural resources are being used violates their basic economic rights, they do not expect justice to be done for these crimes, as there has never been any precedent in this regard. As a result, these patterns of abuse have been repeated again and again.

In practice, many of the people responsible for committing or overseeing the most serious abuses in the context of natural exploitation are those who have also committed other types of human rights abuses, especially in the context of the conflict. For example, some of the leaders of armed groups who have since been arrested, including some of those indicted by the International Criminal Court for crimes committed in Ituri, have been directly implicated in illicit natural resource exploitation; yet none of them have been charged with these crimes. Other leaders of armed groups have never been arrested for any of the crimes they have committed. Instead, they have been given positions of responsibility in the Congolese national army.

The search for justice in this context poses a significant challenge. The intertwining of high level political, military and economic interests has meant that it has been extremely difficult for victims to seek justice for these crimes; combined with the lack of independence of the judiciary, it has ensured that impunity has prevailed.

The influence of private companies has also obstructed the search for justice, as illustrated by the Kilwa case. Although this incident took place after the period covered by this briefing, there are important lessons to be drawn from the case, relating to the weakness and lack of independence of the judiciary when confronted with powerful business and political interests. In 2004, at least 73 people were killed by the Congolese army in the town of Kilwa, Katanga province; Australian-Canadian mining company Anvil Mining provided the army with logistics and transport during its military operation. In 2007, in the first case of its kind, nine Congolese soldiers and three expatriate employees of Anvil Mining were charged respectively with war crimes and complicity in war crimes in connection with these events. The case could have set an important precedent in terms of corporate accountability. Instead, interference and obstruction by high level business interests prevented justice from taking its course; the judges failed to take into account strong eye-witness testimony at the trial and witnesses were intimidated. All the defendants were acquitted of the

charges relating to the events in Kilwa, in a trial by a military court which failed to meet international standards of fairness.¹¹⁸

The role of Uganda in the conflict in the DRC came under scrutiny in two separate initiatives. In Uganda itself, a commission of inquiry, known as the Porter Commission, was established in 2001 to investigate the Panel of Experts' allegations of Ugandan involvement in the illicit exploitation of natural resources in the DRC. The scope of the Commission's work was restricted and it did not investigate incidents of human rights abuses in detail. The report it produced in November 2002 was criticised by some for being too lenient on the Ugandan government. The Commission rejected several of the accusations of the Panel of Experts regarding Uganda's official involvement, but recommended disciplinary action, and further investigations, against individual senior Ugandan army officers, some of whom it named in its report.¹¹⁹

In December 2005, the International Court of Justice (ICJ) pronounced its judgment on a case brought against Uganda by the government of the DRC. The case included numerous accusations relating to the conduct of Ugandan troops in eastern DRC, including the illegal exploitation of natural resources. The Court found that Uganda had "by acts of looting, plundering and exploitation of Congolese natural resources committed by members of the Ugandan armed forces in the territory of the DRC and by its failure to comply with its obligations as an occupying Power in Ituri district to prevent acts of looting, plundering and exploitation of Congolese natural resources, violated obligations owed to the Democratic Republic of Congo under international law." The Court also found that Uganda had violated its obligations under international human rights law and international humanitarian law "by the conduct of its armed forces which committed acts of killing, torture and other forms of inhumane treatment of the Congolese civilian population [...] incited ethnic conflict and failed to take measures to put an end to such conflict." The Court concluded that Uganda was under obligation to make reparation to the DRC, for these and other violations.¹²⁰

The DRC government submitted a similar case to the ICJ against Rwanda.¹²¹ However, the case did not proceed. The ICJ cannot consider a case unless both parties consent to the case being heard under its jurisdiction. The Rwandan government challenged the jurisdiction of the ICJ and did not provide its consent. The ICJ concluded that it had no jurisdiction to hear the case.¹²²

IX. Conclusion

The abundance of natural resources in the DRC and the absence of effective law enforcement in this sector create a particular set of dynamics which has been shown to contribute directly to widespread human rights abuses.

