Letter dated 12 October 2012 from the Group of Experts on the Democratic Republic of the Congo addressed to the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo

The members of the Group of Experts on the Democratic Republic of the Congo (DRC) have the honour to transmit the final report of the Group, prepared in pursuance of paragraph 4 of Security Council resolution 2021 (2011).

Steven Hege
Nelson Mubula
Ruben de Koning
Marie Plamadiala
Emilie Serralta
Steven Spittaels
EXECUTIVE SUMMARY

The eastern DRC remains plagued by dozens of foreign and national armed groups. Instability has increased since the ex-Congrès national pour la défense du peuple (CNDP) mutiny and the subsequent creation of the March 23 movement (M23) earlier this year. The rebels expanded their control over Rutshuru territory with extensive foreign support in July 2012 and have recently taken advantage of an informal cease-fire to enhance alliances and command proxy operations elsewhere.

The Government of Rwanda (GoR) continues to violate the arms embargo through direct military support to M23 rebels, facilitation of recruitment, encouragement and facilitation of FARDC desertsions, as well as the provision of arms and ammunition, intelligence, and political advice. M23’s de facto chain of command includes General Bosco Ntaganda and culminates with the Rwandan Minister of Defence General James Kabarabe. Following the publication of the Addendum to its interim report, the Group met with the GoR and took into consideration its written response. However, the Group has found no substantive element of its previous findings which it wishes to alter.

Senior Government of Uganda (GoU) officials have also provided support to M23 in the form of direct troop reinforcements in DRC territory, weapons deliveries, technical assistance, joint planning, political advice, and facilitation of external relations. Units of the Ugandan People’s Defense Forces (UPDF) and the Rwandan Defence Forces (RDF) jointly supported M23 in a series of attacks in July 2012 to take over the major towns of Rutshuru territory, and the Forces armées de la RDC (FARDC) base of Rumangabo. Both governments have also cooperated to support the creation and expansion of M23’s political branch and have consistently advocated on behalf of the rebels. The M23 and its allies include six sanctioned individuals, some of whom reside in or regularly travel to Uganda and Rwanda.

Taking advantage of a lull in combat on the official front lines, M23 has sought to build coalitions with other armed groups throughout the Kivus as well as in Ituri and Kasai Occidental. Colonel Sultani Makenga emerged as the “Coordinator” of the armed groups allied to M23. In August and September, Makenga ordered Raia Mutomboki to carry out brutal ethnically-motivated attacks, burning over 800 homes and killing hundreds of civilians from Congolese Hutu communities in Masisi territory, whose militias refused to ally with M23.

The use and recruitment of child soldiers by armed groups, notably by M23, has increased. In particular, several M23 commanders, with histories of child recruitment, have overseen the enrollment and training of hundreds of young boys and girls. Furthermore, certain M23 commanders have ordered the extra-judicial executions of dozens of recruits and prisoners of war.

M23’s many attempts to forge a common front with ethnic Hema and Lendu armed groups in Ituri as well as the Banyamulenge community in South Kivu have encountered significant resistance. The Government of the DRC (GoRDC) has sought to counter M23’s efforts to expand its alliances through promoting integration processes with armed groups, notably in Ituri and in Masisi territory.

At historically low numbers, the Forces démocratiques de libération du Rwanda (FDLR), though it continues to commit abuses against the civilian populations, has become further isolated from external support and is focused on self-protection in the face of attacks by the FARDC and M23.
allies. Junior FDLR officers have sought to ally with the GoDRC against M23 and some FARDC criminal networks continue to sell small amounts of ammunition to the rebels. However, there is no evidence of a strategic cooperation between the FDLR and the GoDRC.

Amongst Burundian rebel groups, the Forces nationales de libération (FNL) remain divided and reliant on local Congolese armed groups, while the Front national pour la révolution au Burundi (FRONABU) has now transformed itself into the Front du peuple murundi (FPM) and has allied with M23 in South Kivu. The Ugandan-led Allied Democratic Forces (ADF) have expanded their military capacity with cooperation with Al-Shabaab networks in East Africa.

FARDC continue to be plagued by criminal networks generating revenue for senior officers through control over natural resources and contraband, including the trafficking of ivory from armed groups. Chief of Land Forces, General Gabriel Amisi, oversees a network distributing hunting ammunition for poachers and armed groups, including Raja Mutomboki. Disarmament and stockpile management efforts have also been undermined by the increased demand associated with the M23 rebellion as the market price for small arms has risen fourfold.

The GoDRC’s requirements for mineral exporters to exercise due diligence in accordance with UN and OECD guidelines has nearly halted all 3T (tin, tantalum and tungsten) exports from the eastern Congo apart from north Katanga where mineral tagging was introduced in 2011. Smuggling into both Rwanda and Burundi is on the rise. The credibility of the mineral tagging system in place in Rwanda is jeopardized by the laundering of Congolese minerals, as tags are routinely sold by mining cooperatives. Several traders have contributed to finance M23 rebels out of profits resulting from smuggling Congolese minerals into Rwanda.

While production has decreased in the Kivus for tin ore, tantalum and tungsten ore production has been resilient to international traceability demands as they are more easily smuggled. Rwandan exports of tantalum and tungsten have experienced a corresponding increase during 2012, while tin ore exports have decreased.

Overall price and production decreases have had negative socio-economic consequences in some mining zones. However, new commercial opportunities have been created as mining communities adapted to other economic sectors. Security has improved in most of the major tin and tantalum mining areas, which has led to less conflict financing and increased oversight and monitoring by civil authorities and non-governmental organizations.

Armed groups, FARDC criminal networks and miners easily shift to gold mines where due diligence requirements have not affected the trade. Nearly all gold from eastern DRC is smuggled out of the country and channeled through a few major traders in Kampala and Bujumbura who ship out over several tonnes per year, worth hundreds of millions of US dollars. In the United Arab Emirates (UAE), most Congolese gold is smelted and sold to jewelers. The UN assets freeze has not limited the operations of the previous owner of the sanctioned entity Machanga Ltd, which exports through other front companies and transfers large sums of money to suppliers in DRC.
I. Introduction

1. Pursuant to paragraph 4 of Security Council resolution 2021 (2011), the Group of Experts on the DRC submits the following final report in fulfillment of its obligation to report to the Council, through the 1533 Sanctions Committee (hereafter “the Committee”) before 19 October 2012. (References can be found in annex 1.) In its monitoring of the arms embargo, the Group’s primary role is to investigate and document evidence regarding the procurement of military equipment, including weapons and ammunition, by armed groups active in the DRC, as well as their related financial networks and involvement in the exploitation and trade of natural resources. The Group adheres to a rigorous investigative methodology to ensure the greatest degree of accuracy of its assertions and conclusions. A more complete overview of its mandate and methodology can be found in annexes 1 and 2.

2. The Group submitted an interim report (S/2012/348) to the Committee on 18 May 2012, as well as an Addendum to its interim report (S/2012/348/Add.1) on 26 June 2012 concerning GoR violations of the arms embargo and sanctions regime. The Group provided the Committee with a detailed response (annex 3) to the GoR’s rebuttal of the Addendum (annex 4).

II. Congolese Armed Groups

A. March 23 Mouvement (M23)

3. Since the Group’s submission of the Addendum, M23 continued to carry out military operations and expanded the terrain it controlled in Rutshuru Territory, shifting the frontline to 35 kilometres north of the provincial capital, Goma. Composed of roughly 1,250 troops, mainly former CNDP soldiers who deserted from the FARDC, M23 faces challenges in carrying out independent operations and controlling newly gained positions due to troop shortages.

4. Both Rwanda and Uganda have been supporting M23. While Rwandan officials coordinated the creation of the rebel movement as well as its major military operations, Uganda’s more subtle support to M23 allowed the rebel group’s political branch to operate from within Kampala and boost its external relations. The UPDF’s limited assistance to M23 has been, nevertheless, decisive in its seizure of principal towns in Rutshuru.

5. Beginning in July 2012, a series of the International Conference of the Great Lakes Region (ICGLR) initiatives attempted to resolve the conflict in the East. In this context, the ICGLR mandated GoU President Yoweri Museveni on 16 August 2012 to convey to M23 the ICGLR’s meeting’s conclusion that the rebels must cease all offensive activities, leave the border and withdraw to their initial positions (Annex 4). However, nearly two months later, amid ongoing ICGLR efforts, M23 further consolidates its deployments and has gained additional terrain with the help of allied armed groups, as well as continued RDF and UPDF support.

1) Government of Rwanda support to M23

6. Rwanda support to M23 and other armed groups has continued in all categories of arms embargo violations previously documented by the Group. Rwandan officials have provided military support to M23 through permanent troop reinforcements and clandestine support by RDF special units stationed alongside FARDC in Rutshuru for joint Rwanda-DRC operations. RDF officers also furnished the rebels with weapons, facilitated the evacuation of casualties to Rwanda and shared communication equipment with M23. Recruitment for M23 has continued
in Rwandan villages, former CNDP officers joined the rebellion through Rwandan territory and Rwandan Patriotic Front (RPF) members collected funds for the movement. Rwandan officials created M23’s political branch and government and provided the movement with political advice. M23 continues to be commanded by sanctioned individual Ntaganda, who operates under orders and guidance from Rwandan officials.

7. Various Southern Africa Development Community (SADC), European, Ugandan and Burundian intelligence agents also confirmed the Group’s findings concerning Rwandan violations of the embargo.

RDF military support to M23

1) RDF troop support

8. RDF troops continue to operate within DRC territory in support of M23. Despite troop shortages, in July 2012 M23 carried out large-scale operations and expanded its controlled area in Rutshuru. FARDC officers, former RDF officers, current and former M23 members attested to the deployment of additional RDF units to reinforce all major rebel operations, as well as to the permanent deployment of RDF troops alongside M23 to consolidate control over acquired terrain (annex 5). Border officials and former M23 soldiers repeatedly witnessed the arrival of RDF troops into Kinigi and other RDF deployments close to the DRC border. Current and former M23 soldiers observed a regular presence of RDF troops around Ntaganda and Makenga’s positions, as well as other M23 deployments.

9. Nine local leaders who saw RDF soldiers marching together with M23 stated that RDF troops could be easily identified by their distinct uniforms, equipment, patrolling style and accent when speaking in Kinyarwanda. During the Group’s 23-25 July 2012 visit to Kigali, Rwandan Minister of Defence General James Kabarebe confirmed that RDF units can be easily distinguished from M23 or other troops for all of the above reasons.

10. Two current RDF soldiers as well as five demobilized RDF soldiers, ordered by their commanders to join M23, confirmed the permanent presence of RDF forces in the DRC (annex 6). These same sources stated that although RDF units frequently rotated, soldiers of the 305th RDF Brigade operating under the coordination of Western Division commander General Emmanuel Ruvusha have supported M23 operations in the DRC. RDF Chief of Staff General Charles Kayonga confirmed for the Group that the 305th Brigade was deployed at Kinigi in July 2012, the main RDF base in proximity to the DRC border currently supporting M23 operations.

2) RDF Special Forces support to M23

11. RDF Special Forces deployed with the FARDC in Rutshuru have backed M23 operations. Following an agreement between DRC and Rwanda, two special RDF-FARDC units, including RDF troops commanded by Lieutenant Colonel James Casius, have conducted joint operations along the Rwandan border since 2011 (annex 7).

12. Former and current M23 officers as well as senior FARDC commanders told the Group that Special Forces platoons clandestinely supported M23 attacks. Five local villagers stated that RDF Special Forces held regular meetings with M23. During a mission to the area, a member of the Group witnessed how an M23 commander communicated by radio to the RDF troops for reinforcements.
13. Despite its reluctance to remove the RDF Special Forces from rebel territory, the GoR withdrew 344 soldiers on 1 September 2012. Former RDF officers, M23 members, armed group members and DRC Government officials informed the Group that some of the RDF Special Forces returned immediately to the DRC further operated with M23.

3) Treatment of Casualties in Kanombe Military Hospital

14. RDF evacuated casualties to Rwanda. Two ex-RDF officers, a senior member of the RPF, as well as an ex-CNDP officer informed the Group that the rebels transported most injured soldiers fighting alongside M23 to Kanombe Military Hospital in Kigali. The RDF buried the deceased in the Kanombe military cemetery. One M23 collaborator interviewed by the Group visited the hospital after M23 operations had been conducted in the DRC, and confirmed the presence of dozens of wounded soldiers.

4) M23 and RDF communication

15. RDF and M23 officers have harmonized their communication equipment in order to coordinate operations. According to former RPF, RDF members and M23 cadres, senior RDF and M23 officers communicate through digital VH radio systems used by the RDF, which the RDF shared with M23 commanders. Operational radio communications at the junior levels conducted through commercial radio sets which M23 officers have used within the FARDC and subsequently gave to RDF officers. FARDC commanders are capable of intercepting the latter communications. Since the submission of the Group’s Addendum, the Group obtained new radio intercepts of communications between RDF and M23 commanders.4

5) RDF and M23 clandestine operations

16. The Group has documented a pattern of RDF and M23 intelligence activities on FARDC positions around the front-line villages of Kibumba and Tongo, defending Goma and Masisi respectively. Since M23 initiated its operations, DRC authorities captured two RDF soldiers and one demobilized RDF soldier in Kibumba (annexes 8&9). The Group interviewed five other individuals, including two former RDF soldiers, one ex-FDLR who had been recruited by M23, one ex-M23 soldier, and one civilian of Rwandan nationality, intercepted while carrying out intelligence gathering for M23 at Tongo (annex 10).

17. A series of targeted assassinations and grenade attacks took place in Gomathe first week of October 2012. According to several community leaders and government investigators, infiltrators have carried out these attacks with Rwandan grenades, under orders of RDF officers (annex 11). M23 commanders told the Group that they would need to take Goma in order to secure the population.

6) Weapon supplies

18. RDF continued to supply M23 with weapons and ammunition. M23 officers and soldiers witnessed bi-weekly deliveries by the RDF to M23 headquarters at Runyoni since the outset of the rebellion. Makenga had shown these officersthe large amounts of weapons and ammunition that the RDF had donated.

19. Several former M23 combatants witnessed increased deliveries of ammunition from Rwanda prior to specific operations. Four former M23 soldiers described how they had assisted in transporting boxes of ammunition from RDF bases at Kinigi and Njerima in Rwanda to the DRC.
Begin Box

Attacks on Bunagana and Principal Towns in Rutshuru

RDF commanders operated alongside M23 and provided logistics support during the July 2012 operations which enabled the capture of Bunagana, Rutshuru, Kiwanja, and Rumangabo. UPDF commanders also supported these attacks. During the operation, the rebels killed one MONUSCO peacekeeper at Bunagana and fired on the MONUSCO base at Kiwanja (annex 12).

M23 soldiers, FARDC officers, M23 supporters and UN officials stated that in addition to the RDF troops permanently stationed with M23, RDF deployed over 2,000 troops to seize Bunagana. According to several M23 soldiers, RDF troops provided the rebels with heavy weapons such as 12.7 mm machine guns, 60 mm, 91 mm and 120 mm mortars, as well as anti-tank and anti-aircraft launchers ahead of the attack. RDF Special Forces in Rutshuru also aided the rebels and fired 13 rounds on an FARDC combat helicopter during the takeover of Kiwanja.

According to former M23 officers and ex-RDF officers, the RDF troops who participated in the attack were part of both the RDF 305th Brigade and 99th Battalion. Lieutenant ColonelKitoko Kadida commanded these units under the coordination of Ruvusha and overall command of General Kayonga. According to several former M23 officers and soldiers, Kayonga was present in M23 headquarters at Runyoni during the operation.

