



Kenya's role in the trade of gold from eastern DRC

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On 11 September 2010, the Congolese Ministry of Mines put out a statement in which it announced President Kabila's decision to suspend all exploitation and export of minerals from the provinces of North Kivu, South Kivu and Maniema until further notice. The statement explained that the ban was intended to put a stop to the illegal exploitation of natural resources in eastern DRC.¹ In the decree establishing the ban, an explicit reference was made to *"the link between the illegal exploitation and the illicit trade of mineral resources, the proliferation and trafficking of arms by mafia and armed groups, and the recurrent insecurity in the provinces of Maniema, North Kivu and South Kivu."*²

In this paper, it is shown that the mining ban – which was lifted on 10 March 2011 – was not really effective in terms of stemming the flow of Congolese minerals to neighbouring countries. There are indications that Kenya has served as a vital transit point for Congolese gold during the period of the embargo. The cases presented in the following sections show that cross-border gold trading networks have managed to attract international gold buyers to the Kenyan capital with promises about the availability of large quantities of minerals of Congolese origin. Taking advantage of Congo's widespread reputation as the horn of plenty in terms of mineral wealth and exploiting the weaknesses of Congolese and Kenyan public services with regard to the monitoring of mineral flows, they have succeeded in continuing their business operations as usual, unhindered by the mineral embargo established by President Kabila. This highlights the urgency of creating the necessary conditions for a sound implementation of the Regional Initiative against the Illegal Exploitation of Natural Resources, a mechanism developed by the International Conference on the Great Lakes Region (ICGLR) with the aim of breaking the link between armed conflict and natural resource exploitation.³ It is to be feared that, without a significant improvement of the institutions already in place, the initiative proposed by the ICGLR will fail to sufficiently increase the transparency of the mineral trade in Central Africa and will also fail to prevent so-called conflict minerals from entering the supply chain.

¹ 'L'exploitation minière dans l'ancien Kivu suspendue jusqu'à nouvel ordre', Radio Okapi, 13 September 2010.

² Decree nr. 705 of 20 September 2010, quoted in 'Fini les minerais de sang et fini la guerre! Le président Joseph Kabila a décidé et au ministre des mines d'appliquer!', *L'Avenir*, 22 September 2010.

³ Information from the ICGLR website (www.icglr.org), accessed on 5 August 2011.

A curious incident at Goma airport

February 2011 witnessed some remarkable cases of gold smuggling. An initial case came to light on 3 February, when a plane coming from Nigeria landed at Goma airport. The plane was carrying a group of foreigners who wanted to buy a substantial quantity of gold originating from a mining area in North Kivu controlled by troops of Bosco Ntaganda, an FARDC general who used to have a leading position in the CNDP rebel movement of Laurent Nkunda. According to an article in *The Economist*, Ntaganda's men unloaded \$US 6.5 million from the plane, which they then transferred to one of the general's compounds. After that, they reportedly loaded the plane with over 400kg of gold. The deal fell through, however, when the Congolese authorities seized the gold and arrested the group of foreign businessmen travelling aboard the plane coming from Nigeria.⁴

The plane, a Gulfstream V jet carrying the registration number N886DT, is registered to Southlake Aviation from Irving, Texas and managed by Arcadia Aviation from New York City.⁵ At the time of the incident at Goma airport, the jet was leased by CAMAC Aviation, a subsidiary of CAMAC International,⁶ an oil-trading company based in Houston.⁷ CAMAC was established in 1986 and is known to be one of the largest black-owned businesses in the US.⁸ According to the information presented on its website, CAMAC has developed from being an agricultural commodities business into "an affiliated group of companies focused exclusively on energy exploration and production and related services."⁹