The patterns of human rights abuses described in this briefing have persisted since 2003, but were born out of a history where the DRC has long been regarded by outsiders purely as a repository for natural resource wealth, with the Congolese people as the workforce to extract this wealth. Unfortunately, this view persists today. In its final report in October 2003, the Panel of Experts stated: "Illegal exploitation remains one of the main sources of funding for groups involved in perpetuating conflict".¹²³ Its successor, the Group of Experts, has reached a similar conclusion concerning the period 2004 to 2009, illustrating how the trade in natural resources still underpins

some of the most serious violence in eastern DRC.¹²⁴ Congolese and foreign companies are continuing to trade with individuals and entities responsible for grave human rights abuses, thereby enabling them to survive and to continue inflicting violence on the civilian population.¹²⁵

Justice will be the key to breaking these patterns, not only within the DRC, but at the international level: action should be taken to address the international systems that make these trading practices legally possible, despite the fact that they continue to cause massive loss of life. The presence of natural resources in the DRC will continue to undermine security and lead to further human rights violations for as long as impunity persists. There is an urgent need for Congolese authorities and for international actors, both in the political and economic sphere, to tackle this issue more forcefully.

The question of how the DRC's natural resources are exploited and governed needs to be redefined as a human rights issue. To date, the tendency has been to focus on the economic, trade and technical aspects of natural resource exploitation, but viewing the economic situation in isolation from the external environment could further exacerbate the human rights situation. The use of the DRC's natural resources is, above all, a political and human rights issue. It therefore calls for political and human rights solutions.

X. Recommendations

These recommendations are not intended to be comprehensive but highlight a few priority actions to address the most serious human rights violations committed between 1993 and 2003 and to prevent a recurrence of these patterns in the future.

- The Congolese government and judicial authorities should bring to justice individuals known to have committed serious human rights abuses in the course of natural resource exploitation and trade, going back to 1993. These should include leaders of the various armed groups and factions which fought in Ituri and in North and South Kivu, and members of other armed groups against whom ample evidence is already available.
- Foreign governments and other donors should provide assistance to the Congolese justice system to enable such cases to proceed according to international standards and to support the victims of these crimes in obtaining redress.
- Violations linked to the exploitation of natural resources should play a prominent role in the investigations of UN human rights observers and cases should be followed up vigorously with the relevant Congolese authorities.
- The UN peacekeeping force MONUC, with the support of UN member states, should 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)¹²⁶ is fully integrated into the work of UN military and civilian teams deployed in mineral-rich areas of the DRC.

- The UN Security Council should continue supporting the work of the Group of Experts and ensure that member states act on its findings.
- Security sector reform programmes should incorporate elements relating to natural resource exploitation. Training programmes for the Congolese security forces should include clear guidelines and instructions prohibiting members of the armed forces from exploiting natural resources (as outlined in Article 27 of the DRC's 2002 Mining Code). Vetting procedures should exclude from the security forces individuals known to have engaged in or ordered the illicit exploitation or trade of natural resources or committed human rights abuses in this context.
- In view of the weakness of the Congolese justice system, and the time it will take to strengthen it, foreign governments should undertake their own investigations and, if appropriate, prosecutions of individuals or companies registered in their country known to have contributed to the illegal exploitation of natural resources and human rights abuses in the DRC, or who have supported groups responsible for war crimes in this context.
- At the international level, governments should review their trade, development and foreign policy on the DRC with a view to taking more concerted action to break the links between the trade in natural resources and ongoing human rights violations.
- The International Criminal Court should investigate war crimes or crimes against humanity committed in the context of natural resource exploitation in the DRC. It should also investigate the role of economic actors and companies in these crimes, particularly those who, through their trading practices, have financed armed groups responsible for war crimes or crimes against humanity. Where appropriate, and pursuant to the principle of complementarity with national jurisdictions, it should initiate prosecutions of individuals against whom there is evidence of involvement in such crimes. Under Article 25, 3 (c) of 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".