M23 current and former officers, politicians and FARDC officers confirmed that senior Rwandan and M23 officers jointly planned the attacks. Prior to these operations, Ntaganda, Makenga and Colonel Baudouin Ngaruye travelled to Rwanda to meet with General Kabarebe, Rwandan Permanent Defence Secretary Jacques Nziza, and Kayonga in Kinigi. The same sources told the Group that Makenga had planned further details with Ruvusha.

Subsequent to the fighting in Rutshuru, FARDC officers and local leaders observed roughly 30 casualties on the battlefield, most of which wore Rwandan uniforms (annex 13). The FARDC recovered an AK-47 (annex 14) which had not been registered within FARDC stockpiles and a 60 mm mortar round with an elongated shell (annex 15), which does not correspond to FARDC mortars, and a Rwandan driving license (annex 16).

End box

Recruitment for M23 in Rwanda

20. RDF recruitment for M23 within Rwanda has increased in the past months. The main targets for recruitment are Rwandan demobilized soldiers and civilians, as well as Congolese refugees. RDF continue forcefully recruiting ex-FDLR from the Mutobo demobilization camp (see paragraph 157 below). Based on numbers provided by dozens of former M23 soldiers who escaped from M23 training camps, the Group estimates that since its creation M23 has thus far trained at least 800 new soldiers.

21. Since the submission of its Addendum, the Group has interviewed an additional 48 former M23 combatants, among whom 26 are of Rwandan nationality. Since the creation of M23 over 50 Rwandan nationals from M23 surrendered to MONUSCO. The GoR has continued to refuse the repatriation of these former soldiers on the grounds that their nationality has yet to be established.

22. Before being sent to the DRC, most recruits continued transiting through Ntaganda’s Bushokoro hotel in Kinigi, Rwanda. During its visit to Bushokoro on 21 August 2012, the
Group confirmed that the premises of the Hotel, surrounded by an RDF protection unit, correspond to the descriptions that former M23 soldiers have provided (annex 17).

23. From Kini, RDF troops escort recruits through the Virunga National Park (VNP) to Runyoni. Former M23 soldiers stated that before reaching the DRC, RDF officers told them they would be fighting for Ntaganda to take control of North Kivu, confiscated their telephones, burned identity cards and instructed them to claim to be Congolese in the event of capture. According to the same sources, recruits who flee to Rwanda are brought back to M23 by RDF soldiers where they are executed or suffer horrific punishments.

24. M23 members, former RDF officers, and politicians told the Group that General Kabarebe is ultimately responsible for all M23 recruitment. These sources stated that Kabarebe ordered loyal RDF officers to facilitate recruitment operations within Rwanda.

25. Politicians, local leaders, and former M23 soldiers informed the Group that M23 has established four training camps, and have completed a second wave of training of separate groups of 100 to 250 soldiers. The trainers, including RDF officers, brief recruits on the failures of the DRC Government and explain their objective of liberating the Congo.

26. Former M23 officers and soldiers told the Group that newly trained soldiers are immediately sent to the front line to provide cover for M23 units. Due to their lack of experience, almost half of the new inductees, at the time, were killed during combat operations at Bunagana, Rutshuru, and Rumbangabo in July 2012.

**RDF facilitation of desertions to M23**

27. Since the submission of the Addendum, former CNDP officers and troops continued joining M23. Several former CNDP officers and current FARDC officers said that Kabarebe or his Assistant Captain Celestin Sentoko ordered them to desert. According to current and former M23 combatants, most officers who joined M23 did so using Rwandan territory. These sources stated that the deserters usually cross the Goma border and travel to Ruhengeri, where RDF troops escort them through the VNP to Runyoni (annex 18).

**Support to M23 political activities**

28. Rwandan officials nominated M23’s political leadership and government. According to ex-RDF officers, M23 supporters, as well as politicians, at the beginning of July 2012, Kabarebe imposed Bishop Jean Marie Runiga Lugerero as M23’s political coordinator (annex 19). Runiga, the former CNDP party representative in Kinshasa, travelled to Kigali prior to taking up his new post with the rebels. The same sources stated that General Kabarebe also unilaterally appointed the members of the M23 government named on 17 August 2012 (annex 20). During a visit by the Group to Bunagana on the day of the declaration, several M23 members were not aware they had been nominated to a cabinet position.

29. According to M23 members, collaborators, and politicians, while IGCLF regional initiatives to resolve the conflict began in August 2012, Generals Kabarebe and Nziza advised the rebels on how to update former CNDP demands to the current political context. 

**M23 fundraising in Rwanda**

30. RPF members have been recruiting sympathizers and raising funds for M23 from within Rwanda. Politicians, former RDF and CNDP officers told the Group that Doctor Rwigamba Balinda, Rwandan Senator and Rector of the Université Libre de Kigali (ULK), and Bishop
John Rucyahana,\textsuperscript{8} both RPF members, have overseen these activities in Rwanda and abroad. The same sources informed the Group that senior RDF officers and RPFRPF officials divert a portion of the financial contributions collected on behalf of M23 for their own benefit.

**M23 chain of command in Kigali**

31. Former officers and soldiers of M23 stated that Ntaganda continues to serve as the highest commander of the rebels on the ground, while Makenga is responsible for operations and coordination with allied armed groups. RDF officers as well as current and former M23 members also stated that sanctioned individual, former CNDP Chairman General Laurent Nkunda\textsuperscript{9} provided advice to M23 commanders and recruited for M23 in Rwanda.

32. Rwandan officials exercise overall command and strategic planning for M23. Politicians, current and former members of M23, FARDC officers and former RDF officers all confirmed that Ntaganda and Makenga receive direct military orders from RDF Chief of Defense Staff General Charles Kayonga, who in turn acts on instructions from Minister of Defense General James Kabarebe (annex 21). Permanent Defence Secretary General Jacques Nziza provides strategic advice and oversees logistic support to M23. Kabarebe and Nziza have also played an instrumental role in sustaining M23’s political activities. According to former RDF officers, current M23 members, and former M23 officers, General Emmanuel Ruvusna manages military ground support to M23.

33. Several current and former M23 officers also stated that senior Rwandan officials travelled to the DRC in order to hold meetings with M23 commanders. Kayonga has come at least three times to Runyoni to plan operations and reassure the rebels of the GoR’s full support.

**Support to sanctioned individuals**

34. Ntaganda continued to be based near Runyoni (annex 22), just a few kilometres away from the Rwandan border, and regularly travels to Rwanda, violating the travel ban. M23 officers loyal to Nkunda stated that they accepted to operate with Rwandan support only after reassurances from senior GoR officials that the former CNDP chairman would be freed and allowed to return to the DRC. M23 officers said that in violation of his travel ban, Nkunda has visited M23 at Runyoni to encourage his officers.

2. **Government of Uganda support to M23**

35. While lower in intensity than the GoR involvement, senior UPDF officers have also supported M23 through facilitating M23’s permanent presence in Kampala, technical assistance, political advice and military support. UPDF commanders sent troops and weapons to reinforce specific M23 operations and assisted in the M23’s recruitment and weapons procurement efforts in Uganda. Ugandan officials equally endorsed a “laissez-faire” policy authorizing local military and civil authorities to cooperate with M23 out of their personal ties to the RDF or the rebels. Senior UPDF commanders have also cooperated with Ntaganda and allows him to visit and acquire a residence in Kampala, in violation of the travel ban and assets freeze. In an official communication with the Committee, lawyers hired by the GoR have also cited support for M23 from Ugandan territory (annex 23).

**Ugandan military support to M23**

*a) UPDF troops support*
36. The UPDF have also actively supported M23 in the DRC, alongside the RDF. The Group confirmed this with three UPDF intelligence officers, two Kampala-based diplomats as well as Ugandan and Congolese politicians.

37. Three Ugandan government officials, a Ugandan local leader, and M23 cadres told the Group that the UPDF assembled troops from the Western Division headquarters at Mbarara and from Kisoro and deployed them to the DRC using Muramba and Muhanguzi UPDF deployments near the border. To facilitate UPDF troop support, M23 placed agents at Bunagara and Kitagoma border posts. During its visit to Kitagoma in August 2012, the Group observed M23 control on the DRC side and no officials present on the Ugandan side (annex 24).10

38. Local FARDC commanders as well as current and former M23 officers informed the Group that in July 2012, UPDF deployed a unit of about 600 soldiers in Bussanza, DRC to prepare the rebel attacks in Rutshuru territory. These same sources stated that the UPDF soldiers reinforced RDF troops already present and formed a “mixed brigade”, which outnumbered M23 troops. During that period, a former M23 soldier overheard a conversation between UPDF and M23 commanders, using a commercial radio, during which they discussed the need to “decentralize the Kivus.” The Group obtained a copy of radio intercepts in which Ugandan officers communicate with Rwandan and M23 officers (annex 25).11

39. Former M23 soldiers, local authorities and villagers were able to easily distinguish the Ugandan troops, as they wore UPDF uniforms with the Ugandan flag and had distinct boots and military equipment. While UPDF troops spoke English, Kiganda, or Kinyankole, RDF troops spoke in Kinyarwanda and M23 troops in a mix of Kinyarwanda and Swahili.

40. M23 cadres said that UPDF officers introduced themselves as Ugandans. One local leader stated that a UPDF officer addressed the population in Kifumbira, the language spoken in southwestern Uganda.12 Medical personnel stated that another UPDF officer unable to speak the local languages requested medicines from Rutshuru Hospital in English.

41. The Group interviewed one UPDF soldier arrested in the DRC who said that after completing military training in Masaka, his commanders sent him to fight in the DRC alongside three groups of 75 UPDF experienced soldiers and other trainees. Two former M23 soldiers who fought together with UPDF stated that some of these soldiers were experienced, while the others had recently completed basic training. The Group interviewed twice another Ugandan national captured by the FARDC in Rutshuru territory, who both times refused to reveal more than his name and UPDF membership.13

42. Following the large-scale operations in July 2012, one border official, two Congolese local leaders residing in Uganda and former M23 soldiers told the Group that the UPDF and M23 had evacuated casualties to Uganda and transported them to the military hospital in Mbarara. The Group interviewed one former M23 officer and one civilian who had been tasked with evacuating the dead and injured across the border with a UPDF escort.

b) Arms supplies to M23

43. M23 has procured weapons and ammunition from UPDF commanders. The Group gathered the many accounts of weapons deliveries to M23 from within Uganda, in particular ahead of attacks in Rutshuru, including the following:

a) Former M23 soldiers stated that UPDF officers based in Kisoro have been supplying M23 with small quantities of weapons. One former M23 soldier said he
had accompanied Makenga to Kisoro on three occasions at the beginning of July 2012, and witnessed how he procured weapons from UPDF officers. Each time they returned with 12.7 mm machine guns which they received free of charge.

b) A former M23 soldier stated that UPDF commanders brought heavy weapons including 12.7 mm machine guns to the hill overlooking Bunagana, on the Ugandan side of the border, in order to reinforce M23 during the attack, and subsequently left them with the rebels after they took the town.14 One former M23 officer told the Group that during the attack he received several boxes of AK-47 and sub-machine guns ammunition from UPDF soldiers stationed on the same hill.

c) Two former RDF officers, two FARDC officers, one M23 cadre and one former M23 soldier stated that two trucks transported weapons and ammunition to Bunagana prior to the attacks on Rutshuru and Kiwanja. According to one FARDC officer, the two trucks mainly contained RPG-7 grenade launchers and machine guns.

d) Two M23 cadres, as well as one Kampala-based businessman, told the Group that UPDF officers met with M23 representatives at Nakasongola, a Ugandan arms production plant,15 to discuss about weapons stored there. UPDF officers subsequently delivered the weapons and ammunition, including mortars, to the M23 in Bunagana, around 19 September 2012. During that same week an M23 cadre, an Ugandan border official and an ex-RDF officer stated that one truck offloaded weapons at Bunagana.

**Begin box**

**Attacks on Principal Towns in Rutshuru Territory**

M23, RDF, and UPDF troops operated together during the July 2012 take-over of Rutshuru. Former RDF officers, border officials, FARDC officers, and former M23 soldiers stated that during the night of 5–6 July 2012, while M23 and RDF troops engaged in combat in Bunagana, UPDF troops shelled the border town from their deployment on the hill overlooking the town and sent a unit of 100 to 150 soldiers to fight alongside M23 and RDF troops. MONUSCO peacekeepers confirmed that the FARDC had been fired upon from Uganda.

The Group interviewed separately 15 eyewitnesses of these events, including DRC and Ugandan border agents, FARDC officers based at the border, villagers, refugees, a former UPDF soldier and M23 soldiers, who all observed the crossing of UPDF troops into Bunagana in the middle of the RDF and M23 attack.

Additional UPDF troops crossed into the DRC through three distinct locations during the two days prior to the 24–25 July 2012 operations on Rutshuru and Kiwanja. Four local leaders, two Ugandan officials, Congolese refugees in Uganda, and former M23 soldiers witnessed four trucks crossing into the DRC through Kitagoma to Busanza. Four other trucks entered through Bunagana and transported UPDF troops and weapons to the frontlines in Rutshuru town and Kalengera. FARDC and M23 soldiers estimate these trucks transported about 300 additional UPDF troops.

First-hand witnesses from Busanztold the Group that the UPDF, RDF, and M23 troops forced about 30 young men to transport ammunition to Rutshuru and Kiwanja and then to evacuate the dead and injured on the way back to Kabira. The Group interviewed two civilians amongst the 30. FARDC officers, M23 former officers, and local leaders saw the bodies of dead Ugandan soldiers after the battle.
Subsequent to the attack the FARDC recovered several ammunitions cartridges normally used by the UDLPF (annex 26).

End box

c) Recruitment for M23 in Uganda

44. M23 cadres have been recruiting in Uganda, with the support of Ugandan authorities. Ugandan officials, a Ugandan border agent, a Ugandan community leader, current M23 members and collaborators, former M23 soldiers, former RDF officers, former CNDP officers, armed group members based in Kampala, as well as a diplomatic source told the Group that these activities are ongoing in Mbarara, Kasese, Kampala, Kisoro as well as in the refugee camps of Kisoro and Nyakivale.

45. Four Ugandan officials, an FARDC officer based at Bunagana, border agents as well as a former CNDP politician told the Group that the Jomba Groupment chief based in Bunagana, Vincent Mwambutsa, regularly travels to Kisoro to organize recruitment and financial contributions for M23 with the Resident District Commissioner (RDC) of Kisoro, Milton Bazanye, his ally Willbaforce Nkundizana and local UPDF officers. One former M23 soldier confirmed that the rebels recruited 28 Ugandan civilians in Kisoro. A Ugandan official in Kisoro personally witnessed the UPDF taking recruits to the border.

46. M23 cadres and one rebel collaborator acknowledged that in August 2012 M23 politicians Sendugu Hakizimana Museveni and Déogratias Nsabirindahad proceeded together with Ugandan officials to recruit at the Nyakivale refugee camp in Uganda. Nine refugees interviewed by the Group at Nyakivale attested to recruitment for M23 in the camp. Three active M23 cadres, as well as DRC authorities, informed the Group that in July 2012, M23 Colonel Innocent Kaina travelled from Bunagana to Kasese, Uganda, to recruit with the assistance of UPDF officers.

47. Three former combatants who underwent training at M23’s M23’s camp at Runyoni attested to the presence of Ugandan nationals among the trainees. These same sources stated that when recruits attempted to flee to Uganda, UPDF returned them to M23.