Interestingly, the owner of CAMAC is Kase Lawal, a prominent businessman who holds dual US-Nigerian citizenship and is the half-brother of Mukaila ('Mickey') Lawal, one of the people arrested at Goma airport.¹⁰ Kase Lawal is a well-known public figure in the US. Apart from being the chairman and CEO of CAMAC International Corporation, he is also a member of the Advisory Committee for Trade Policy and Negotiation, a position granted to him by President Obama. Lawal's excellent political connections are evidenced by the fact that he served as a member of the US Presidential Trade Advisory Committee on Africa during the Bush and Clinton administrations.¹¹

Although in the US Kase Lawal enjoys the reputation of being a successful and well-respected businessman, his name has also been mentioned in connection with a number of scandals. In 1999, the South African newspaper *Mail & Guardian* reported that Lawal's company CAMAC was a 75 percent shareholder of the South African Oil Company (SAOC), a private company registered in the Cayman Islands. SAOC concluded a lucrative crude oil deal with the Nigerian government, after lobbying by the then South African President Thabo Mbeki. What made the deal contentious was that it did not generate any benefits for the South African state or public. Whereas, normally speaking, the crude oil should have gone to a South African state company – the contract had been concluded as if it concerned a "government-to-government" allocation and therefore the Nigerian state oil company had offered the crude oil at a significant discount – it went to a private company of which Lawal's CAMAC was the majority shareholder.¹²

Another affair in which Kase Lawal's name was mentioned made headlines during the run-up to the American presidential elections in 2008. McClatchy newspapers revealed that Lawal, who was a major fundraiser for Hillary Clinton's presidential campaign, was accused of criminal wrongdoing by the Nigerian authorities. It turned out that, in 1999, Lawal had been indicted of defrauding Nigeria of 10 million barrels of oil.¹³ The man bringing the case against Lawal was Nuhu Ribadu, who developed a strong reputation as an anti-cor-

⁴'Still smuggling: a warlord goes about his business', *The Economist*, 12 February 2011.

⁵'Detained GV crew still stuck in Congo', BJT Bulletins, March 2011 (www.bjtonline.com, accessed on 4 April 2011); 'GV copilot, flight attendant freed by Congo', AINonline, 31 March 2011 (www.ainonline.com, accessed on 4 April 2011).

⁶'Jet from N. Texas detained in Congo', *The Dallas Morning News*, 22 February 2011.

⁷'Kase Lawal company in Congo gold smuggling scandal', *Houston Chronicle*, 4 April 2011.

⁸'Kase Lawal: not your average oil baron', CNN News, 18 May 2010 (<http://articles.cnn.com>, accessed on 5 April 2011).

⁹Information obtained from the CAMAC website (www.camac.com, accessed on 5 April 2011).

¹⁰ Mukaila Lawal serves as the vice-chairman and director of Allied Energy Plc, a company of which his half-brother Kase Lawal holds the chairmanship (information obtained from the Securities and Exchange Commission, documents filed by CAMAC Energy Inc. on 7 April 2010; www.sec.gov, accessed on 6 April 2010). Allied Energy Plc is registered in Nigeria, where it is currently involved in a joint venture partnership with ENI/Agip to exploit the Oyo oil field (information from the CAMAC website, www.camac.com, accessed on 6 April 2011).

¹¹'Obama's appointing Kase Lawal to trade committee continues upward march by oil and gas heavyweight', US Africa Online, 20 September 2010 (www.usafricaonline.com, accessed on 5 April 2011).

¹²'DA dogs Mbeki on oil deal', *Mail & Guardian*, 25 July 2003.

¹³'Jet from N. Texas detained in Congo', *The Dallas Morning News*, 22 February 2011.

ruption crusader during his four-year term as the head of the Economic and Financial Crimes Commission in Nigeria. When McClatchy confronted Lawal with the Nigerian charges, he denied any wrongdoing, adding that he had travelled at least 70 times to Nigeria without being served legal papers.¹⁴