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- ¹ For details of the different resources found in the DRC, see Global Witness, "Same Old Story – A background study on natural resources in the Democratic Republic of Congo", June 2004.
- ² For background information on the historical context of natural resource exploitation in the DRC, see Global Witness, "Same Old Story – A background study on natural resources in the Democratic Republic of Congo", June 2004. See also Adam Hochschild, "King Leopold's Ghost", Pan Books, 1998.
- ³ The exceptions were reports produced by international human rights organisations, notably Amnesty International and Human Rights Watch, some of which are quoted in this briefing.
- ⁴ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357).
- ⁵ Annual Global Summary: 2007 Production, Imports, Exports and KPC Counts (see <https://mmsd.mms.nrcan.gc.ca/kimberleystats/publicstats.asp>).
- ⁶ See www.itri.co.uk
- ⁷ Global Witness, "Digging in corruption: fraud, abuse and exploitation in Katanga's copper and cobalt mines", July 2006.
- ⁸ United Nations Development Programme, "Human Development Report 2005: International cooperation at a crossroads. Aid, trade and security in an unequal world".
- ⁹ For details of how Mobutu exploited the country's minerals, particularly diamonds, see Christian Dietrich, "Hard Currency: The criminalized diamond economy of the Democratic Republic of Congo and its neighbours", published by Partnership Africa Canada, IPIS and Network Movement for Justice and Development, June 2002.
- ¹⁰ See Christian Dietrich, "Hard Currency: The criminalized diamond economy of the Democratic Republic of Congo and its neighbours", published by Partnership Africa Canada, IPIS and Network Movement for Justice and Development, June 2002.
- ¹¹ The Panel of Experts described the "elite networks" composed of senior officials in the Congolese, Zimbabwe, Ugandan and Rwandan governments and armies implicated in natural resource exploitation in the DRC. See reports of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357) and 15 October 2003 (S/2002/1146).
- ¹² The information in this section is based primarily on the following sources: Report of the Special Rapporteur on the situation of human rights in the DRC, Roberto Garreton, 23 December 1994 (E/CN.4/1995/67), paragraphs 104-113; Jean-Claude Willame et al, "Zaire: predicaments and prospects. A report to the Minority Rights Group (USA)", United States Institute for Peace, January 2007, pages 32-33; The Atlantic Online, "Zaire: an African horror story", August 1993; and IRIN, "Zaire IRIN Briefing Part V: Shaba", 19 March 2007.
- ¹³ See Report of the Special Rapporteur on the situation of human rights in the DRC, Roberto Garreton, 23 December 1994 (E/CN.4/1995/67), paragraphs 104-113.
- ¹⁴ See Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357).
- ¹⁵ IPIS, "Network War: An introduction to Congo's privatised war economy", October 2002.
- ¹⁶ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357). Section III B of the report describes how the different parties to the conflict financed the war.
- ¹⁷ Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 11. See also Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 10 November 2001 (S/2001/1072), paragraphs 147-148.
- ¹⁸ Christian Dietrich, "Hard Currency: The criminalized diamond economy of the Democratic Republic of Congo and its neighbours", published by Partnership Africa Canada, IPIS and Network Movement for Justice and Development, June 2002, page 36.
- ¹⁹ Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 10 November 2001 (S/2001/1072), paragraphs 97 and 99.
- ²⁰ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraphs 15 and 16.

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- ²¹ Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003.
- ²² IPIS, "Network War: an introduction to Congo's privatised war economy", October 2002; Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003. In some cases, a form of collaboration even developed between the RPA and former *interahamwe*. See, for example, Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraphs 66-69.
- ²³ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraph 218.
- ²⁴ See reports of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), 10 November 2001 (S/2001/1072), and 22 May 2002 (S/2002/565); and IPIS, "Network War: an introduction to Congo's privatised war economy", October 2002, page 33.
- ²⁵ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraphs 27 and 28.
- ²⁶ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraph 9.
- ²⁷ For information on the coltan trade under the RCD, see IPIS, "Supporting the war economy in the DRC: European companies and the coltan trade", January 2002.
- ²⁸ For estimates of the profits made from the coltan trade by the RCD, Rwanda and Uganda, see IPIS, "European companies and the coltan trade, part 2", September 2002. IPIS's estimates are lower than those of the Panel of Experts, but the amounts are still significant.
- ²⁹ For details of the human rights situation during this period, see numerous reports published by Amnesty International and Human Rights Watch, available at www.amnesty.org and www.hrw.org and reports by the UN Special Rapporteur on the situation of human rights in the DRC, Roberto Garretón, produced between 1996 and 2001.
- ³⁰ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraph 147.
- ³¹ IPIS, "Supporting the war economy in the DRC: European companies and the coltan trade", January 2002; Global Witness, "Same Old Story – A background study on natural resources in the Democratic Republic of Congo", June 2004, page 22.
- ³² Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 15 October 2002 (S/2002/1146), paragraphs 76-77.
- ³³ Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 12; Global Witness, "Same Old Story – A background study on natural resources in the Democratic Republic of Congo", June 2004, page 21; Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraph 127.
- ³⁴ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 15 October 2002 (S/2002/1146), paragraphs 70-71.
- ³⁵ Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 30.
- ³⁶ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 15 October 2002 (S/2002/1146), paragraph 80.
- ³⁷ See Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, pages 32, 33, 35 and 38.
- ³⁸ Interim report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 22 May 2002 (S/2002/565); Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 39.
- ³⁹ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraph 93.
- ⁴⁰ Interim report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 22 May 2002 (S/2002/565), paragraphs 51-52.