M23 political activities in Kampala

48. M23 has developed its political branch out of Kampala. Politicians, M23 members, and intelligence sources told the Group that Runiga’s M23 delegation travelled to Kampala in August 2012, prior to the first ICGLR summit held in Kampala to resolve the conflict. According to the same sources, after consultations with Ugandan officials, M23 leaders finalized the movement’s 19 point agenda initiated in Kigali, ahead of anticipated negotiations (annex 27).16

49. Since the beginning of the regional initiatives M23 members have frequently traveled to Kampala and maintained a permanent presence in the capital. As of September 2012 the rebel movement also rented two houses in Kampala, one of which the Group visited (annex 28).

50. While there, M23 cadres have been meeting with senior Ugandan military and civil authorities on a regular basis. In particular, a UPDF officer, a Ugandan civil society member, several Ugandan politicians, intelligence agents, diplomats, and former RDF officers told the Group that M23 met with Presidential Military Advisor General Salim Saleh and with the Ugandan Inspector General of Police General Kale Kayihura. Three M23 cadres and M23 collaborators acknowledged that they have been engaging with these authorities on a weekly
basis. M23 leaders and Ugandan officials told the Group that the UPDF commanders provided the rebels with technical assistance, political advice, carried out joint planning, and coordinated military support. During the Group’s second official visit to Kampala, the Government denied that any M23 had ever been in Uganda.

Coordination between M23 and the UPDF

51. Two current M23 cadres, two former M23 officers, a UPDF officer, a former RDF officer, Kampalabased businessmen, and a diplomat told the Group that Ntaganda maintained strong connections with senior UPDF officers and directly coordinated the Ugandan military support to M23 as well as facilitated the initial contacts of the M23 political delegation. One of the former M23 officers based in Ntaganda’s position attested to multiple telephone conversations between the General and UPDF officers.

52. A UPDF officer, a Ugandan leader, an M23 cadre, politicians, intelligence sources, a Kampalabased diplomat and several businessmen stated that General Saleh has been principally responsible for UPDF support to M23.

53. At the local level, a Ugandan official, a local leader based in Uganda, a current M23 cadre, and three former M23 soldiers told the Group that prior to M23 operations, Makenga travelled to Kisoro to meet with UPDF officers. Four Ugandan officials and two UPDF officers stated that Major Charles Mukasa, the UPDF 63rd battalion commander based at Kisoro, has been in charge of the local coordination of the support to M23. A Ugandan civil society member, two M23 cadres and a Ugandan counter-intelligence report also affirmed that UPDF Western Division commander, General Patrick Kankinaho, has overseen military support to M23, including providing orders to Mukasa (annex 29).

54. Three Ugandan officials stated that in May and July 2012, General Kayihura held meetings with the rebels at Kisoro. According to a Ugandan official, a diplomat in Kampala, and an armed group member residing in Uganda, Kayihura frequently sent his deputy, John Ngaruye Ndungutse, in charge of counter-terrorism, to Kisoroto facilitate support to the rebels.

Support to sanctioned individuals

55. A UPDF officer, intelligence agents, and M23 cadres told the Group that Ntaganda maintained longstanding ties with UPDF officers and Ugandan intelligence agents. A UPDF officer, a former RDF officer, a former and current M23 officer, three armed group members based in Kampala, and one Kampalabased diplomat told the Group that Ntaganda undertook clandestine travel to Kampala in June 2012, in violation of the travel ban. The same sources told the Group that Ntaganda also purchased a house in Kampala for his family, violating the assets freeze.

3. M23 allied armed groups

56. Despite the respite in major combat operations on the Rutshuru front lines, armed groups allied to M23 have conducted several attacks against DRC Government forces and gained ground in Masisi, Walikale, and Uvira territories. Many of these attacks have included widespread violations of international humanitarian law. M23 also attempted to create alliances sparking instability in Ituri and the High Plateau of South Kivu.

57. M23 President Rutina acknowledged to the Group that the movement was a broad coalition of armed groups, including Raia Mutomboki. Other M23 members stated that they had formed
an ideological alliance with Raia Mutomboki. General Kayonga stated to the Group during its 23-25 July 2012 visit to Kigali, that Raia Mutomboki was a legitimate self-defence group protecting itself from a weak central government, in the same spirit as M23.

**M23 attempts to expand to Masisi and Walikale through Raia Mutomboki, FDC, and NDC**

58. Raia Mutomboki, the Forces de la defense Congolaise (FDC-Luanda), and Nduma Defence of Congo (NDC) have formed a common front in Masisi and Walikale territories operating under the orders of M23 commanders Ntaganda and Makenga, with the objective of facilitating a further M23 expansion. The instability caused by Raia Mutomboki in Masisi prevented the government forces from reinforcing the front lines in Rutshuru against M23.

59. In early 2012, prior to his defection from the FARDC, Makenga began supporting Raia Mutomboki, originally established in Shabunda territory of South Kivu. Soldiers close to Makenga, an ex-CNDP officer and intelligence sources told the Group that before the beginning of the April 2012 mutiny, Raia Mutomboki members visited Makenga in Bukavu, where he supplied them with weapons and ammunition from his extensive private stocks, in violation of the arms embargo. The same sources stated that six of Makenga’s soldiers joined Raia Mutomboki after M23 had been created.

60. Several community leaders have supported Raia Mutomboki’s expansion into Walikale and Masisi territories, as have Rwandan officials. According to FARDC officers, local authorities and traditional leaders, Alexis Kalinda and Raymond Mutombo have traveled frequently to Kigali where they obtained funds to help convince local chiefs to support the creation of Raia Mutomboki groups in their zones of influence. One local chief supporting Raia Mutomboki asked the members of the Group for contact information of Rwandan officials so that he could negotiate his financial compensation directly. Two other armed group members from South Kivu stated that, in July 2012, they met with M23 representatives in Gisenyi who described how they provided large amounts of weapons and ammunition to Raia Mutomboki.

61. Since May 2012, Raia Mutomboki has established a presence in southern Masisi, notably among the ethnic Tembo communities in the area of Remeka. According to police and intelligence sources in N'gungu, the diversion of weapons and ammunitions by FARDC commanders linked to Ntaganda has been instrumental to the arming of the Raia Mutomboki. In Remeka, Lieutenant Colonel Musafari distributing weapons to Raia Mutomboki in July 2012. First-hand witnesses told the Group that former CNDP Lieutenant Colonel Gakufu Japhet, prior to joining M23, handed over 50 AK-47s to the local chief of Ufamandu, to be given to Raia Mutomboki.

62. FARDC officers and local leaders reported that since his desertion from the FARDC on 27 July 2012, former CNDP Lieutenant Colonel Eric Badege has become M23’s focal point in Masisi and commanded joint operations with Raia Mutomboki. Former CNDP Colonel Makoma Semivumbi Jacques, who had deserted from the FARDC in South Kivu in August 2012, traveled to Masisi to also reinforce Raia Mutomboki alongside Badege.

63. A series of coordinated attacks carried out in August by Badege and Raia Mutomboki jointly with FDC and NDC, enabled M23 to destabilise a considerable part of Masisi territory. According to former combatants, Badege and Makoma acted under the orders of Makenga when they orchestrated these attacks. Local villagers who fled the offensives saw Badege’s men jointly operating with Raia Mutomboki units.
64. This cooperation with M23 has led to internal fissures within Raia Mutomboki in South Kivu, in light of its original anti-Rwandophone ideology. Though he had already sent them communications equipment and weapons, when South Kivu based leaders learned that Colonel Albert Kahasha was in fact a part of M23, they halted their cooperation with him.

The Force auménique pour la libération du Congo (FOLC)

65. The FOLC is an armed group previously led by Mai Mai leader Bana Sultan Selly, alias "Kava wa Selly." In June 2012 FOLC forged an alliance with M23 in Beni territory with the backing of National Deputy Antipas MbusaNyamwisi. According to armed group members, FARDC officers, and local leaders, Major Hilaire Kombi deserted the FARDC in June 2012 and recovered dozens of weapons in Nyamwisi’s residence in Beni before joining Selly in the Semiliki Valley. Weeks later, Lieutenant Colonel Jacques NyoroTahanga joined FOLC on instructions from Nyamwisi in order to assume its political leadership. Nyamwisi has also recruited ethnic Nande politicians for both FOLC and M23. On 3 August 2012, a small unit of FOLC attacked the border town of Kasindi in a failed attempt to recover weapons.

66. Nyamwisi has travelled several times to Kigali to meet with the Rwandan officials and has established a liaison officer for FOLC in Gisenyi, Andy Patandjila. According to several FARDC officers, Patandjila has been offering $1,000 to individuals to join the rebels. FOLC collaborators told the Group that both Hilaire and Nyoro also communicate regularly with M23’s Makenga. The same sources and an M23 officer stated that Nyoro has traveled twice to Rutshuru to coordinate operations with M23, most recently during the final week of September 2012.

67. Nyamwisi, in addition to his own contributions, has received financial support from several Beni and Butembo-based businessmen, including former Congolese airline operator Mango Mat. In return, Nyamwisi has promised that the rebels would lower the taxes at the Kasindi border crossing to Uganda.

68. Former CNDP and sanctioned individual General KakoleleBwambale also supports FOLC operations with intelligence and advice from Beni. According to M23 officers, intelligence officers, and local leaders, UPDF General Salim Saleh unsuccessfully attempted to reconcile Nyamwisi and Kakolele in order to establish a unified M23 command for Beni territory. Furthermore, Nyoro and Hilaire have met repeatedly with Ugandan military and civilian officials, including Resident District Commissioner Kasese, Lieutenant Colonel Muhindo Mawa, in pursuit of financial and military assistance.

M23 attempts to expand the rebellion to South Kivu

69. M23 and its backers have adopted a strategy to expand their rebellion to South Kivu through support to allied armed groups. According to several Banyamulenge leaders, the GoR has pressured their community to rebel against the DRC government and to open a new front for M23. These same sources as well as FARDC officers, and former combatants stated that sanctioned individual Colonel Jules Mutebutshas actively spearheaded these efforts in several confirmed meetings in the hopes of a military return to DRC. The same sources also stated that chief economist of the Rwandan National Bank, Doctor Thomas Rusuhuzwa Kigabo, and AgeeMugabeShyaka have undertaken fundraising and recruitment amongst Banyamulenge living in Rwanda. Diplomats and ex-combatants confirmed that the GoR tasked Mutebutsi, Kigabo and Agee to instigate an armed rebellion in South Kivu. However most
Banyamulenge leaders and commanders in the FARDC have refused and launched a counter-campaign to halt these efforts.

a) Mouvement Congolais pour le Changement (MCC)

70. In Uvira territory in South Kivu, M23 has established a strong alliance with former Mai Mai commander and ex-CNDP officer “Colonel” Bede Rusagara, from the Bafuiro community. Rusagara is the commander of the MCC, an alliance composed of 250 fighters from several armed groups. While Rusagara denied to the Group working with M23, he declared that he shared M23’s objective of fighting the GoDRC.

71. According to FARDC officers, after Rusagara’s arrest on 4 February 2012, Colonel Makenga and 10th Military Region Deputy Commander Colonel Baudoin Nakabaka intervened to help him escape on 5 April 2012 prior to the ex-CNDP mutinies which led to the creation of M23. In June 2012, the Group listened to a phone conversation in which Rusagara stated that he regularly speaks with Makenga. A community leader stated that Rusagara is also often in communication with Ephrem Bwishe, who works in M23’s Department of Finance, Budget and Natural Resources. Rusagara stated that two of his Brigade Commanders are “Lieutenant Colonel” Janvier Muyoboke, a former FARDC who also regularly coordinates with Makenga, and his brother “Colonel” Thomas Ndoli.

72. Several armed group members and collaborators told the Group that Colonel Nakabaka supports MCC. He facilitated Rusagara’s defection from the FARDC in 2011, tried to convince other officers to join M23, and has coordinated with Makenga operations to provide ammunition to MCC and other potential M23 allies in South Kivu.

73. The MCC has sought to recruit Banyamulenge since the start of the M23 rebellion. In July 2012, an FARDC deserter, Nkingi Muhima, a member of the Banyamulenge community himself, joined MCC and became its spokesperson. Rusagara told the Group that currently half of his commanders are Banyamulenge. Though Rusagara denies recruiting outside the DRC, Muhima told the Group that Banyamulenge “from everywhere,” including from refugee camps in Burundi and Uganda, regularly come to join the MCC.

74. Several MCC recruitment meetings have been held in the Rwandan border town of Kamembe at the end of August 2012. According to a participant at one of these meetings, MCC recruiter Major Eric Kimararungu, former bodyguard of Colonel Mutebutsi, told the youth “to go to DRC to fight”. Following the Kamembe meetings, more than five new recruits, including at least two Rwandan nationals, arrived from Rwanda on 1 September 2012 to join MCC. Another Rwandan national guided the recruits into the DRC through Kamanyola along the DRC-Rwanda border. Arrested on 2 September 2012, the same individual stated that M23 collaborators had financed the transport of these recruits from Rwanda into the DRC. According to him, he received a money transfer of roughly $100 from Kanyana on the day of his travel to DRC (annex 30). He received calls from Kanyana Immaculée and Rusagara during the trip after having received the latter’s number from Kimararungu (annex 31). On 3 September, Kanyana, a close collaborator of Kabarebe, according to FARDC and ex-CNDP officers, transferred $4,000 to a confirmed courier of Rusagara in Uvira (annex 32).

75. Rusagara stated to the Group that he is the leader of all armed groups in the Uvira Plateaux and the Ruzizi Plain. Burundian armed groups have also allied with Rusagara. During an FARDC attack on MCC’s headquarters near Runinga on 6 September 2012, the FARDC
captured MCC officer Jeremy Rugombangabo after he was seriously injured. In a video recorded before his death, Rugombangabo stated that Muhima had recruited him but his commander was Colonel Abdallah of the Burundian group FPM/ADN (see paragraphs 114-115 below). He also said the MCC supplied food to FPM/ADN. AMai Mai collaborator and FARDC officers affirmed that FNL deserters have also joined MCC.

76. On 18 September 2012, MCC organized an attack on the FARDC training camp in Luberizi to steal weapons and ammunition in storage. According to one of his friends, M23’s Bwishe boasted about having helped to plan the MCC attack on Luberizi. The FARDC killed two of Rusagara’s Banyamulenge troops during the operation. Banyamulenge leaders told the Group that one of them was until recently a student in Kigali.

b) Alliance pour la libération de l’est du Congo (ALEC)

77. In July 2012, a group of Banyamulenge from the diaspora established an armed movement called the Alliance de libération de l’Est du Congo (ALEC), which is allied with MCC and M23. ALEC’s statute proclaims that the movement’s objective is to “create an independent republic of the Kivu” (annex 33). Akim Hakizimana Muhoza was the president of ALEC until recently. Muhoza, now based in Rwanda, had resided in Canada since 1996 before recently returning the to the Great Lakes region. The Group has obtained e-mail records demonstrating Muhoza’s coordination of ALEC and financing of travel for military commanders (annex 34). In late September 2012, the former RCD²⁸ director vice-governor of South Kivu, Tommy Tambwe,²⁹ who currently lives in Rwanda, replaced Muhoza as ALEC’s president. Muhoza has become vice-president.