As for the Goma gold incident, both the CAMAC management and the management of Arcadia Aviation – the company operating the plane – have emphasised that they had nothing to do with it. In a press release issued on 31 March 2011, CAMAC stated that it “*had no financial interest in the business dealings that led to the airplane and passengers being detained.*”¹⁵ In a similar manner, Robert Garrett Jr., the president of Arcadia Aviation, has done his best to dismiss rumours about his company’s alleged involvement in the illicit gold transaction. Talking to a reporter of the specialised aviation website AIN, he said: “*We’re doing all we can to be cooperative (...) as the appropriate authorities in the US and the DRC discuss how to resolve this political problem.*”¹⁶

According to a spokesman for Kase Lawal, the real mastermind behind the whole gold-buying operation is an American citizen named Edward Carlos St. Mary, one of the passengers who got arrested at Goma airport. St. Mary, who is a former cadet at the US military academy in West Point and a long-time friend of the Lawal family, is said to have borrowed the Gulfstream jet from CAMAC in order to pick up the load of gold in the capital of North Kivu.¹⁷ Before entering the gold business, St. Mary worked as a diamond dealer, claiming to have access to diamonds at or close to their source in Guinea, Sierra Leone, Liberia Angola, Namibia and Brazil.¹⁸ His modus operandi appears to have raised suspicion with the American authorities. In 2010, securities investigators with the Arizona Corporation Commission established that, together with his company Axiom Trading Company Limited, St. Mary had been involved in a deal to swindle more than US\$1 million in a diamond-buying scam between 2005 and 2007.¹⁹

Strikingly, Axiom Trading is also the company that St. Mary and his business associates used to conclude their gold deal. Punit Vadgama, a Kenyan lawyer working for the Nairobi-based law firm Shapley Barret & Co,²⁰ claims that in December 2010 Axiom Trading hired him to obtain permits for the acquisition of 475kg of gold with an estimated value of US\$23 million.²¹ According to Vadgama, the first plans for the gold deal were made after a meeting between St. Mary and a broker named ‘David’ in the US. Reportedly, the broker offered St. Mary the opportunity to conclude an agreement for the legal acquisition of a quantity of gold in Kenya. After St. Mary and his associates arrived in Kenya and had made a partial payment, they were unable to reach the person who had been described to them as the main orchestrator of the gold deal, a man named E. Michelle D. Malonga. When, after a while, Malonga resurfaced, he reportedly told St. Mary and his team that the gold had been transferred to Uganda, so that it was better to conclude the transaction there. St. Mary and his followers refused to go along with this and therefore Malonga invited them to fly to Goma instead. In Goma, Vadgama maintains, St. Mary and his associates paid Malonga for the gold and were ready to fly back when they were suddenly arrested by the Congolese security services, who charged them with fraud.²²

Strangely enough, the story had a happy ending for the people arrested. Flory Kabange Numbi, the public prosecutor, told the press that, during the weekend of 26 and 27 March, the detainees were released after having paid US\$3 million in fines to the Congolese authorities.²³ Still, a recent revelation in the newsletter *Africa Mining Intelligence (AMI)* may lead to further investigations into the controversial Goma gold deal. According to *AMI*, there are indications that the Gulfstream jet was already on its seventh flight to the Democratic Republic of Congo when the Goma incident took place.²⁴

¹⁴ ‘Another Clinton fundraiser has a suspect past’, McClatchy newspapers, 3 April 2008.

¹⁵ ‘North Texas-based jet released after being held in the Congo for alleged gold smuggling’, *Dallas News*, 31 March 2011.

¹⁶ ‘Gulfstream V stuck in Congo’, AINonline, 15 February 2011.

¹⁷ ‘Jet from N. Texas detained in Congo’, *The Dallas Morning News*, 22 February 2011.

¹⁸ ‘Backstory on Congo gems not clear-cut’, *Houston Chronicle*, 8 March 2011.

¹⁹ ‘Jet from N. Texas detained in Congo’, *The Dallas Morning News*, 22 February 2011; ‘Houstonians held in Congo gold plot’, *Houston Chronicle*, 18 February 2011.

²⁰ ‘Congo tries to halt illegal gold mining’, *Global Post*, 8 March 2011.