⁴¹ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraph 93; Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 23 October 2003 (S/2001/1027), paragraph 10; Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 36.

⁴² Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 35; Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraph 60; Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraph 75; Carina Tertsakian, "Le Château: the lives of prisoners in Rwanda", Arves Books, 2008, page 232.

⁴³ Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 36.

⁴⁴ Christian Dietrich, "Hard Currency: The criminalized diamond economy of the Democratic Republic of Congo and its neighbours", published by Partnership Africa Canada, IPIS and Network Movement for Justice and Development, June 2002, page 41; Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, pages 25-26; Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 10 November 2001 (S/2001/1072), paragraphs 44-46.

⁴⁵ Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 25.

⁴⁶ Report of the Special Rapporteur on the situation of human rights in the DRC, Roberto Garreton, 1 February 2001 (E/CN.4/2001/40).

⁴⁷ Sénat de Belgique, Commission d'enquête parlementaire chargée d'enquêter sur l'exploitation et le commerce légaux et illégaux de richesses naturelles dans la région des Grands Lacs au vu de la situation conflictuelle actuelle et de l'implication de la Belgique, Rapport fait au nom de la Commission d'enquête « Grands Lacs », Mm.Colla et Dallemagne, 20 February 2003, Annex 7.

⁴⁸ Human Rights Watch reports, "Uganda in eastern DRC: Fueling political and ethnic strife", March 2001, and "War crimes in Kisangani: the response of Rwandan-backed rebels to the May 2002 mutiny", August 2002; Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003; "Report of the inter-agency assessment mission to Kisangani", 4 December 2000 (S/2000/1153).

⁴⁹ Human Rights Watch, "War crimes in Kisangani: the response of Rwandan-backed rebels to the May 2002 mutiny", August 2002.

⁵⁰ For a detailed documentation of the human rights situation in Ituri between 2002 and 2004, see Human Rights Watch reports "Ituri: 'Covered in blood'. Ethnically targeted violence in northeastern DR Congo", July 2003, and "The Curse of Gold", 2005; MONUC "Special report on the events in Ituri, January 2002-December 2003", 16 July 2004 (S/2004/573); and Report on the mission carried out by Roberto Garreton, Special Rapporteur on the situation of human rights in the DRC, from 11 to 21 March 2001, (E/CN.4/2001/40/Add.1), 27 March 2001.

⁵¹ Interim report of the Special Rapporteur on the situation of human rights in the Democratic Republic of Congo, 24 October 2003 (A/58/534).

⁵² Amnesty International, "On the precipice: the deepening human rights and humanitarian crisis in Ituri", March 2003, page 3.

⁵³ Human Rights Watch, "Ituri: 'Covered in blood'. Ethnically targeted violence in northeastern DR Congo", July 2003.

⁵⁴ Human Rights Watch, "Ituri: 'Covered in blood'. Ethnically targeted violence in northeastern DR Congo", July 2003, pages 36-38; Amnesty International, "On the precipice: the deepening human rights and humanitarian crisis in Ituri", March 2003, pages 17-19; MONUC "Special report on the events in Ituri, January 2002-December 2003", 16 July 2004 (S/2004/573), paragraphs 105-112.

⁵⁵ Human Rights Watch, "Ituri: 'Covered in blood'. Ethnically targeted violence in northeastern DR Congo", July 2003.