78. According to arrested members of ALEC, Muhoza has recruited Banyamulenge youth throughout the Great Lakes region, including from refugee camps in Rwanda and Uganda:

a) A former ALEC recruit stated that Jean-Marie Shaka, a key ALEC recruiter in Uganda, gave him $100 and promised a further $500 upon his arrival in South Kivu.

b) One armed group representative in Kampala confirmed that M23 recruiters sent over 40 Banyamulenge and Bafuliro youth residing in Uganda to join ALEC and MCC in South Kivu.

c) Another arrested ALEC member said that a group of young Banyamulenge men from Uganda arrived in Uvira via Burundiat the end of August 2012. After an ALEC member gave them $350 for their transportation, the recruits travelled to the village of Rubarati in Uvira Territory. On 1 September 2012, FARDC troops conducted operations against an ALEC unit in this same village and killed one rebel. According to his ID card, 22-year old Edouard Serugaba Bineza was a Rwandan national (annex 35).

79. The FARDC has arrested several ALEC leaders, though Muhoza and Tambwe have found protection in Rwanda. ALEC Chief of Staff Willy Kiyana Sebatware, detained on 23 August 2012, acknowledged to the Group that Muhoza had paid for his flight to Burundi from the United States and instructed him to join up with MCC’s Muhima (annex 36). Another ALEC member stated that he met with an MCC officer, Colonel Bigaya, to discuss an operational partnership. Two ALEC members separately told the Group that the leaders of this movement had held meetings with M23 liaison officers on 2 September 2012 in Gisenyi, Rwanda.

80. ALEC has also sought to establish alliances with other armed groups in Fizi territory. On 17 August 2012, Muhoza and ALEC Secretary General Jules Sebahizi, alias “Major,” a Rwandan
national former director of planning within the Rwandan Ministry of Public Service and Labour, held a meeting in Mai Mai Mayele’s camp in Lusambo (annex 37). According to arrested ALEC members and pictures taken during the meeting, Mayele and other armed groups representatives, including those of Mai Mai Yakutumba\(^{31}\) and MCC, attended (see annex 38).

81. On 30 August 2012, Muhooza and Sebahizi invited Congolese armed group representatives for a follow-up meeting in Kigali (annex 39). According to text message communications obtained by the Group, Muhooza insisted on the location in Rwanda for security purposes, following the arrest of Sebatware (annex 40).

**M23 attempts to ally with militias in Ituri**

82. In Ituri, M23 and the GoR have persistently reached out to armed groups to build a coalition, but have been unsuccessful thus far. Popular support to M23 is limited and the FARDC has thwarted the expansion of newly created armed groups.

**Forces de résistance patriotiques en Ituri - FRPI**

83. The strongest rebel force in Ituri is the FRPI of “Brigadier General” Justin Banaloki, alias “Cobra Matata”. In its interim report the Group documented how the FRPI has expanded its area of control due to the security void left by the FARDC reintegration process at the end of February 2012.\(^{32}\) Meanwhile the FRPI has been reaching out to the DRC Government to negotiate its demobilisation and integration into the FARDC (see paragraph 117 below). However, according to militia members and Lendu community leaders, Banaloki has engaged simultaneously in negotiations with M23 regarding an alliance. The same sources informed the Group that:

a) Banaloki has been in regular phone contact with Ntaganda and RDF General Kabarebe to discuss an alliance with M23.

b) A delegation of militia members, including an FRPI representative, travelled to Kigarebe. The delegation received a cash amount of at least $15,000.\(^{33}\) Villagers explained that angry militia members shot in the air when they did not receive a share of the money.

c) The FRPI has been receiving several envoys, including former CNDP cadre and Ituri militiamen, John Tibasima,\(^{34}\) to persuade the rebels to launch military operations against the FARDC. Tibasima, who stayed with FRPI as part of COGAI’s (see paragraph 85 below) cooperation until July 2012, brought with him dozens of ex former militiamen\(^{35}\) contributing arms and ammunition from caches. In August M23 Lieutenant Colonel Papy Maky Rutshini and Major John Bebwamade contact with the FRPI after having received a briefing in Kigali.

d) In October 2012 Banaloki granted safe passage to fighters of the Mouvement de Résistance Populaire au Congo (MRPC) heading from Djugu to Rutshuru to link up with M23 (see paragraphs 86-89 below).

84. The FRPI controls the gold mining site of Bavi from where, according to an ex-FRPI combatant and local sources, the rebels generate profits through illegal taxation and the direct sale of gold. According to traders in Bunia, gold from Bavi is of superior quality in the region, which makes it easy to recognize. The main buyers are traders from Bunia and Butembo. The FRPI also directly sells gold to UPDF officers posted along the Congolese border. A regular client, cited by FARDC, militia members and a Lendu community leader is former UPDF
officer Alex Mugisha. In exchange for gold Mugisha has delivered arms and munitions to the FRPI at the Semiluki border crossing.36

**Coalition des groupes armés de l’Ituri (COGAI)**37

85. COGAI is an umbrella organization, created in May 2012, aiming to unite Ituri militias. Although the FRPI is officially a member of COGAI, and Banalokiis presented as its president, M23 members, local businessmen and former militia members from the Hema community are the real driving forces behind COGAI. Support has come from Nestor Bamaraki, John Tibasima and Ituri CNDP president Mateso Savo. Bamaraki led the COGAI delegation travelling to Kigali to receive support.38Savo is under investigation after a September 2012 FARDC raid on his family farm where militia fighters had been harbored. COGAI has had a limited impact due to its inability to secure the complete loyalty of the FRPI. It also failed to gain the support of the majority of the Hema community, which opposes the idea of a new armed group in alliance with M23 and the RDF.

**Mouvement de Résistance Populaire au Congo (MRPC)**

86. A second attempt to create a coalition of armed groups in Ituri was announced in August 2012 with the creation of the MRPC. Former Hema militia members and both Tutsi and Hema FARDC deserters constitute most of the movement. Although MRPC did not replace or abolish COGAI, it clearly emerged as a result of the failure of the latter to gain momentum. The MRPC is divided however. In its terms of reference (annex 41) it explicitly denounces M23 but members state that a separate wing maintains intensive contact with M23 and RDF. When its leaders President Eric Dhedongha and Chief of Staff Jules Musafiri were arrested, those in favor of an alliance with M23 split from the others. The breakaway faction is led by Lieutenant Colonel Rutsholi. It includes other GoR envoys such as John Tibasima and Major Bebwa and demobilized ex-UPC39 such as Charite Semire and a number of officers who have defected from the FARDC including Colonel Eric Ndole Panya, Major Nonzi “Taekwondo” Bondokana and Major Katanazi. MRPC affiliates explain that a small group of their combatants left Irumu for Rutshuru in early October 2012, after meeting with M23 Colonel Kahasha in the vicinity of Boga. This group includes several RDF liaison officer.

87. Ex-UPC combatants within and outside MRPC are under considerable pressure from M23 to enter into an alliance. Several senior M23 commanders formerly held command positions within UPC. General Ntaganda, who was Chief of Staff of UPC, has recruited ex-combatants by phone. He has also sent instructions to Lieutenant Colonel Rutsholi’s group to recover a number of arms caches he left in Ituri, including at the farm of Thomas Savo. M23 members and a local organization have explained to the Group that in July 2012, M23 Colonel Kaina, also a former UPC commander, travelled to Berunda and Degho40 in Djugu territory for mobilization and recruitment activities.

88. Rwandan agents have contributed to these efforts. A Hema community leader, a COGAI commander and other sources told the Group that ex-UPC members receive calls from Kabarebe’s secretary, Captain Celestin Senkoko, and from Rafiki Saba Noble, a former liaison officer between the UPC and Rwanda.

89. The FARDC deserters within MRPC are remnants of two previous attempted mutinies.41FARDC commanders identified Lieutenant Colonel Germain Bahame, the second in command of the 911th Regiment based in Marabo, as the main M23 collaborator who lobbied
several of his fellow officers to desert. Bahame admitted to the Group that he had been contacted on several occasions by Ntaganda, Makenga and Karabere, having previously served under the latter. All three instructed several FARC officers, with whom they had longstanding ties, to prepare an attack in Ituri, promising material support. FARC and intelligence sources told the Group that Bahame provided weapons and ammunition to the FRPI at the time he was posted in Marabo.

**M23 attempts to open a front in Western DRC**

90. M23 has also made an attempt to open a front in western DRC. As a result, M23 has adopted a broader political platform denouncing the flaws in the 2011 electoral process and the lack of good governance by President Kabila (annex 42). This enabled M23 leaders to reach out to Congolese opposition and create new alliances. Three M23 members and intelligence sources told the Group that M23 established contacts with the Union pour la Démocratie et le Progrès Social (UDPS), whose representatives travelled to Bunagana to meet with M23 President Runiga.

91. Intelligence officers, M23 members, and politicians told the Group that Rwandan officials have worked with Roger Lumbala, a Congolese national deputy and opposition member allied to the UDPS. M23 members and Congolese officials told the Group that Lumbala travelled to Rwanda, Uganda, and Burundi several times during the months of June to August 2012 to meet with the rebel leaders (annex 43). After his arrest in Bujumbura on 1 September 2012, Lumbala signed an official statement to the Burundian police, affirming that Rwandan intelligence agents invited him to Kigali to convince him to join M23. During an interview with the Group, Lumbala later claimed that he had never been in Uganda and only went to Rwanda to see a friend.

92. According to M23 leaders, the rebels had tasked Lumbala to support Colonel John Tshibangau, who had deserted the FARDC with a small group of soldiers on 13 August 2012 in Kasai Occidental province. Tshibangau announced the creation of the armed group Mouvement pour la revendication des élections (MRF), and hoped to rally discontented supporters of the UDPS, who believed opposition candidate Etienne Tshisekedi had in fact won the November 2011 Presidential elections.

93. M23 officers acknowledged that they are allied to Tshibangau. Soldiers previously under the command of M23 Colonel Innocent Zimurinda had been redeployed to Kananga at the outset of the mutiny. Former CNDP officers told the Group that several senior M23 commanders, including Ntaganda himself, attempted to convince Rwandophone officers stationed in Kananga to join Tshibangau.

### III. Foreign Armed Groups

#### A. The Forces démocratiques de libération du Rwanda (FDLR)

94. The FDLR is currently seeking to re-adapt its military capacity since the drying up of external support and in the aftermath of a succession of attacks on their positions and civilian dependents. Since April 2012, in light of significant troop shortages, the FDLR has consolidated its units into two sectors. Colonel Pacific Ntawhunguka alias “Omega” remains the commander of North Kivu Sector and Lieutenant Colonel Hamada Habimana has taken over the command of South Kivu. Each of the six FDLR sub-sectors is constituted of between 250 and
400 soldiers. The Group estimates that the rebels now number between 1,500 and 2,000. While limited recruitment efforts continue in Uganda, Rwandan refugee populations in the DRC no longer have sufficient youth to reinforce rebel ranks, according to ex-combatants.

95. Following a wave of targeted attacks by Raia Mutomboki, the immediate concern of FDLR commanders has become the protection of their dependents. After initially launching brutal retaliatory attacks, the FDLR in South Kivu has returned to Mwenga territory to distance themselves from the threat of Raia Mutomboki in Shabunda and Kalehe. In North Kivu, according to ex-combatants, the FDLR has been forced to withdraw from its traditional headquarters near Kimua in Walikale deeper into the forest. Ex-combatants stated that even senior commanders have begun to consider leaving the Kivus for the security of Maniema or Oriental provinces.

96. Four of the FDLR’s sub-sectors have been strategically deployed in zones where they can participate in and control local commercial markets linked to mineral production. In the High Plateau of Uvira territory, ex-combatants have stated that the FDLR profit from the trade in wolframite via Bujumbura. Furthermore, the FDLR continue to benefit from the production and taxation of the cannabis trade in North Kivu. According to former combatants, the FDLR still obtains the majority of its AK-47 ammunition from corrupt FARDC officers in exchange for cannabis or the profits from commercial activities in mining zones. Due to the Government’s focus on M23 in Rutshuru territory, the FDLR have expanded control over commercial zones within Southern Lubero. Currently, the FDLR is deployed alongside M23 ally UPCP of “General” Kakule Sekuli LaFontaine in and around the gold market of Bunyatenge.

Repatriation of ex-FDLR to Rwanda

97. According to MONUSCO records, between 1 January and 30 September 2012, 867 combatants have officially deserted the FDLR and returned to Rwanda. MONUSCO has also demobilized another 151 Congolese members of the FDLR. However, repatriation rates have diminished significantly since the outset of the year when in February, 141 combatants returned home, compared with only 47 during the month of September. The only senior FDLR officer to return to Rwanda since the outbreak of the M23 rebellion was Lieutenant Colonel Etienne Mbarushimana on 24 May 2012.

98. According to several ex-combatants, FDLR officers are fearful that if they return to Rwanda, the GoR will force them to join the RDF’s Reserve Force and redeploy them to the Congo. In addition to those sent to reinforce former FDLR commander Colonel Mandevu within M23, former combatants confirmed that the RDF has redeployed small units of ex-FDLR to the DRC for intelligence-gathering missions and to reinforce M23.

99. An increasing number of deserters from the FDLR either seek to integrate into local communities, or flee to Zambia. Instead of merging his battalion and moving northwards in South Kivu, former FDLR commander in Kilembwe of Fizi territory, “Lieutenant Colonel” Tharcisse “Sharaf” Uwimana deserted the movement in June 2012 and travelled to Zambia. Also, the FDLR’s lone remaining liaison officer in Uvira fled for Zambia in April 2012.

Alleged FARDC support to the FDLR

100. Between the months of May and July 2012, the GoR alleged that there had been 15 cases of cooperation between the FARDC and the FDLR (annex 44). However, the Group has not been able to independently confirm any of these specific claims and the GoR has refused to meet with
the Group to provide any further details. In one case, the GoR alleges that on 5 June 2012, the FARDC provided safe passage to two FDLR companies to infiltrate Rwanda. However, the RDF has recently reinforced its deployments all along the Rwanda-DRC border, in view of its support to M23, thus making it highly improbable for two FDLR companies to enter Rwandan territory unnoticed.

101. Furthermore, the GoR also alleged that the DRC authorities facilitated a visit of two Belgian nationals, Faustin Murego and Joseph Nzabonimpa, to negotiate an alliance with the FDLR to fight against M23 in June 2012. Congolese intelligence services arrested the two but released them on 10 July. The Government of Belgium told the Group that it does not possess any information regarding support from Murego or Nzabonimpatoto to the FDLR.

102. According to senior FARDC officers, mid-level FDLR commanders have sought to establish operational alliances with FARDC units in Rutshuru territory. However, instead of cooperating with the rebels, the FARDC has mounted operations against FDLR on several occasions, including near Tongo in August 2012, and near the Ishasha border crossing with Uganda in late September 2012. During the latter attack, the FARDC cooperated with Mai Mai Shetani to dislodge the last remaining FDLR liaison antenna unit. Nevertheless, FARDC officers do acknowledge that operations against the FDLR have subsided significantly since the outbreak of the M23 rebellion, as they seek to avoid overstretching themselves.

103. Despite several oral and written requests, and past precedent to the contrary, the GoR did not authorize the Group to conduct interviews with former FDLR combatants at the Mutobo demobilization centre in Rwanda.

B. Allied Democratic Forces (ADF)

104. The ADF is a Ugandan-led Islamist rebel group based around the Rwenzori Mountains of North Kivu. According to MONUSCO and Ugandan estimates, during 2012 the ADF has increased in strength to over 1,300 combatants of which 800 are trained and well-equipped fighters. The ADF’s military commander continues to be Hood Lukwago, while sanctioned individual Jamil Mukulu remains the supreme leader. Ugandan authorities and ex-combatants confirmed Mukulu’s presence alongside the ADF during several months in early 2012. Kenyan authorities told the Group, however, that they believed Mukulu was currently based in Tanzania.