²¹ ‘Jet from N. Texas detained in Congo’, *The Dallas Morning News*, 22 February 2011.

²² ‘Kase Lawal implicated in gold smuggling allegations’, *GlobeBoss.com*, 24 February 2011.

²³ ‘Executives freed in Congo gold smuggling case’, www.warisboring.com, 28 March 2011.

²⁴ ‘Gold smuggling: the seized aircraft’s many flights’, *Africa Mining Intelligence*, 30 March 2011.

Nairobi's pivotal role as a transit point for Congolese gold

Another case of gold smuggling occurred at the end of February 2011. According to the Kenyan police, Joseph Cheptarus, a senior official at the Kenya Revenue Authority (KRA), who was investigating the smuggling of two-and-a-half tonnes of Congolese gold with an estimated value of US\$100 million, was shot by a group of four unidentified armed men on 26 February 2011. The police suspected that the shooting was connected to the gold-smuggling investigation undertaken by Cheptarus.²⁵ The Kenyan newspaper *The Standard* reported that the decision to start an investigation into cases of gold smuggling had been taken after a meeting between the Kenyan President Mwai Kibaki and the Congolese President Joseph Kabila on 3 March 2011.²⁶ Responding to Kabila's request to do something about the smuggling of Congolese gold through Kenya, Kibaki gave orders to increase the screening of imports at Kenya's points of entry, such as the Jomo Kenyatta International Airport in Nairobi. According to *The Standard*, Cheptarus had been stationed at the airport in order to track suspected smugglers and seize suspicious Congolese consignments in transit.²⁷

The remarkable thing about the meeting between Kibaki and Kabila was that the latter appeared to be very well-informed of the people allegedly involved in the smuggling of Congolese gold, as well as of the place where the gold was kept while it was in transit in Kenya. Kabila handed over a list of 15 suspects to the Kenyan authorities²⁸ and asked them to conduct a search of one particular warehouse in Nairobi's Embakasi area. Although the Kenyan police were unable to find anything in this warehouse, the investigations into the smuggling of Congolese gold have continued. George Saitoti, the Kenyan Internal Security Minister, has announced that a team composed of Congolese and Kenyan investigators is due to travel to Congo, Dubai and South Africa in order to collect more information about the identity of the smugglers and the trajectory taken by the Congolese gold. Assistance has been requested from Interpol offices in Dubai and South Africa. In Kenya itself, the services looking into the matter include the Criminal Investigations Department, the Immigration Department and the Kenya Revenue Authority.²⁹

It is hard to tell whether the abovementioned investigators have made any progress in their research. From a number of reports in the Kenyan press, it can be gathered that several people have been questioned and that Kenyan detectives have started scrutinising documents related to gold trading in Kenya since 2008. One of the people whose business activities they have been investigating is the Kenyan businessman Paul Kobia Kabebria (alias Paul Ilunga Ngoei, Paul Choma or Paul Miburi).³⁰ It is believed that Kobia maintains good relationships with a number of senior Kenyan officials and that it is therefore difficult to get him arrested. According to an article in *The Nairobi Law Monthly*, Kobia has managed to flee to Tanzania and was last seen in Arusha, situated in the northern part of the country.³¹

²⁵ 'Kenyan killed in Congo gold smuggling probe', Reuters, 28 February 2011.

²⁶ 'Kabila, Kibaki meet over illegal gold trade', *Nairobi Star*, 4 March 2011.

²⁷ 'KRA official in Sh8 billion gold smuggling probe executed', *The Standard*, 27 February 2011.

²⁸ According to *The Nairobi Law Monthly*, the dossier submitted by Kabila included the names of a Kenyan businesswoman and political activist with high-level connections, a businessman previously involved in the Goldenberg scandal (i.e., an older gold-smuggling scandal in Kenya), a Nairobi-based jeweller, a senior police officer, a KRA official based at Jomo Kenyatta Airport, and the Congolese businessman Michel Malonga (source: 'Suspect flees as gold probe loses luster', *The Nairobi Law Monthly*, 1 April 2011).