⁵⁶ Human Rights Watch, "Ituri: 'Covered in blood'. Ethnically targeted violence in northeastern DR Congo", July 2003, page 26; Human Rights Watch, "The Curse of Gold", 2005, pages 33 to 34.

⁵⁷ MONUC "Special report on the events in Ituri, January 2002-December 2003", 16 July 2004 (S/2004/573), paragraph 155.

⁵⁸ Human Rights Watch, "Ituri: 'Covered in blood'. Ethnically targeted violence in northeastern DR Congo", July 2003, pages 23-26. Similar patterns were replicated in Durba, in Haut-Uele district. See Human Rights Watch, "The Curse of Gold", 2005.

⁵⁹ MONUC "Special report on the events in Ituri, January 2002-December 2003", 16 July 2004 (S/2004/573).

⁶⁰ Human Rights Watch, "The Curse of Gold", 2005, pages 55 to 56.

⁶¹ Human Rights Watch, "The Curse of Gold", 2005.

⁶² Sources reported to the Panel of Experts that Commandant Jérôme Kakwavu collected several thousands of US dollars every week from the Mahagi and Aru customs posts, a percentage of which was shared with "the Ugandan-linked elite network." Confidential Section V of the Panel of Experts October 2003 report, 20 October 2003.

⁶³ Human Rights Watch, "The Curse of Gold", 2005, pages 84-96.

⁶⁴ Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003. Amnesty International lists four armed groups which benefited from Ugandan support: RCD-ML, MLC, RCD-N and the UPC. Human Rights Watch's report "Ituri: 'Covered in blood'. Ethnically targeted violence in northeastern DR Congo", July 2003, lists ten armed groups in Ituri, most of which have received military or political support from Uganda at some time.

⁶⁵ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraph 180; Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraph 122.

⁶⁶ Human Rights Watch, "The Curse of Gold", 2005, pages 15-20.

⁶⁷ Human Rights Watch reports, "The Curse of Gold", 2005, pages 16-17; Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, pages 27-28.

⁶⁸ Human Rights Watch, "The Curse of Gold", 2005, pages 105-11, and "Ituri: 'covered in blood'. Ethnically targeted violence in northeastern DR Congo", July 2003, page 12-13.

⁶⁹ Details of Rwanda's military support for the UPC, including supply of weapons and ammunition, military training and reporting lines to the Rwandan Defence Forces command are contained in the Confidential Section V of the Panel of Experts' October 2003 report.

⁷⁰ See Pole Institute, "Shifting sands: oil exploration in the Rift Valley and the Congo conflict", 2003.

⁷¹ See Reuters, "Six killed in Uganda-DRC shooting on Lake Albert - UN", 25 September 2007.

⁷² International Crisis Group, "Scramble for the Congo: Anatomy of an ugly war", 20 December 2000, pages 36-35.

⁷³ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraph 13.

⁷⁴ Global Witness, "Same Old Story – A background study on natural resources in the Democratic Republic of Congo", June 2004, page 36.

⁷⁵ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraphs 122-123.

⁷⁶ For information on the links between the MLC and the CAR in the context of the diamond trade, see Christian Dietrich, "Hard Currency: The criminalized diamond economy of the Democratic Republic of Congo and its neighbours", published by Partnership Africa Canada, IPIS and Network Movement for Justice and Development, June 2002, pages 21-22 and 41.

⁷⁷ For information on the MLC's involvement in human rights abuses in the CAR, see International Criminal Court, Case Information Sheet, Situation in the Central African Republic, The Prosecutor v. Jean-Pierre Bemba Gombo (ICC-PIDS-CIS-CAR-01-002/09); and Amnesty International, "Central African Republic: Five months of war against women", 10 November 2004.

⁷⁸ Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 39.

⁷⁹ Amnesty International, "Making a killing: The diamond trade in government-controlled DRC", 22 October 2002.

⁸⁰ Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 10 November 2001 (S/2001/1072), paragraphs 66-69.

⁸¹ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraph 54.

⁸² Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraph 55.

⁸³ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraph 153.

⁸⁴ Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 10 November 2001 (S/2001/1072), paragraph 14.

⁸⁵ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146); Global Witness, "Branching out: Zimbabwe's resource colonialism in Democratic Republic of Congo", February 2002.