105. The Group has independently gathered several examples which support Uganda’s assertions that the ADF collaborate with the Somalia-based Al-Shabaab rebels. According to former combatants, the ADF has trained groups of youth within their camps for several months before sending them to East Africa to fight. The first of these groups departed ADF camps in November 2011. After the arrest in Nairobi of Mukulu’s son, Bikumbi Hassan Mukulu, Al-Shabaab agents Mustapha Karnau and Jacob Musyoka, paid his bail in November 2011. Several Kenyan intelligence agencies confirmed that these individuals are Al-Shabaab and have supported Mukulu and his family when in Nairobi.

106. While the Group was not able to speak with Hassan after he was eventually recaptured and extradited back to Kampala, Ugandan intelligence told the Group that Hassan informed them that several businessmen linked to Al-Shabaab reside in the Eastleigh suburb of Nairobi and worked with his father. Kenyan intelligence agents told the Group that they possessed telephone conversations between Mukulu and Al-Shabaab agents residing in Eastleigh.
107. According to ex-combatants and Ugandan intelligence, the ADF has strong support networks in the United Kingdom. Following their arrest on 30 November 2011, Congolese officials repatriated ADF political cadres Hoods Sempewa and Habibi Kiwanuka back to the UK.\textsuperscript{48} The two play an important role in coordination of diaspora support networks. The ADF also operates financial support cells in Tanga port in Tanzania, Bujumbura (Burundi), Kigali and Nairobi. According to ex-combatants, couriers transport financial resources generated by these cells to the ADF by crossing through Kasindi border post from Uganda to the DRC. The ADF also generates local revenue through several business arrangements in Beni territory. According to ex-combatants, local leaders, and Ugandan authorities, the rebels profit from taxation on illegal timber production west of Erengeti and several gold mines near Bialose village along the Lesse River. Nevertheless, the ADF has increased its attacks on civilians who are accused of not respecting business arrangements or providing intelligence to the DRC authorities.\textsuperscript{49}

108. The ADF’s extensive recruitment networks persist throughout Uganda, Burundi, and Tanzania. The movement continues to use the Ugandan border town of Bwera as a transit center for its recruits. However, according to ex-combatants and Ugandan authorities, new recruits as well as political officers visiting the rebels from abroad are increasingly passing through Kigali to Goma and traveling northwards to Beni. ADF recruits include children, as exemplified by the case of one rebel recruiter who was captured by Ugandan authorities in Kassesse with six young boys on his way to the DRC in July 2012.

109. The ADF is progressively targeting recruits from East Africa. In April 2012, senior ADF leaders gave their Congolese combatants a chance to freely depart the movement. From 1 January to 30 September 2012, MONUSCO has only repatriated nine former ADF members.

110. In the face of potential MONUSCO air strikes, Congolese and Ugandan intelligence officers as well as community leaders informed the Group that the ADF had obtained anti-aircraft weapons. The same sources described the arrival of such weapons in July 2012, requiring six ADF collaborators to transport them from near Oicha westwards towards ADF’s camps.

111. Ugandan officials acknowledged to the Group that a UPDF battalion based on Mount Rwenzori regularly enters into Congolese territory to conduct reconnaissance operations on ADF positions in Beni territory. Senior FARDC officers have never authorized these sporadic UPDF deployments into the DRC.

C. Forces nationales de libération (FNL)

112. The FNL remain divided and weakened in South Kivu, relying on reinforcements from Congolese armed groups. Moreover, the Burundian army has conducted joint operations with the FARDC in Uvira territory in early October 2012. Agathon Rwasa has largely withdrawn from direct involvement in FNL activities in the DRC. Since his departure from the FNL’s former base near the Burundian border at Kiliba, “General” Antoine “Shuti” Baranyanka and his deputy “Major” Evelyn live alongside Mai Mai Mayele in Lusambo, Fizi territory. According to several armed group members, Baranyanka’s former deputies “General” Aloys Nzampepe and “Colonel” Logatien Negamiyehave set up another camp at Mushule, in the Uvira Plateaux, with about 70 troops.

113. Former combatants told the Group that Nzampepe was allied with the Congolese groups of Mai Mai Baleke and Mai Mai Fujo as well as the Burundian group, FPM/ADN(see paragraph 114-115 below) particularly in combat operations against the FARDC. One of Baleke’s
combatants described how the FNL supplied the Mai Mai with ammunition. Former combatants, including FDLR soldiers, also described cooperation between Nzamapema’s FNL and FDLR units, which visited Mushule camp several times in July 2012. Nzamapema delivered food and several boxes of ammunition to the FDLR in Itombwe in August 2012. FNL units attacked Burundian government forces in Bubanza province in late July 2012 without major success (annex 45). Finally, the FNL continues to forcibly recruit in Burundi.

D. Front du peuple Murundi (FPM)

114. The Group previously identified 40 Burundian Tutsi FRONABU combatants, allied with the FNL, in the middle Plateau of Uvira, and widely known as ‘les gens de Sinduhije.’ FRONABU has since been transformed into the Front du people Murundi (FPM), which is the armed branch of the Alliance divine pour la nation (ADN). Until recently, both groups made up of 40 fighters in total, shared the FNL camp in Mushule. The website of the FPM/ADN states that its president is Guillaume George Majambere, a Burundian living in Belgium (annex 46).

115. In July 2012, a Burundian FPM combatant and another from the FNL separately declared to the Group that Colonel Abdallahand Colonel Jean Claude Kasongo were the leaders of the FPM/ADN and that Burundian opposition leader Alexis Sinduhije had financed them to begin their armed struggle in the DRC. In late September 2012, armed group collaborators also told the Group that “Alexis Sinduhije’s men” had joined with the MCC troops at Runingi (see paragraph 75 above). In June, the FARDC had also arrested two FPM combatants who stated that Sinduhije had backed their rebellion and that they had been collaborating with ex-CNDP mutineers working for Makenga.

IV. Integration Challenges of Armed Groups

116. The FARDC’s efforts to integrate Congolese armed groups during the current crisis are driven by three objectives: 1) to reinforce army ranks following desertions to M23; 2) to undermine M23’s efforts to establish alliances; and 3) to complement reform plans which include recruitment drives to replace injured and elderly soldiers. As such, senior FARDC officers told the Group that these armed groups would not constitute distinct auxiliary forces but strengthen current units already overstretched in the face of M23.

117. In Ituri district, while FRPI’s leadership has remained in contact with M23 envoys in negotiating an alliance, the FARDC has encouraged “General” Banaloki with significant financial incentives to consider integrating. By end-September 2012, over 900 soldiers of the FRPI had regrouped in three camps for official registration and received nominal monetary sums and food items. However, FARDC estimates that the numbers of FRPI core soldiers does not surpass 350.

118. Since the outbreak of the M23 rebellion, the Alliance des patriotes pour un Congo libre et souverain (APCLS) has received increased support from ethnic Hunde collaborators in the form of uniforms and ammunition. After the APCLS began cooperating with a government-loyal faction of the FDC led by disgruntled Hunde commander, Lieutenant Colonel Bwira, in late July 2012, the FARDC senior leadership has undertaken efforts to negotiate the integration of these armed groups.

119. On 21 August 2012, civilian and military representatives of the Government visited with APCLS commander, “General” Janvier Buindo, in his headquarters of Lukweti. However,
despite several subsequent meetings and scheduled regroupings of both the Hunde rebel groups, no concrete actions have taken place to date. According to community representatives, the APCLS resented the Supreme Court’s decision in September 2012 to recognize the results of the legislative elections in Masisi, as one of their key supporters, Bakungu Mitondeke, was not re-elected.

120. In the context of a general struggle between M23 and the Government for the support of the Hutu community, the GoDRC has undertaken efforts to integrate the local Hutu militias in Southern Masisi and Northern Kalehe territories, called Nyatura. Most Nyatura commanders are former FARDC officers who deserted in 2010 and 2011 due to their marginalization in the context of mounting ex-CNDP power and influence within the army.\textsuperscript{56}

121. During the late August and early September 2012 attacks by Raia Mutomboki, senior FARDC officers, including Chief of Land Forces General Gabriel Amisi,\textsuperscript{57} instructed the FARDC units in Masisi to work with the Nyatura.Congolese police and local authorities informed the Group that in July 2012, Amisi sent an FARDC truck to deliver around 300 AK-47 rifles to Nyatura militia members. Several FARDC officers, including Lieutenant Colonel Nkunduweru, distributed weapons and ammunition to Nyatura militias on Amisi’s behalf.

122. At Kasake, southern Masisi, villagers stated that when Raia Mutomboki first attacked, the FARDC retreated and returned with Nyatura reinforcements. In mid-September 2012, the Group met with Nyatura commanders together with FARDC officers in Ngungu who acknowledged that they had begun working together to resist the advancements of Raia Mutomboki.

123. Amisi held several meetings with Nyatura representatives regarding their integration in September 2012. Nyatura’s commander, Haburigira, has requested that the FARDC immediately redeploy to the areas controlled by the militia members and ensure the protection of Hutu communities against Raia Mutomboki attacks.

124. Although FARDC had already begun reassembling Nyatura at Mushake in early October 2012, several challenges remain for Nyatura’s integration. Nyatura commanders fear losing control of revenue generated from taxation and control over small-scale mining. Moreover, Nyatura soldiers without prior FARDC experience feared being excluded from the process. Finally, FDLR deserters living amongst Congolese Hutu communities may attempt to infiltrate the process in order to remain in the DRC.

125. For its part, M23 has also sought to ally with Nyatura, as some original founders in Kalehe Territory have refused to take part in the FARDC integration process to date. In July 2012, Congolese authorities arrested individuals working with Xavier Chiribinya\textsuperscript{58} who acknowledged transferring $2,000 to Nyutura commanders in South Kivu on his behalf.

126. North of M23 territory, the FARDC has also sought to establish an operational alliance with the Front populaire pour la démocratie (FPD) under the command of Colonel Shetani Muhima, along the route leading to the border post of Ishasha. According to senior commanders, the FARDC worked with Shetani to dislodge FDLR at Ishasa\textsuperscript{59} in late September 2012.\textsuperscript{60}

V. Criminal Networks within the FARDC
127. The Group has investigated FARDC criminal networks cooperating with armed groups in Orientale Province.

**Mai Mai Morgan**

128. Paul Sadala, alias “Morgan”, is a poacher operating in the territories of Mambasa, Lubero and Bafwasende in Orientale province. In 2012, Sadala launched a number of violent raids on FARDC and ICCN positions while committing serious abuses against civilian populations. On 24 June 2012 the rebels attacked the Okapi Reserve ranger station in Epulu, killing at least three people and 14 okapis. Consequently, the military prosecutor in Bunia has issued an arrest warrant for Sadala and opened an investigation for war crimes including murder and rape (annex 47).

129. Sadala has cooperated with a criminal network led by 9th military region Commander General Jean Claude Kifwa in Kisangani whereby the military supplies arms, ammunition, uniforms and communication equipment to Mai Mai Morgan in exchange for ivory. The Group confirmed this with two armed group collaborators, an FARDC officer, an ICCN staff member, community leaders, and an intelligence officer. Kifwa has sent “Colonel” Jean Pierre Mulindilwa and Colonel Kakule “Manga Manga” Kayenga to Sadala to oversee his business interests and provide arms and ammunition.

130. Mai Mai Morgan combatants stated that in June 2012, their group consists of 85 fighters, all carrying AK-47s in addition to two MAGs, one RPG, one mortar, a Thuraya and two backpack radios. Sadala and his close assistants also use the traditional 12 caliber hunting rifle (BOX).

131. On several occasions Kifwa has intervened in poaching-related cases and arrests. In December 2011 he ordered significant amounts of confiscated ivory to be shipped from Bunia to Kisangani. The price of ivory has increased dramatically in the past few years. In 2007, 1 kg was sold for $30 in Kisangani, in 2009 it was at $80 and in 2012 it has varied between 100 and $150. In the Okapi reserve alone, the ICCN has recorded at least 1 ton of ivory poached every year since 2008, resulting in a yearly profit of at least $250,000. However, local traders claimed that as much as 3 tons of ivory were stocked in Elota in August 2012.

132. Mai Mai Morgan also collects gold twice a week at mining sites in Pangoi and Ilota and sells “access rights” to individual pits. Sadala keep the gold and sell it to traders from Butembo. Finally, the rebels have established a monopoly over the cigarette trade in the same area.

**Mai Mai Luc**

133. Mai Mai Luc, led by Luc Yabili, operates in the territory of Bafwasende in Orientale Province and across the North Kivu border in Walikale. Mai Mai Luc controls mining sites including Angunu and Elonga, where they sell their gold to businessmen from Butembo and Beni.

134. The FARDC’s 10th Integrated Brigade, under the orders of General Kifwa, based in Opiege, and Bafwasende, constitutes a criminal network and collaborates with the Mai Mai Luc for poaching and mining. Bafwasende remains an operational zone but the FARDC have not launched any combat operations for the past two years. Meanwhile, arms and ammunition continue to be delivered to deployed units and are used for poaching. The 10th Brigade also has a monopoly on the cigarette supply and other trading activities in the area, providing them little incentive to suspend operations.
135. The criminal network makes considerable profits at Opienge, where FARDC commander Major Sammy BiakyaBaguma controls the tin mine of Ndongo and a number of gold mines, organising some of the exploitation himself and imposing a tax of two grams of gold a week from the teams of miners. He also trades in 12 caliber hunting ammunition (annex 48). He makes additional profits by selling “travel authorizations” and runs a prison known locally as “Guantanamo” where he incarcerates civilians. Previously Baguma had sent back more than 40 PNC officers who were to be deployed at Opienge to retain his control over the population.

136. Local community leaders and UN officers explained Yabili has attempted several times to demobilize, but received no response from the FARDC or other government officials. When traditional chiefs from Bafwasende inquired about the matter on 1 October 2012, Baguma explained that General Kifwa had ignored Yabili’s repeated requests. On 31 July 2012, Yabili captured Sadala and offered to hand him over to the FARDC, though Kifwa again failed to react.

12 caliber hunting ammunition

137. 12 caliber hunting ammunition is widely available in eastern DRC and is extensively used for poaching. The Group documented the use of this ammunition by FARDC units and several armed groups, notably Raia Mutomboki and Mai Mai Morgan (annex 49).

138. Manufacture d’armes et des cartouches du Congo (MACC), whose factory is in Pointe Noire, Republic of the Congo, produces the majority of this 12 caliber ammunition. When asked for a list of its clients, MACC responded that it did not sell any of its products in the DRC (annex 50). Nevertheless, the Group has found that large quantities of the MACC 12 caliber ammunition are widely available in eastern DRC (annex 51). The network organizing shipment of the ammunition from Kinshasa to Goma and Kisangani uses both boat and plane transportation. Individuals involved in the trade explained that in mid-2012 the ammunitions have been flown into Goma via the company, Air Pegasus. Other freight companies explain that Air Pegasus runs commercial flights through military airports without paying taxes. The trade is controlled by individuals with close ties to FARDC General Amisi. In Goma, the ammunitions are distributed by Damien Amisi, General Amisi’s younger brother. In Kisangani, the “Type Tambwe,” an ethnic Muzimba from Amisi’s home region sells the 12 caliber rounds and oversees Amisì’s local interests. In Kasese, Amisi’s former bodyguard, FARDC Captain Salung, stocks and sells the ammunition.