²⁹ 'Kenya asks Interpol to help track gold', *The Standard*, 7 March 2011; '6 grilled in gold smuggling racket', *Capital FM News*, 4 March 2011.

³⁰ 'Kenya: probe into smuggled gold deepens', *Daily Nation*, 8 March 2011.

³¹ 'Suspect flees as gold probe loses luster', *The Nairobi Law Monthly*, 1 April 2011.

The Kobia gold-trading network

It is not the first time that Kobia's name comes up in connection with the sale of gold originating from the Democratic Republic of Congo. In February 2009 he came into the public eye as a result of his involvement in the Mujuru gold incident. Joyce Mujuru, the Zimbabwean vice-president,³² was accused of trying to circumvent EU financial sanctions against her and other members of the Mugabe regime. It was discovered that, at the end of 2008, Mujuru's daughter Nyasha had attempted to sell 3700kg of Congolese gold to the British commodities trader Firststar. Critics say that in order to prevent her Zimbabwean background from being discovered she used Berline Equities Corporate, the Swiss company of her Spanish husband Pedro Del Campo, as a cover. The Firststar management maintains that it refused to go ahead with the deal as soon as it discovered that Joyce Mujuru was behind the operation. In an attempt to distance itself from the Mugabe regime, Firststar decided to add Mujuru to a blacklist on its website.³³

Trying to prove his innocence, Pedro Del Campo filed a complaint with the Banking Fraud Department in Kenya on 28 July 2009. In his letter to the department director, he wrote that Paul Kobia (who had presented himself as Ilunga Ngoei, one of his many aliases) was the one who had offered his company 3700kg of raw gold for sale. According to Del Campo, initially there had been no reason to doubt the reliability of Kobia and his business associates, as they appeared to have all the necessary documentation and had offered them the opportunity to photograph and assay the load of gold. Del Campo suggested that he was very surprised when Kobia violated their business agreement, disappearing with the \$US152 000 that Berline Equities Corporate had sent him to pay for various expenses associated with the transaction, such as taxes, custom fees, insurance and storage.³⁴

Apart from Pedro Del Campo, another victim of Paul Kobia is Andrew Vilenchik, the CEO of Community Finance Group, a financial services firm registered in the US state of Minnesota. In March 2010, Vilenchik filed a lawsuit against the Republic of Kenya, its customs department, its revenue authority and its central bank, stating that his company had been scammed in a deal to purchase a quantity of Congolese gold, which it was planning to have refined by a precious metals refinery based in the US.³⁵ According to Vilenchik, the Minneapolis-based Kenyan consultant John Saina,³⁶ who was a tenant in the same building where Community Finance Group had its principal offices,³⁷ had put him in touch with a group of individuals claiming to own a gold mine in the Congolese Ituri district and identifying themselves as employees of the Kenyan company Great Lakes Auto Tech Ltd. The group was allegedly composed of Kenyan businessmen Ilunga Ngoei (aka Paul Kobia) and Paul Kazunga (aka Jared Nyagaka), and Tanzanian businessman Abunwasi T. Lubambura.³⁸

Pretending to have 3700kg of gold at their disposal, which they were willing to sell at US\$19 000 a kilo, they managed to convince Vilenchik's company to buy an initial sample of 300kg for US\$5.7 million. Apparently, things started to go wrong after Community Finance Group had wired \$350 000 as escrow funds to cover Kenyan customs fees.³⁹ According to Vilenchik and his associates, the Kenyan parties to the gold deal began dragging their feet immediately after this money transfer. In alleged complicity with employees of several Kenyan state services and with two individuals falsely claiming to be UN representatives, they reportedly

³² Mujuru's husband Solomon is a former head of the Zimbabwean national army. Together, they are believed to have extensive mining interests, including the River Ranch Diamond Mines in Zimbabwe (source: 'Zimbabwe's vice-president foiled in 3,600 kg gold deal', *The Times*, 25 February 2009).