⁸⁶ Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 10 November 2001 (S/2001/1072), paragraphs 38 to 41; Amnesty International, "Making a killing: The diamond trade in government-controlled DRC", 22 October 2002.

⁸⁷ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraphs 156 and 157; Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 10 November 2001 (S/2001/1072), paragraphs 30 to 35; Christian Dietrich, "Hard Currency: The criminalized diamond economy of the Democratic Republic of Congo and its neighbours", published by Partnership Africa Canada, IPIS and Network Movement for Justice and Development, June 2002, page 48.

⁸⁸ For background on the timber deals between the DRC and Zimbabwe, see Global Witness, "Branching out: Zimbabwe's resource colonialism in Democratic Republic of Congo", February 2002; Global Witness, "Same Old Story – A background study on natural resources in the Democratic Republic of Congo", June 2004; and Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 10 November 2001 (S/2001/1072), paragraphs 49 to 55.

⁸⁹ International Crisis Group, "Scramble for the Congo: Anatomy of an ugly war", 20 December 2000, page 57; Christian Dietrich, "Hard Currency: The criminalized diamond economy of the Democratic Republic of Congo and its neighbours", published by Partnership Africa Canada, IPIS and Network Movement for Justice and Development, June 2002, pages 42-44.

⁹⁰ For further information on Kabila's allocation of contracts, see Global Witness, "Same Old Story – A background study on natural resources in the Democratic Republic of Congo", June 2004; Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357); and Dena Montague, "Stolen goods: coltan and conflict in the Democratic Republic of Congo", in SAIS Review vol. XXII no. 1 (winter-spring 2002), pages 108-111.

⁹¹ See Associated Press, "Angry businessmen side with Congo's rebels", 14 September 1998; The Globe and Mail, "Barrick, Anglo join ventures South African conglomerate to manage Barrick's African mining and exploration projects", 11 May 1998.

⁹² Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraphs 47-54.

⁹³ Assemblée nationale, Commission spéciale chargée de l'examen de la validité des conventions à caractère économique et financier conclues pendant les guerres de 1996-1997 et de 1998, Rapport des travaux, 1ère partie.

⁹⁴ See press release signed by 14 Congolese and international NGOs, "DR Congo: End illegal exploitation of natural resources", 21 February 2006.

⁹⁵ See, for example, IPIS, "Network War: an introduction to Congo's privatised war economy", October 2002.

⁹⁶ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 23 October 2003 (S/2001/1027), paragraphs 46-47.

⁹⁷ IPIS, "Network War: an introduction to Congo's privatised war economy", October 2002; IPIS, "Supporting the war economy in the DRC: European companies and the coltan trade", January 2002. Local airline companies operating in the Kivus also flew minerals out and brought arms and equipment in. See Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003.

⁹⁸ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraphs 110-121.

⁹⁹ See Amnesty International and Human Rights Watch reports published between 1996 and 2000, available at www.amnesty.org and www.hrw.org. The UN Human Rights Field Operation in Rwanda also produced reports on the human rights situation in Rwanda during this period.

¹⁰⁰ Global Witness, "Under-mining peace. Tin: the explosive trade in cassiterite in eastern DRC", June 2005, page 8.

¹⁰¹ World Bank, "Democratic Republic of Congo: growth with governance in the mining sector", Report no 43402-ZR, May 2008, Chapter 4.

¹⁰² Several people interviewed by the Pole Institute about coltan mining in North Kivu in 2000 and 2001 cited the risk of landslides as one of their main concerns. One referred to an incident in which 20 people, including seven soldiers, were buried in a landslide near Luwowo. See Pole Institute, "The coltan phenomenon: How a rare mineral has changed the life of the population of war-torn North Kivu province in the East of the Democratic Republic of Congo", 2002.

¹⁰³ Amnesty International reported that a nine-year-old boy was among five miners buried alive in the *polygone* diamond concession, in Mbuji-Mayi, and that MIBA officials sometimes bulldozed over the holes without checking whether there were any miners at the bottom of the mineshafts. See Amnesty International, "Making a killing: The diamond trade in government-controlled DRC", 22 October 2002.

¹⁰⁴ Global Witness reports "Digging in corruption: fraud, abuse and exploitation in Katanga's copper and cobalt mines", July 2006, and "Rush and ruin: the devastating mineral trade in southern Katanga, DRC", September 2004.