VI. Arms

1. Stockpile management and diversion

139. The management of arms continues to pose a challenge for the GoDRC. Although signatory to the Nairobi Protocol on Small Arms, the DRC has yet to embark on a programme of marking state-owned arms. FARDC stockpiles continue to be an important source of ammunition for armed groups. An escalation in armed group activities in North Kivu, Ituri and South Kivu has led corresponded to an increase in the diversion of arms and ammunition.

140. FARDC logistics base commanders in South Kivu, North Kivu and Ituri confirmed that one of the biggest challenges was the defection of their rank and file with their arms and ammunition. Corrupt individual soldiers and criminal networks within the FARDC also sell ammunition to armed groups. Four FDLR ex-combatants from Rutshuru territory told the Group
that they regularly buy ammunition from FARDC. In August 2012, the North Kivu military prosecutor indicted two FARDC soldiers for selling rifles for $200 each to M23 rebels near Rumangabo. Former combatants from Nyatura and RaiaMutomboki told the Group that they purchased ammunition, AK-47 rifles and military uniforms from FARDC soldiers. On 25 August 2012, security officials intercepted APCLS rebels in Minova with 34 boxes of ammunition, each containing 750 rounds, and one AK-47 rifle which they had recently purchased from FARDC soldiers (annex 52). Mai Mai groups in the Middle Plateau of Uvira also regularly buy ammunition from FARDC in local markets for $10 per box of 750 rounds.

2. Challenges to disarmament

141. The emergence of M23 and its allies has exacerbated the demand for arms and ammunition. According to local authorities, civil society representatives and villagers interviewed in Nyiragongo and Rutshuru territories of North Kivu, the price of an AK-47 rifle has increased from between $20 and $50 to between $200 and $250 since early May 2012.

142. The Programme œcuménique pour la paix, la transformation des conflits et la réconciliation (PAREC), an organization working towards the voluntary disarmament of civilians, informed the Group that on five different occasions in July and August 2012, individuals identified as emissaries of armed groups had offered to purchase arms handed over by civilians at $200 each (annex 53).

143. PAREC showed the Group a list of 125 civilians who had surrendered their rifles and/or ammunition between February and September 2012. However, due to the shortage of funds, PAREC has been unable to pay them yet (annex 54). PAREC further informed the Group that some of the individuals who remained unpaid had demanded the return of their arms or ammunition, claiming to have buyers elsewhere. Two such individuals told the Group that they had an offer of $250 per rifle from M23. At about the same time, unidentified emissaries of M23 approached PAREC offering to purchase their entire stock of arms (annex 55).

144. PAREC expressed concern that the number of civilians turning in weapons and ammunition had dramatically decreased since the outbreak of the M23 rebellion. According to PAREC, this could be a sign of civilians resorting to either selling weapons to armed groups at prices higher than the $50 paid out, or retaining the arms for self-defence due to the insecurity, or a combination of both.

145. Finally, conflict between FARDC and M23 including anti-personnel mines and unexploded ordnances (UXOs) continue to kill and maim non-combatants. In one of the cases in August 2012, six children were killed when they stepped on a landmine in Gikoro village, Jombagroupement, Rutshuru territory. A follow-up analysis by humanitarian organizations identified several UXOs scattered across the territory. The most affected areas are the M23 front lines (annex 56).

VII. Violations of International Humanitarian and Human Rights Law

146. Following the creation of M23, local communities in the eastern DRC have suffered widespread human rights violations. Violence in North Kivu against civilians by all armed actors, including the FARDC, has increased, displacing over 400,000 people since April 2012. Displacement creates the condition for further abuses. Due to the increasing insecurity, humanitarian agencies also faced difficulties to access populations and provide relief.
147. Sexual violence remains prevalent in eastern DRC. In the context of the ongoing conflict, women and children are further at risk in conflict areas or when displaced. For the first semester of 2012, United Nations Population Fund (UNFPA) recorded 742 cases of sexual violence perpetrated by armed men in North Kivu, with Rutshuru being the most affected territory, and 955 similar cases in South Kivu, almost half of which were in Fizi territory. The Group identified cases of mass rapes committed by Raia Mutomboki, Mai Mai Morgan, and the FDLR in 2012. The latter is responsible for over a hundred rapes, including on minors. By the end of September, UN and international human rights NGOs documented 46 rapes committed by M23. On the night between 5 and 6 April, Raia Mutomboki attacked the village of Nyalipe in Ufamendu II, Katoyo sector, in Masisi and raped nine women, including four minors.

148. There have been several major incidents of indiscriminate killings of civilians, including women and children, by armed groups. Since May 2012, Raia Mutomboki under the command of M23 have killed hundreds of civilians in North Kivu and burned at least 800 homes. Under the orders of M23 Colonel Makenga, a series of coordinated attacks in August carried out by Badege and Raia Mutomboki jointly with FDC and NDC, enabled M23 proxies to destabilise a considerable part of Southern and Western Masisi territory. From 26 to 29 August 2012, Raia Mutomboki, operating jointly with Badege and with the assistance of FDC-Luanda soldiers, carried out systematic attacks against civilian populations in and around Ngungu and Luke villages in Southern Masisi.

149. Raia Mutomboki also killed tens of civilians in similar ethnically-motivated attacks on communities accused of supporting the FDLR and Nyatura in South Kivu, including 32 people in villages near Ekingi, in early March.

150. The UN confirmed at least 282 killings committed by the FDLR since December 2011. The most egregious cases took place near Bunyakiri, in Kalehe Territory, in May. In Lumenje on 5 May, the FDLR killed at least 11 civilians, including 3 women and 5 children. In Kamananga on 14 May, the FDLR killed 35 civilians, including 20 women and 12 children, injured 38 people and burned 55 houses. According to FARDC sources, Captain Castro Rafiki led the attack in Bunyakiri. The FDLR commander for the South Kivu sector is Lt Col Hamada Karera.

151. Moreover, certain M23 commanders, particularly Colonels Ngarye and sanctioned individual Colonel Innocent Zimundu, have ordered the extra-judicial executions of at least 15 recruits. Ntaganda and Makenga gave orders for the execution of at least 20 prisoners of war. RDF troops also executed M23 escapees.

152. Further information on violations of international humanitarian law can be found in annex 57.

**Recruitment of Children**

153. Since the start of the M23 rebellion, child recruitment by armed groups has dramatically increased across the Kivus. Several M23 commanders with long histories of child recruitment, including Colonels Sultani Makenga and Innocent Kaina, continue these activities. The Group estimates that since its inception in May 2012, M23 has recruited over 250 children in DRC and Rwanda. Between April and September 2012, MONUSCO received 38 children who had escaped from M23, 22 of whom were Congolese, while 14 were Rwandan.
154. M23 uses boys on the frontlines as cover for advancing units, often after a week of training. Others act as porters, intelligence operatives and bodyguards. The rebels also use young girls as cooks and as commanders’ wives.

155. Deployed at Bukima, Kaina has overseen the recruitment and training of over 150 children between May and August 2012, according to several ex-combatants. Half of these children are from Rwanda. Two ex-M23 combatants confirmed that Kaina conducted recruitment in villages near Bukima in May 2012, where he ordered his soldiers to kidnap three boys aged 12 to 15. A 14-year old, who had been recruited by Kaina, also declared that Kaina had forcibly recruited two boys of his same age. Former M23 soldiers under Kaina personally witnessed on several occasions how the commander ordered the shooting of boys who had tried to escape. Another ex-M23 combatant from Bukima told the Group that there were 14 women also trained there, including six young girls.

156. Six former child soldiers of M23 between the age of 12 and 16 told the Group that M23 officers recruited them by force during patrols in Rumagabo, Kiwanda, Jomba and Bunagana. All six said they were warned that they would be killed as per orders of Makenga if they tried to escape. According to several ex-M23 combatants, Makenga and Ngaruye summarily executed dozens of children who tried to escape. In two accounts, child soldiers witnessed other children being shot or buried alive after failed escape attempts.

157. The Group interviewed four former FDLR combatants who had been demobilized in the DRC and re-recruited from the Mutobo Demobilization and Reintegration Centre in Rwanda in September 2012. Upon arrival at Mutobo, the center’s permanent director, Frank Musoneraseparates young boys targeted for recruitment, including children below 16 years. In one case on 15 August 2012, Musoneresa sent five former FDLR child soldiers between the ages of 13 and 16 to Kinigi where the RDF forced them to carry boxes of ammunition and join M23. Two ex-FDLR combatants recruited from Mutobo Centre also confirmed that they had encountered more than fifteen former FDLR minors in an M23 position commanded by Ngaruye. Three ex-M23 recruits who trained in Runyoni informed the Group that Makenga had a special protection unit of 20 ex-FDLR child soldiers below 15 years old who were under strict instructions not to leave Runyoni. Former M23 child soldiers told the Group that those who are captured trying to escape are executed in plain view of the others.

158. The Group also interviewed dozens of children recruited by other Congolese armed groups, as well as foreign armed groups. These cases are described in detail in annex 58.

VII. Natural Resources

A. Tin, Tantalum and Tungsten Trade

1) Trade and production trends

159. In its interim report of June 2012 (S/2012/348), the Group highlighted a gradual resumption of official exports of “3T” minerals (tin, tantalum and tungsten) from the Kivus and Maniema provinces. By August 2012, however, official exports had nearly disappeared for three reasons. First the DRC Minister of Mines suspended the export houses Huaying and TTI/CMM in both North and South Kivu. Secondly, in an attempt to halt smuggling into Rwanda, the Minister of Mines prohibited the transport by air of 3T minerals from Maniema to the border towns of Goma and Bukavu, insisting on their transport through Katanga province. The measure put exporters in Goma sourcing from Maniema out of business. Finally, Chinese importers
previously buying untagged minerals are increasingly insisting on mineral tagging under the ITRI\textsuperscript{67} Tin Supply Chain Initiative.

160. Following mine site validation (see para X), mineral tagging is to be implemented in parts of Maniema and at the mining site of Nyabibwe in South Kivu by the end of 2012. However, for the moment there is no legal market for untagged mineral production in the three provinces. As a result, cross-border smuggling is again on the rise. As smugglers typically do not distinguish between trade from areas controlled or not controlled by armed groups this illegal trade undermines the exercise of due diligence in the DRC. Moreover, it affects the credibility of due diligence-based certification systems that have been or will be rolled out in neighbouring countries.

161. Smugglers also prefer tantalum ore and tungsten ore as they are lighter than tin ore and therefore easier to conceal. In addition, profit margins are higher, which compensates for corruption payments required to facilitate border-crossings and multiple rotations with private vehicles or boats.

162. The diminishing formal market for tin ore and increasing relative importance of tantalum ore and tungsten ore is also reflected in production levels. Tin ore production levels have dropped across the Kivus, but the decline is most stark in remote mine locations such as Bisie in Walikale territory from where minerals have to be transported by air (see para X). In contrast, tantalum ore production in accessible locations like Masisi and Idjwi territories remains strong. While the Group estimates that 50 to 60 tonnes per month are produced, official statistics show that only about five tonnes were exported in the second trimester of 2012.

2) Smuggling chains

DRC-Rwanda

163. In 2012 mineral smuggling between the DRC and Rwanda has been ongoing, involving new but also many of the same networks the Group identified in previous reports. From Bukavu, Frédéric Mastaki Lubamba, alias “Séngalalaïs”, controls a large part of cross-border smuggling\textsuperscript{68}. Details of mineral seizures the Group obtained from Congolese mining authorities demonstrate that Lubambais increasingly active in the smuggling of tungsten ore from Idjwi and Walungu territories. Another key trader overseeing smuggling operations from Bukavu in 2012 is “Kafegeï”, who used to represent Rwanda Metals in Bukavu.\textsuperscript{69}

164. In January 2012 the GoR arrested four top RDF officials because of their alleged involvement in illegal mineral trade with the DRC. Two of the arrested, Colonels Dan Munyuya and Richard Rutatina, were the heads of external and military intelligence respectively.\textsuperscript{70} According to ex-CNDP, ex-RDF, and politicians, both Munyuya and Rutatina were involved in the smuggling networks through Goma overseen by General Ntaganda,\textsuperscript{71} but diverted profits for themselves. The Group is not aware of any trial or sentencing in these cases.

165. With regards to Goma, the Group was able to identify three key traders involved in smuggling operations. One is Charlotte Nyirakanyana, who was arrested on 10 July 2012 after authorities seized 3 tonnes of her minerals hidden in a truck at the main border crossing in Goma. Nyirakanyana told the Group that the minerals included tantalum ore from Masisi territory and tin ore from Kalehe territory. In March 2012, 1.5 tonnes of her minerals had already been seized in Rwanda.
A second trader is Feza Clémence who manages the export house CLEPAD in Goma. According to individuals involved in Clémence’s smuggling operations in June 2012, she transfers minerals from her export house premises in Goma to Hotel Planète near the main border post, from where they are hidden in vehicles that pass across the border to Rwanda during the night.

Clémence is not alone in the smuggling operations. According to the above mentioned sources she consolidates minerals from Metachem and Global Mining Company (GMC), as Metachem used to do for GMC and CLEPAD when it was still officially exporting. Local politicians, M23 officers and Congolese intelligence sources told the Group that part of the profits Clémence and her associates make through cross-border smuggling are channeled to M23. Telephone logs show that Clémence communicating with senior M23 and RDF officers, including General Kabarebe (see annex 59).

A third trader is former FARDC General Kamwanya Bora who, in 2012, moved his supply chain to the island of Idjwi from where he smuggles minerals into Rwanda by boat across Lake Kivu. According to Congolese intelligence sources and local mine operators, Bora sent FARDC Lt. Col. Pacifique Sekanabo to oversee his business on Idjwi.

Individuals participating in this smuggling explained that minerals from the DRC are inserted into the Rwandan certification system through the illegal purchase of tags that are issued by mining cooperatives with concessions in western Rwanda. The cooperative sell the mineral tags for 50 kilogram bags for up to $50 each for tantalum ore.

The Group obtained photographic evidence of Congolese minerals being tagged at a depot in Gisenyi which had been smuggled across a secondary border crossing in Goma (annex 60). The Group read the numbers of six Rwandan mine tags. According to the iTSCI database, the tags were issued to the company Alpha Minerals for its concession at Gatave II. iTSCI data further showed that four tagged mineral bags were sold to the mineral exporter Minerals Supply Africa (MSA) in Kigali.

The Group informed MSA about tagging fraud by Alpha Minerals MSA management provided the Group full purchasing records for verification. Management also explained that MSA had visited mine sites of Alpha Minerals, which had showed ongoing mineral production. Based on the information provided by the Group, MSA management decided to suspend purchases from Alpha Minerals, in line with the UN Group of Experts due diligence recommendations.

The Group also obtained tags in the possession of a smuggler operating between Goma and Gisenyi (annex 61). According to the iTSCI database, one tag had been issued to TUHAGERE cooperative for its concession in Kamarembo. The Group visited a concession of TUHAGERE in Musasa, in June 2012, and it was inactive at that time.

On the same trip, the Group also visited the EPROCOMI cooperative concession of Coko in Gakenge, where it found no trace of actual mining taking place (annex 62). EPROCOMI mainly supplies the export house MUNSAD. Representatives of Rwandan mining companies and mining authorities confirmed that many concessions in western Rwanda are inactive but have received tags nevertheless.