³³ 'Zimbabwe probeert goud te slijten in EU', *NRC Handelsblad*, 26 February 2009.

³⁴ Letter from Pedro Del Campo to the Banking Fraud Investigations Department, 28 July 2009.

³⁵ Amended Complaint filed by the Community Finance Group and Andrew Vilenchik against the Republic of Kenya, Kenya Revenue Authority, Kenya Department of Customs, and Kenya Central Bank before the United States District Court for the District of Minnesota, 16 July 2010. For more information about the Republic Metals Corporation, see: www.republicmetals-corp.com.

³⁶ John Saina used to be in charge of the administrative police in Eldoret, Kenya, before immigrating to the US (source: Amended Complaint filed by the Community Finance Group and Andrew Vilenchik against the Republic of Kenya, Kenya Revenue Authority, Kenya Department of Customs, and Kenya Central Bank before the United States District Court for the District of Minnesota, 16 July 2010).

³⁷ Source: *ibidem*.

³⁸ Complaint filed by the Community Finance Group and Andrew Vilenchik against the Republic of Kenya, the Kenya Revenue Authority, the Department of Customs and the Kenya Central Bank before the United States District Court in the District of Minnesota, 17 March 2010.

³⁹ 'Minnesota man suing the Kenyan government', *Mwakilishi.com*, 19 March 2010.

began to postpone the actual gold delivery, claiming that additional documents had to be obtained in order to officialise and legalise the deal. Becoming increasingly annoyed with what they perceived to be fraudulent postponement attempts, CFG representatives decided to file a complaint with the Kenya Banking Fraud Investigation Department.⁴⁰

Finally, a third company that considers itself a victim of the Paul Kobia network is Meranti Holdings Limited. Meranti, which was previously known under the name Bestley Trading Limited, is registered in Hong Kong. James Louis George, an American national who lives in Nanhai City in the Guangdong province in China, was appointed as a director of Meranti on 25 August 2009. The other director is Alan Lam Hung Ming.⁴¹ On 1 November 2010, Meranti concluded a private sales and purchase agreement with the Congolese company Groupe Minier de Kisangani (GMK). While GMK was represented by its CEO Kebi Masela, Meranti was represented by its South African representative Dennis Ray Schmelzenbach.⁴² The contract was rather vague as far as the origin of the gold was concerned. While, at one place in the contract, the origin was identified as RDC – i.e. République Démocratique du Congo – at another place, Kenya was mentioned as the goods' country of origin. In any case, the gold was due to be flown from Nairobi to the Oliver Tambo International Airport in Johannesburg, South Africa. Having passed through customs, the shipment of gold was supposed to be delivered to a refinery in Johannesburg.⁴³

Once both parties had signed the contract, they started making arrangements for the shipping of the minerals. Caroline Wamba, Kebi Masela's business partner in the company Groupe Minier de Kisangani, asked Meranti to open an escrow account with a bank in Nairobi. The account would be managed by the law firm SS Jowhal (of which Wamba was a client) and Meranti would wire \$US200 000 into it, which GMK could then use to cover the costs associated with the lifting of the gold. In addition to this, it was agreed that James George, Dennis Schmelzenbach and Errol Rees – all members of the Meranti management – would get the opportunity to inspect 300kg of gold in secure storage near Nairobi airport. The inspection took place in the presence of Caroline Wamba, Paul Kobia and senior customs officer at Jomo Kenyatta Airport in Nairobi.⁴⁴

The modus operandi of the Kobia network

It is interesting to have a closer look at the documentation that Paul Kobia and his associates used in their attempts to substantiate the bona fide nature of the transaction. The documents give a good impression of the criminal yet sophisticated modus operandi of the Kobia network. Abunwasi Lubambura, Kobia's Tanzanian collaborator, provided the Community Finance Group with a set of official papers allegedly issued by Congolese authorities monitoring the mining sector. Apart from 2 assay reports, the set of papers included 2 exploitation permits, 1 certificate of origin and 1 declaration of final exit. At first sight, the documents appear to be perfectly in order. Not only do they have official letterheads, but they are also covered with stamps and they carry the names of Congolese public servants. It is only by paying attention to some of the details that one is able to tell that they are actually fake: the documents contain strange mixtures of French and English, the description of Lubambura's business address in the DRC is extremely vague (only the name of the district is mentioned) and some of the companies mentioned are either fictitious or not officially registered¹.