¹⁰⁵ Human Rights Watch, "The Curse of Gold", 2005, page 55.

¹⁰⁶ Pole Institute, "The coltan phenomenon: How a rare mineral has changed the life of the population of war-torn North Kivu province in the East of the Democratic Republic of Congo", 2002.

¹⁰⁷ Unless otherwise stated, the information in this section is taken from Amnesty International's report, "Making a killing: The diamond trade in government-controlled DRC", 22 October 2002.

¹⁰⁸ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraph 48.

¹⁰⁹ Amnesty International, "Making a killing: The diamond trade in government-controlled DRC", 22 October 2002.

¹¹⁰ The comptoir MDM, for example, which supplied the Belgian company Sogem, tried to enter into an agreement with the RCD in 2000. See IPIS, "Supporting the war economy in the DRC: European companies and the coltan trade", January 2002.

¹¹¹ One such company was UK-registered Afrimex. One of the largest buyers of cassiterite from RCD-controlled parts of eastern DRC during the war, it operated in South Kivu through the Congolese-registered Société Kotecha and SOCOMI. See Global Witness, "Under-mining peace. Tin: the explosive trade in cassiterite in eastern DRC", June 2005, page 23, and Global Witness Complaint to the UK National Contact Point under the Specific Instance Procedure of the OECD Guidelines for Multinational Enterprises, 20 February 2007.

¹¹² One example, among many, is Metalor Technologies, a Swiss gold refining company which bought gold originating from Ituri via Uganda. See Human Rights Watch, "The Curse of Gold", 2005.

¹¹³ Greenpeace International, "Carving up the Congo", April 2007; Global Witness, "Same Old Story – A background study on natural resources in the Democratic Republic of Congo", June 2004.

¹¹⁴ These events, as well as AngloGold Ashanti's response, are documented in detail in the Human Rights Watch report "The Curse of Gold", 2005.

¹¹⁵ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), Annexes I, II and III.

¹¹⁶ For a detailed critique of this process, and further information on the role of companies during the conflict in the DRC, see Rights and Accountability in Development (RAID), "Unanswered Questions: Companies, Conflict and the Democratic Republic of Congo," May 2004.

¹¹⁷ See Final Statement by the UK National Contact Point for OECD Guidelines for Multinational Enterprises: DAS Air, 21 July 2008, and Final Statement by the UK National Contact Point for OECD Guidelines for Multinational Enterprises: Afrimex (UK) Ltd, 28 August 2008. The statements upheld the majority of allegations brought by RAID and Global Witness respectively.

¹¹⁸ See ACIDH, ASADHO/Katanga, Global Witness, RAID, "Kilwa trial: a denial of justice. A chronology: October 2004-July 2007," 17 July 2007; Office of the High Commissioner for Human Rights, "High Commissioner for Human Rights concerned at Kilwa military trial in the Democratic Republic of the Congo," 4 July 2007.

¹¹⁹ Judicial Commission of Inquiry into allegations into illegal exploitation of natural resources and other forms of wealth in the Democratic Republic of Congo 2001 (May 2001-November 2002), Final Report, November 2002. For comments on the work of the Porter Commission, see Human Rights Watch, "The Curse of Gold", 2005, pages 122-123, and Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, pages 44-45.

¹²⁰ International Court of Justice, Case concerning armed activities on the territory of the Congo (Democratic Republic of the Congo v. Uganda), 19 December 2005.

¹²¹ See ICJ press release, "The Democratic Republic of Congo initiates proceedings against Rwanda citing massive human rights violations by Rwanda on Congolese territory" (2002/15), 28 May 2002.

¹²² ICJ Judgment, "Armed activities on the territory of the Congo (new application: 2002), Democratic Republic of the Congo v Rwanda, Jurisdiction of the Court and Admissibility of the Application", 3 February 2006.

¹²³ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 23 October 2003 (S/2001/1027), paragraph 44.

¹²⁴ See reports published by the Group of Experts on the DRC between 2004 and 2009.

¹²⁵ See reports by Global Witness and by the UN Group of Experts on the DRC.

¹²⁶ UN Security Council resolution S/RES/1856 (2008), 22 December 2008.