The Group further obtained photographic evidence of an entire smuggling operation of Congolese tantalum ore from Masisi to an exporting house in Kigali. Smugglers paid bribes to
Congolese border officials to transport their minerals at the main border crossing in Goma. At its depot, the cooperative COMIKABA subsequently tagged the minerals, without any Rwandan mines agent present, and delivered them to the premises of mineral exporter RUDNIKI in Kigali.75

175. Several sources involved in smuggling operations told the Group that Dany Nzaramba purchases and tags minerals from the DRC. Nzaramba is the owner of COPIMAR cooperative, as well as Trading Services Logistics (TSL), a Kigali-based export house. According to iTSCI data, TSL also purchases from Alpha Minerals, which sells tags. The same sources also singled out Jean Népomuscène Ndagijimana as one of the key smugglers. In 2007 Ndagijimana was a licensed exporter in Burundi.

176. The scale of laundering of Congolese minerals in the Rwandan tagging system is impossible to estimate based on the incidents highlighted above. However, there is a clear correlation between the shifting predominance of tantalum ore and tungsten ore mining close to the border, and Rwanda’s increasing exports in those minerals. Conversely, Rwanda’s exports of tin ore have declined as smuggling of this ore from the interior of DRC has decreased. These trends suggest that volumes of laundered minerals may be significant.

177. Furthermore, fluctuations of Rwandan exports of 3T minerals do not seem to be price-related (annex 63). Tin ore exports continue to decline despite stabilization of prices. Tantalum and tungsten ore exports increase despite declining and stable price levels, respectively.

DRC-Uganda

178. Smugglers in Goma and Kisangani told the Group that there are alternate routes to get minerals out of the DRC through Bunagana, Kasindi and Mahagi into Uganda.76 Uganda produces and exports tungsten ore, but no tantalum ore, and only a very small quantity of tin ore, suggesting that smuggled 3T minerals are merely transiting through the country.

179. The supply chain from the mining sites of Kivuye in Masisi territory, partially runs through Bunagana and Kasindi while another part moves to Goma. According to local authorities, Kivuye’s main mine operators work under the protection of armed groups including Nyatura and the APCLS. Furthermore, in Busumba, on the way to Kasindi and Bunagana, minerals are stocked in a depot belonging to M23 member, Erasto Nitibaturana, currently living in Gisenye.77

DRC-Burundi

180. 3T mineral smuggling between the DRC and Bujumbura crosses the Ruzizi plains, as well as the official border crossing of Kavimvira. Congolese police seized 13 tonnes of tantalum ore at Kavimvira in September 2012. According to traffickers minerals, the belonged to Lubamba (see paragraph 163 above).

181. Burundi’s 3T exports, and particularly tantalum ore, have dramatically increased in 2012. Burundi Minerals Supply exported 87 tonnes of tantalum ore from January to August 2012, against 58 tonnes during the same period in 2011. The company’s manager is Nzaramba, who is also involved in mineral smuggling in Rwanda (see paragraph 175 above). Wolfram Mining and Processing more than tripled its tantalum exports from 24 tonnes in 2011 to 87 tonnes in 2012.

B. Gold Trade

1. The near absence of official trade
182. Congolese Ministry of Mines has attempted to promote official gold exports by reducing the export tax to 1% and requiring at least 30 kilograms of exports per trimester for export houses to retain their license (S/2012/348, para. 155).78 None of the export houses in the Kivus has attained this minimum requirement to date.

183. Upon receiving export certificates, Congolese export houses must declare the consignee of the gold to whom they export. These consignees are not always clear. Etablissement Namukaya’s declared trading partners, Pinnacle,79 in Nairobi, and LLG in Dubai do not exist. According to several individuals involved in gold-trafficking, Namukaya’s real trading partners continue to be Rejendra “Raju” Kumar80 of the sanctioned entity Machanga Limited in Kampala, and Bujumbura-based Mutoka Ruganyira.

184. According to North Kivu official statistics, AR Gold has to date in 2012 exported to its own branch in Dubai, as well as to Swiss Golden Metals Financial, a company registered in Geneva. Glory Minerals in Butembo does not declare to whom it sells. A manager of the export house COPED in Bunia told the Group that the company sells to Maha Jewellery in Dubai.

2. Gold trade linked to armed groups and criminal networks in the FARDC

185. The origin of gold purchased by export houses is usually poorly specified, referring to a territory, town or locality. Etablissement Namukaya purchases gold indiscriminately from all over South Kivu, notably Misisi, Lugushwa, and Kamituga, without querying the exact origin, chain of custody, or potential involvement of armed groups or FARDC criminal networks. The Group visited Misisi in July 2012. Operators and local authorities told the Group that for each of the 250-odd crushing machines a $ 50 tax is levied per week by the FARDC under the command of Colonel Rugo Heshima.81 Traders and authorities in Tshimbi told the Group that Namukaya is the main buyer from the mine of Mufa, which is frequently pillaged by the FDLR.

186. AR Gold declares that it purchases gold from Butembo which is not a mining site but a trading centre. However SOCAGRIMINES management in Mubi showed the Group invoices that demonstrate that AR Gold purchased gold produced by the company. SOCAGRIMINES operates in Omate, where from May 2011 to January 2012, NDC militia members repeatedly came to demand rations and contributions in the form of gold.

187. In addition to the few licenced exporting companies, there are a number of intermediary traders exporting gold without a licence. In Ituri, at the FRPI-controlled mine of Bavi (see paragraph 84 above), local traders Banga Djele and Justin Peke buy gold and sell it to Ugandan traders Raju Kumar (see paragraph 183 above) and Silver Minerals. In Bukavu, non-licenced traders Buganda Bagalwa and Mange Namuhande continue to purchase from mining sites where FDLR derives profits, and sell to Mutoka Ruyangira and Raju Kumar, respectively. In Uvira, the non-licenced traders Mwite and Honoré continue to trade gold from Misisi. They supply Namukaya in Bukavu (annex 64), but also sell directly to Ruyangira and Kumar.

Congoese gold traded through Burundi

188. According to Burundian police authorities, Bujumbura’s main gold trader Mutoka Ruyangira changed the name of his export house in 2011 from Berkenrode to Ntahangwa Mining. By August 2012, the company officially exported 958 kilograms of gold that year to Dubai – representing a market value of at least $41 million – representing 65% of total gold exports from Burundi (annex 65).
189. Up to mid-2012, Indian nationals Amit Patel, alias “Rinko”, and Vipul Mendapara assisted Mutoka in the sale of his gold. Mendapara has an electronics shop called Sanya in Bujumbura. In May 2012, the two fled to Niamey, Niger with up to 50 kilograms of Mutoka’s gold with a value of roughly $3.2 million (annex 66). At the request of Mutoka, Burundi has requested the extradition of the two men (annex 67).

_Congolese gold traded through Uganda_

190. According to Ugandan customs statistics, Silver Minerals of Indian national Madadali Sultana Pirani, is the main gold exporter in 2012, accounting for 70% of total exports of 274 kilograms from January to July 2012. While the Group found evidence that Silver Minerals sources from conflict areas in Ituri, DRC, the company declares South Sudan as the country of origin of all its gold.

191. The second largest gold export house in Uganda is Mineral Impex Uganda. The company officially exported 70 kilograms in 2012, all in the month of January, and declared South Sudan as the origin. According to several industry officials in Kampala, Uganda. Mineral Impex is a front company for Rajendra Kumar.

192. Kumar uses the company DATCO, owned by the Dattani family, to receive and transfer money to associates in Bukavu in order to pre-finance gold purchases. The Company’s representation in the UAE is MCD General Trading LLC. DATCO has not responded to the Group’s information requests.

193. A third gold exporter in Kampala is Midas All Minerals Ltd. of British national Sameer Bhimji. Although the company exported only 25 kilograms in 2011, police authorities in Entebbe told the Group that in November 2011, 15 kilograms belonging to Midas Minerals had been stolen by employees of the freight handling service ENHAS at Entebbe airport. Bhimji buys from Ituri traders previously identified (see para X).

_Congolese gold sold in Dubai_

194. In the first half of 2012, Mutoka sold a portion of his gold in the UAE where middlemen Patel and Mendapara brought it to the Al Fath Goldsmith in Sharjah (annex 68). According to smugglers and members of the gold market, or “souk”, the shop is owned by two individuals by the names of “Jigger” and “Muna”. Gold buyers stated that Al Fath purchases gold from African destinations. Apart from purchasing from Mutoka, former gold smugglers in Kampala told the Group that “Jigger” is related to Kumar and also buys from him.

195. Since Patel and Mendapara stole Mutoka’s gold (see paragraph 189 above), the latter’s gold is carried to Dubai by individuals named “Kaswis” and “Djamal”. According to collaborators of Mutoka, his gold arrives in UAE twice a week in hand-carried loads of around 30 kilograms. These totals correspond with Mutoka’s company export figures from Burundi.

196. The official trading partner of Silver Minerals in UAE is Yogesh Jewellers. However, gold smugglers in Kampala explained to the Group that Yogesh is only used for testing the purity of gold, and that the real destination of Silver Mineral’s gold is Kanz Jewellery in Dubai.

197. At the time of writing the report, the Group had yet to receive customs data concerning imports of the above mentioned jewelers. The total volume of hand-carried gold from Uganda and Burundi into UAE amounted to XX kilograms and XX kilograms respectively.

C. Due diligence: Tin Tantalum and Tungsten
1) Enforcing the Congolese government’s *note circulaire* on due diligence

198. The DRC authorities suspended export houses Huaying and TTT/CMM for having purchased minerals of dubious origin, thereby violating the Government’s *note circulaire* of 6 September 2011 concerning the application of UN and OECD due diligence. Mining authorities in North Kivu stated that their purchases may have financed armed groups operating in mining sites in Walikale.

199. In July 2012 the Minister of Mines authorized all export houses, including Huaying and TTT/CMM, to export minerals that they purchased from Maniema and held in their depots in Goma, provided that they would make financial contribution of $75 per tonne to development projects in mining areas. The provincial Minister of Mines in North Kivu extended the provision to also include validated mines in Masisi in a subsequent letter.

200. As a result, by the end of August 2012, Huaying exported at the same rate as in the beginning of 2012: 248 tonnes of tin ore through 24 September 2012. Huaying declares that it sells to China National Nonferrous Metals. TTT/CMM officially exported 86 tonnes of tin ore to Tolead Group in Hong Kong, China (annex 69). According to mining authorities, in North Kivu, Huaying and TTT/CMM have inserted minerals purchased from Walikale into the exported volumes that were supposed to only originate from Maniema. Red iron rich tin ore from Walikale is very distinct from black tin ore in Maniema and could therefore be easily detected (see annex 70).

2) Expanding trading counter validation and certification

201. To date, the Congolese authorities validated as “green” several mine sites around the trading counters of Mugogo and Rubaya in the Kivus as well as 21 mine sites in Maniema province. However, trading counters are not yet operational in the Kivus and have yet to be constructed in Maniema.

202. Though authorized, no 3T traders have yet exported from mine sites qualified “green” around Mugogo. In contrast, in North Kivu, the export house AMR Mugote has lawfully exported minerals purchased in Masisi from “green” mine sites in Masisi, to Guilin Jinli New Chemical materials in China (annex 71). However the export house does not ascertain on the ground whether minerals from other mines enter its supply chain.

203. Annex 72 outlines identified risks of minerals from mines controlled by armed groups entering supply chains of trading counters Mugogo and Rubaya.

204. In July 2012, a joint validation mission qualified five mines surrounding Nyabibwe, in South Kivu, to be “green”. The Group has not received any information that would put such qualification into question. On 18 September 2012, industry partners convened by the Netherlands government announced their intention to establish the Conflict Free Tin Initiative in South Kivu. A pilot phase will start in October 2012 in Nyabibwe where the NGO Pact will operate the iTSCi traceability, tagging, and due diligence mechanism.

205. In Maniema, authorities conducted a joint validation mission in August 2012, around the trading counter of Kalima in August 2012, given the “green” qualification to all mine sites of Kailo and Pangi. The Group’s findings in 2011 also confirmed conflict-free trading of minerals in these territories.
206. On 24 September 2012, intermediary traders under the Société minière du Maniema (SOMIMA) and Metmar Trading proposed to international partners to export 968 tonnes of stockpiled material from Kailo, Pangi and Kindu prior to the start of tagging of newly produced material. The proposal stipulates that profits would be allocated to finance iTSCi tagging, assures that current stockpiles are correctly accounted for, and that the company would conduct its own tagging. The proposal is in line with the Group’s recommendation on stocks in its final report of 2011. The Group urges SOMIMA to verify and demonstrate the origin of stocks through transport authorisations issued by local mining authorities.

207. Despite provincial efforts to improve the mineral paper trail, the high level of illegal transport of minerals from Maniema to export centers, and subsequent cross-border smuggling, is a critical challenge to the introduction of traceability schemes. A comparison of the official export documentation of the first half of 2012 and provincial taxation data shows that around 50% of the Maniema’s mineral production leaves the province without the required documentation after which it is likely to be smuggled.

208. In North Kivu, validated mine sites around the trading counter of Rubaya include eight sites that are on the concession of the company Mwangachuchu Hizi International (MHI). With semi-industrial operations at the site Bibatama, MHI uses artisanal miners affiliated with the cooperative Cooperama on its other concessions. After Congolese authorities validated it, the Certified Trading Chain (CTC) initiative of the German Federal Institute for Geosciences and Natural Resources (BGR) conducted a baseline audit for certification and concluded in April 2012 that there was no indication of armed group involvement and that traceability has been developed to the highest level achievable. However, MHI claims that its trading partner in China, Sino Investment, still demands iTSCi tagging, thus impeding any exports.

209. While validation exercises are expanding in the Kivus and Maniema, Orientale province has yet to be considered. However, the security challenges near tin ore reserves around the town of Opiege, in Bafwasende territory, could be resolved through demobilizing the Mai Mai Luc and suspending the FARDC operational zone (see paragraph 131-136 above). The concession holder of the Opiege mining area has begun repairing the 185km of road between Opiege and Bafwasende.

3) **Shortening supply chains through Congolese smelter initiatives**

210. The construction of smelting facilities on Congolese territory could greatly enhance traceability and facilitate due diligence by importers. These would render current initiatives to sanitize trading chains considerably easier, as a shortened trading chain will naturally reduce the opportunities to insert “conflict minerals”. Additionally, it will increase the added value of the minerals produced and consequently potential tax revenue for the DRC authorities.

211. In Lubumbashi, Mining Mineral Resources (MMR) has installed a first electric furnace and a second will be operational in November 2012. The plant will produce 98% tin ingots to be exported to Malaysia Smelting Company for final refining up to 99.9% London Metal Exchange standard. Minérales Industries Métallurgiques (MIM) is building a second plant is in Kisangani. Though it had received machinery from China in July, Rwandan customs has been blocking necessary parts in Gisenyi until October 2012. MIM is currently sourcing tin ore and tantalum ore from its concession in Manono and claims it will smelt at least 10 tonnes of tin ore per day at 99.9% starting in January 2012. Finally, African Smelting Group has launched a third
attempt to establish an in-country smelter either in the vicinity of Sake, west of Goma, or in Kindu, Maniema, and committed to following OECD due diligence guidelines.

4) Traceability and due diligence in Rwanda

212. In 2011, Rwanda implemented a nationwide tagging system in collaboration with iTSCi. In addition to supply chain transparency and controls, iTSCi includes UN due diligence components of risk assessment, risk mitigation and independent third party audits. In August 2012, Channel Research published a first report to identify and evaluate risks and overall governance performance of the different stakeholders of the supply chain for iTSCi. An audit of the iTSCi scheme has yet to be conducted.\(^99\)

213. Channel Research’s risk assessment found no serious abuses associated with extraction, transport and trade of minerals or any direct or indirect support to armed groups. Based on observations of on-going smuggling of Congolese minerals into Rwanda, the report does highlight the risk of state and non-state armed actors in the Kivus benefiting from minerals either tagged or exported through a parallel supply chain of untagged minerals in Rwanda, outside of the iTSCi programme. However, the research team did not gather any concrete evidence in this regard, meaning that incidents of irregularities in tagging procedures and operators’ possession of untagged minerals have not been found to be connected to cases of cross-border mineral smuggling.