¹ Documents presented by Abunwasi Lubambura to the Community Finance Group, obtained by IPIS on 3 May 2011.

⁴⁰ Complaint filed by the Community Finance Group and Andrew Vilenchik against the Republic of Kenya, the Kenya Revenue Authority, the Department of Customs and the Kenya Central Bank before the United States District Court in the District of Minnesota, 17 March 2010.

⁴¹ Information obtained from the company registry in Hong Kong, 5 May 2011.

⁴² According to Schmelzenbach, the first contacts between Meranti and GMK date back to 2009. He maintains that he got in touch with Caroline Wamba – Kebi Masela's assistant – through the internet, while he was travelling through the region in order to follow up on a contract between Meranti and Lesiki Mines. Schmelzenbach asserts that it was a Tanzanian intermediary by the name of 'David', an employee of the company Royal Security in Dar-es-Salaam, who advised him to make contact with Wamba. It was only at a later stage that arrangements were made for a face-to-face meeting between members of the Meranti management and Caroline Wamba (source: personal communication with Dennis Schmelzenbach, 28 April 2011).

⁴³ Private sales and purchase agreement FOB gold dust trial delivery between Groupe Minière de Kisangani (GMK) and Meranti Holdings Ltd. Joint Venture Hong Kong.

⁴⁴ Personal communication with James George, 20 April 2011.

Things took an unexpected turn when Chris Obure, a close collaborator of Paul Kobia, decided to spill the beans on his boss. Suffering from a troubled conscience because of his involvement in what he increasingly believed to be a criminal network, Obure told his story to Kenya's Anti-Fraud Unit. This gave rise to the freezing of several bank accounts associated with Kobia's business activities, including the escrow account set up by Meranti and managed by SS Jowhal [cfr. supra]. Furthermore, the Kenyan Criminal Investigation Department proceeded to arrest Kobia and took control of his offices and records. After Kobia's arrest, the members of the Meranti management were asked to make statements at CID headquarters, explaining how they had been introduced to Kobia, how they had opened an account for lift costs and how they had been invited for an inspection of a gold consignment at Nairobi airport.⁴⁵

While, to uninformed outsiders, this swift reaction of the Kenyan authorities gave the impression that they were taking the Kobia matter seriously, the Meranti management was not happy with the way they handled it. Much to the dismay of Meranti, the judge authorised the release of Kobia on a remarkably low bail, while the Criminal Investigation Department refused to give its go-ahead for the release of the funds stored in Meranti's escrow account. Concerned about the limited protection Obure was given by the Kenyan authorities (in spite of the fact that this whistleblower claimed to have received death threats from his former boss Kobia), James George, the head of Meranti, decided to give him \$US10 000 assistance and to offer him a new job as resident director of Meranti in Nairobi.⁴⁶

Meranti's second attempt to buy gold from the Congolese company Groupe Minier de Kisangani occurred a short time later. Meranti agreed to purchase 500kg of gold and put aside \$US 500 000 to prepare the lift. Errol Rees was charged with the task of accompanying GMK's CEO Kebi Masela on a trip to Mwanza, a Tanzanian city situated on the southern shore of Lake Victoria, where the gold would be waiting for him. Taking advantage of Rees' lack of attention, however, Masela fooled his travelling companion into accepting a cargo of 116kg of soapstone (pretending that he had delivered 500kg of gold to him).⁴⁷ In order to make the gold delivery seem trustworthy, Masela provided Meranti with an official airway bill. According to this document, 116kg of gold (in the shape of bars) would leave Jomo Kenyatta Airport on 17 December 2010, on board of flight KQ 762 of Kenya Airways to Johannesburg, South Africa. The stated address of the consignee was Suit 417, 225 Main Street, Johannesburg.⁴⁸ IPIS has been able to establish that this is the physical address of AU Traders and Refiners⁴⁹.