214. Due to limitations by the GoR, the assessment team has not been able to complete investigations into a number of issues, such as cross-border smuggling, the suspension of senior military officers (see paragraph 164 above), involvement of security services in the supply chain. Follow-up research is therefore deemed necessary, with the GoR agreeing to permit Channel Research to work independently, carry out unannounced spot checks and maintain anonymity of its sources.

215. In addition to the risk assessment by Channel Research, iTSCi and its implementing partner Pact published a status report for the first half of 2012.\(^90\) The report highlights main incidents reported to iTSCi staff concerning violations of the tagging procedure and the ways in which these were addressed. The report also considers baseline studies carried out to assess production capacity of new mine sites on the basis of which tags are issued. The execution of baseline studies is, according to the report, marred with problems, including over-reporting of production and discouragement of mine site inspection. Furthermore the report states that in the beginning of 2012, mining authorities issued tags to some companies before baseline studies had been carried out and before production had even begun.

216. The incidents of laundering of Congolese minerals into the Rwandan tagging system that the Group has identified demonstrate that the risk assessment – step 3 of the due diligence guidelines and an integral part of iTSCi’s tagging and due diligence scheme – is not sufficiently comprehensive. To date iTSCi staff did not report any incident of tagging Congolese minerals. The Group has provided and will continue to provide such information to iTSCi staff as well as mine operators and export houses, in order to facilitate more complete risk mitigation.

5) Traceability and due diligence in Burundi

217. Burundi is currently awaiting the promulgation of a law which incorporates due diligence requirements and traceability mechanisms into the national mining legislation. From 26 February to 6 March 2012 iTSCi implementing partner Pact visited Burundi to start a feasibility
study and participated in a meeting with mining operators to discuss financing of implementation of the scheme. Mining operators have accepted to finance the purchase of the first batch of packaging and tags, but the Government is still looking for financing to train personnel to execute tagging.

6) Due diligence initiatives beyond the Great Lakes

218. Further updates on in the 3T diligence initiatives beyond the Great Lakes region are included in annex 73.

D. Due Diligence: Gold

219. Updates on the limited due diligence initiatives in the gold sector are included in annex 74.

E. Socioeconomic assessment

220. By paragraph 5 of resolution 2021 (2011), the Security Council requested that the Group of Experts includes, in its evaluation of the impact of due diligence, a comprehensive assessment on the economic and social development of relevant mining areas in the DRC. The methodology is described in annex 75.

1) Main conclusions

221. For those mining areas where no tagging/traceability system has been installed, the following phenomena occur:

a) Tin, tantalum and tungsten ore production continues in most areas. Most minerals are either smuggled out or stocked. As a consequence, there is a large discrepancy between official exports and production. Smuggling is particularly prevalent in mining areas which are easily accessible and/or close to the border.

b) The prices paid for minerals have dropped significantly because of the limited demand for untagged materials. However, other factors, such as fluctuating world market prices, contributed to the current low cost of minerals.\footnote{91}

c) Whenever alternative minerals, primarily gold or diamonds, are available in the vicinity of the 3T mine, miners adapt and start digging for other minerals. In addition there is a move from tin ore to both tungsten ore and tantalum ore mining.

d) In areas where no alternatives to 3T mining are readily available, the virtual stopping of trade and the sharp drop of prices at the mining site have led to a reduced family income which has an immediate impact on family expenditures.

e) Isolated mining communities that previously relied on inbound mineral flights to supply them with basic commodities, suffer from the secondary effect of a shortage of such products and consecutive price increase.

f) The impacts described above were visible from the 2010 mining ban. They were less pronounced at the end of 2011 when traders Huaying and TTT/CMM identified alternative markets for untagged minerals in China but resurfaced after these traders were suspended in May 2012.

g) The security situation at 3T mining sites has improved and the trade in 3T minerals has become a much less important source of financing for armed groups. Both these changes
will reflect positively on the potential for sustainable socio-economic development of mining areas.

222. In Katanga, where a tagging system is in place at most mining sites, the general trends are very different. Business flourishes and gives a modest impetus to local development through investments. Trade options are still limited though, as one buyer holds a virtual monopoly position leading to persistent miner protests about the prices offered.

2) Detailed findings on mining indicators

223. In 2011, the combined regulatory pressure on the 3T sector to exercise due diligence generated a dual market in the region. On one side, this pressure spurred the creation of islands of traceability in Rwanda and Northern Katanga. In both areas mineral production has increased as a result of privileged market access. Where tagging was not introduced, in the Kivus and Maniema, international buyers have stopped purchasing.

224. In 2012 the impact of due diligence on 3T mining continued when the Congolese government decided to suspend two export houses Huaying and TTT/CMM on the basis of non-compliance with the UN and OECD due diligence guidance. The drastic decline in trade is reflected in official export figures, particularly for tin ore. Whereas annual official exports between 2007 and 2009 from North Kivu rose above 10,000 tons, they dropped to 2,300 tons in 2011. Between June and August 2012 no official Goma exports were recorded. The selected examples below show some of the most pronounced current and past effects of national and international measures on mining and mineral trade.

225. Mining areas and trading towns in the territory of Walikale have suffered the most radical economic decline. Local tin prices in Mubi have dropped from $5.5 per kilogramme in 2010 to $3.5 or 4 in much of 2011 to $2 after May 2012. At the mining sites themselves, traders will pay as little as $1. The low prices negatively affect working conditions, as there is no money to invest in basic equipment such as hoes, torches, gas, etc. As a result, the main mine of Bisie is virtually empty with only a few hundred miners remaining. COKABI, one of the main miner cooperatives explained to the Group that by July 2012 it had only 200 workers left at the site, compared to 600 in 2011 and 1,200 before the 2010 suspension. Statistics from the local mining service show how monthly production in early 2011 was half that of the level of 2010 (500 tonnes). Current production is considered marginal. Flooding has also contributed to poor outputs affecting 40% of mining pits in Bisie.

226. In other mining areas, such as Lubutu and Lemera, similar effects exist and miners face a similar drop in tin ore prices. However, artisanal miners in Ntufia told the Group that they keep producing as they have no alternatives to sustain their families. Since the suspension of Huaying and TTT/CMM, hardly any buyers arrive at Lubutu forcing local miners and small scale traders to stockpile production in preparation for better times.

227. In Lemera in South Kivu a comparable decline in prices was observed; from $8 in 2010 to $5.5 in the beginning of 2012 to $2.5 since May 2012. Also the number of diggers dropped from 500 in the beginning of 2012 to 100 at the end of the year.

228. Tungsten and tantalum ore mining are generally less affected as can be seen by the examples of Idjwi and Masisi. On the Island of Idjwi, in the middle of Lake Kivu, tungsten ore mining has been in decline but still about half of the pre-suspension miners remain at the main mining site of Kamole. Idjwi’s isolated position bordering Rwandan territorial waters enables
smuggling and therefore access to other markets. Moreover, local prices have ‘only’ dropped by about 20% from $11 per kilogramme before 2010 to $9 in July 2012.

229. In Masisi, tantalum ore miners at Bishasha’s Luwufu site explained that price levels had steadily gone up since the 2010 suspension but that demand had dropped after May 2012 and that half of the 90 workers left the mine, leading to decreased but still significant production. As there have been hardly any formal tantalum ore exports from Goma since May 2012, the larger share of production is either stocked or smuggled out of the country.

230. In Katanga, where in many sites a tagging system is in place, official trade generally continues at pre-suspension levels or higher. The Group learned, however that miners have protested against mineral prices on several occasions throughout 2011 and 2012. Provincial export statistics show that almost all of the tin ore and tantalum ore production in Katanga is bought by a single trader, MMR, which can therefore set prices. In September 2012, MMR paid a fixed price of $34 per kilogramme for tantalum ore in Kisengo regardless of the quality. The prices offered by MMR are indeed lower than what miners can earn in Masisi, where miners receive $36 for the standard 20% quality tantalum ore and an additional $1.8 for every additional percent. MMR explains the price difference because of additional costs it incurs such as its technical/material support of miners, development projects and the cost of the tagging procedure itself.

3) Detailed findings on other socioeconomic indicators

231. The decline in mineral production and the drop in prices have generated a series of secondary social effects in all 3T mines that the Group visited. Several of these impacts have been particularly visible in Nyabibwe, where the local population explained that food and basic goods are harder to come by as the majority of shops have closed since October 2010.

232. They also point out that school enrolment in mining communities has been much affected. A school headmaster explained that dropout rates had increased from a few percent in 2010 to 30 percent in 2012. In Lemera the Group witnessed a similar phenomenon learning how school attendance by children from mining communities had dropped by 50% since 2010.

233. Secondary effects are particularly present in remote mining locations serviced by air. Before 2010, about 20 flights would arrive in Mubi per day, bringing in consumer goods and taking out tin ore. After March 2011 that frequency slowly increased from one flight every two days to four flights a day but after May 2012, the air traffic virtually stopped.

234. Food and medicine now reach Mubi via the road from Kisangani, but there is less choice and prices are higher. A sack of flour for example now costs up to 40$-$45$, whereas before it was $35 when flown in from Goma. Because no minerals are taken on return flights from Mubi, the transportation cost of goods by air has doubled, making it too expensive. Other mining areas, such as Shabunda and Kasese experience similar difficulties.

235. Notwithstanding the above, commercial activity continues in most mining towns, including Mubi which is also a trading centre for gold coming from Omate. Likewise, in Lubutu gold and diamond mining is flourishing, explaining why there is no shortage of supplies in shops. Moreover, miners continue to shift to new locations while adapting to price and demand fluctuations and when they move, related economic activities move with them.

236. Particularly notable is the move from 3T mines to gold mines. In Masisi, South Kivu, miners explained that the mining population had almost tripled over the past two years with
many newcomers from 3T mining areas in the Kivus and Katanga. In addition, there has been a
move from tin ore mines to tungsten ore and tantalum ore mines. For instance miners have
moved from Nyabibwe to Idjwi, from Bisie to Rubaya, and from Zola Zola to Luntukuwu. Their
mobility much depends on the extent to which they are tied to the locality where they mine,
mostly through property, family relations and long time residence. This phenomenon is not
absolute. In Nyabibwe for example several ‘migrant’ miners identified alternative income and
used their mining revenues to buy houses, land and cattle.

237. Although there are some prospects (box), the Group has not come across any public works
paid for by money generated from the mineral trade in the Kivus and Maniema during the past
five years. There is no direct contribution by the mining sector to development. The lack of
investment in mining communities was recently raised once more in a report of Goma-based
NGO ASSODIP, concluding that the few existing public works are mostly financed by
humanitarian organisations. A study carried out by Catholic Relief Services (CRS), Catholic
Committee Against Hunger and for Development (CCHA) and the Commission on
Natural Resources of the DRC Bishops’ Conference (CERN) in seven mining communities in
October 2011 explains that income generated by mining is often used for the personal needs and
pleasure of individual miners, especially because many are not originally from the area.

238. In Katanga, on the other hand, MMR has invested in a number of social and infrastructure
projects. In Kisengo, it has built a school and a hospital and throughout the mining districts it
has repaired a number of roads and bridges. The secondary social impact of the implementation
of due diligence experienced at mining sites such as Kiseno and Mayi Baridi are largely
positive and give a modest impetus to local development. An important exception is the mine of
Kahendwa where virtually no social projects are launched because of the disputed concession
ownership.

239. Following the example of MMR in North Katanga, more investment is to be expected in
those mining areas where traceability will be introduced next. In Maniema for example, several
economic operators are already competing for access to mines. MMR/PMC, teaming up with
the Malaysian MSC, has tried to gain exclusive access to former Sakima concessions. In
exchange, MMR has pledged to rehabilitate the Kindu-Kalemie railway. SOMIMA, has
obtained a number of concessions beyond the Sakima perimeter and MINSERV has already
signed a contract with a local mining cooperative. In total these companies are expecting to buy
at least 850 tons of minerals each month.

4) Security situation

240. The Group described several security problems at 3T mining sites above: the abandonment
of Lufumi because of the arrival of Raia Mutomboki, taxation by the FDLR at Karemo, pillaging by Nyatura at Lwizi and FARDC extortion at Kasese. However, the majority of
stakeholders interviewed by the Group in 3T mining areas indicated they could work in relative
security.

241. Security issues pertain particularly in those mining sites that are remote and near front
lines. More accessible and larger mining sites that are closely watched by international
companies, mining authorities and Congolese civil society are currently benefiting from
improved security. These include Nyabibwe, Bisie, and Bibatama in the Kivus and Kisengo in
Katanga. However, the temporary suspensions of tagging in Mitwaba because of incidents
involving Mai Mai Gédéon (annex 76) and FARDC show that security is still volatile. Therefore, continuous monitoring is required.

242. Also, there is a real risk that military actors move their rackets to mining activities that are not closely supervised. In Katanga for example, Colonel Igwe Lungeni, commander of the 61st Brigade, deployed his men in most major mining sites including Lunga, Luba, Malemba and Mayi Baridi. His men interfere with gold mining activities but steer away from the 3T trade. Insecurity at gold mining sites all over eastern DRC is still widespread.

VIII. Recommendations

243. The Group of Experts recommends that the Committee revise the sanctions criteria to include:

- owners of sanctioned entities as well as any front companies, and
- individuals and entities supporting criminal networks within the FARDC through the trade in natural resources;

and call on:

a) The Governments of Uganda and Rwanda to cease all violations of the arms embargo and submit regular reports to the Committee on measures taken to halt all activities of M23 and its allies in their territories;

b) Member States to review and reconsider future military assistance to Rwanda and Uganda.

c) The ICGLR’s Joint Verification Mechanism (JVM) to install motion sensor and night-vision cameras on the few footpaths used by the RDF and M23 between Rwanda and the DRC (annex 77);

d) International donors to provide the ICGLR’s JVM and Fusion Intelligence Cell with unmanned aerial vehicles (UAVs) to monitor border crossings between the DRC and Uganda and regularly report to the Committee;

e) All armed groups including the FDLR and M23 to immediately release all child soldiers and cease any future recruitment of minors;

f) The DRC, Rwanda, and Uganda to complete marking of all arms in state control in accordance with the Nairobi Protocol;

g) Donors to financially support innovative civilian disarmament strategies to avoid diversion of weapons to armed groups.

h) The DRC government to suspend unnecessary military operational zones and re-direct funds to accelerate representative and inclusive integration processes for armed groups taking into account lessons from past experience.

i) The DRC to leverage commercial interest in 3T minerals for enhanced socioeconomic development in artisanal mining zones.
j) Exporters, processing industries and consumers of 3T mineral products from the eastern DRC and other “red flag” locations to invest in traceability and due diligence in the Kivus, Katanga, Maniema and Oriental in order to halt cross border smuggling and preserve the credibility of Rwanda’s taggingscheme.

k) The governments of the DRC, Rwanda, Burundi and Uganda to deter smuggling and tagging fraud and allow those carrying out supply chain risk assessment and audits unhindered access to relevant sources and data.

l) The governments of the DRC, Burundi, Uganda, and the United Arab Emirates to report to the Committee periodically on concrete measures taken to stop the smuggling of gold from the eastern DRC.

m) Donors of Rwanda’s demobilization program to more closely monitor the reintegration of former FDLR combatants from the DRC.