AU Traders and Refiners is specialized in different types of services, including the import and export of precious metals, assaying and the refining of gold concentrate. At the time of writing, the two company directors are Manne Dipico and Stephanus ('Fanie') Van Rooyen. Dipico, a senior ANC politician, is the former head of the education department of the National Union of Mineworkers⁵⁰, the former premier of the Northern Cape Province⁵¹ and the deputy chairman of De Beers Consolidated Mines in South Africa⁵². As for Van Rooyen, until 1 March 2009, he was a business partner of Norman Durrant in the company Morning Glow Metals in Johannesburg.⁵³ Durrant is one of the people who got convicted of fraud in the so-called Chemfix trial, which was held before the Johannesburg High Court in 1998. He was part of a South African gold smuggling syndicate that used the Chemfix metal refinery in Wynberg to illegally export gold and defraud South African Customs Authorities of approximately US\$ 15 million.⁵⁴ Durrant founded AU Retailers after his release from jail.⁵⁵ Nevertheless, according to his own account, he is no longer active in the company.⁵⁶

Ben Fourie, who is responsible for purchases and sales at AU Traders and Refiners, told the author of this research report that his company decided not to go through with the transaction proposed by Meranti Holdings Ltd. In order to back up his claim that the gold delivery never materialized, Fourie said that the

⁴⁵ Personal communication with James George, 20 April 2011.

⁴⁶ Personal communication with James George, 20 April 2011.

⁴⁷ Personal communication with James George, 20 April 2011.

⁴⁸ Document obtained from a source in South Africa, 3 May 2011.

⁴⁹ Information from the website of AU Traders and Refiners (www.autraders.co.za), accessed on 26 May 2011.

⁵⁰ 'Premiers on the provincial thrones', *Mail & Guardian*, 13 May 1994.

⁵¹ 'ANC edges ahead in marginal N. Cape', *Mail & Guardian*, 22 January 1999.

⁵² 'De Beers unveils next generation diamond mine in historic come of diamonds', De Beers press release, 4 November 2008.

⁵³ CIPRO company report on Morning Glow Metals, downloaded on 20 April 2011.

⁵⁴ 'State seizes R. 6.6m from fugitive's Swiss account', *Sunday Times*, 23 July 2006.

⁵⁵ Interview with a South African journalist, 20 April 2011.

⁵⁶ Personal communication with Norman Durrant, 27 April 2011.

proposed consignment had never even left Kenya.⁵⁷ James George, Meranti's chairman, confirmed the latter statement. Apparently, what happened was that, shortly before the departure of flight KQ 762 of Kenya Airways on 17 December 2010, the Kenyan National Security Intelligence Service received a tip-off about a suspicious cargo that was about to be shipped off to South Africa. Several government agencies, including the Criminal Investigation Department and customs services, were present when the cargo was opened at Nairobi airport and Kebi Masela's fraud was discovered.⁵⁸

Contrary to what one might expect, this was still not the end of Meranti's quest for gold in Kenya. A Kenyan citizen by the name of Peter Mworio, who presented himself as an agent of the National Security Intelligence Service, approached Meranti pretending to have good news about the gold delivery. According to Mworio, Kebi Masela had been put under the observation of the Kenyan authorities, while the 500kg of Tanzanian gold had been seized and were now being kept by a bank in Nairobi. Mworio said that Kebi Masela's suppliers were able to add another 200kg to the original 500kg. He advised that, in order to bring the gold delivery to a successful conclusion, Meranti had to form a Kenya corporation (Meranti Holdings Kenya Limited) and obtain an import-export licence.⁵⁹ In spite of the fact that Meranti followed Mworio's advice and agreed to go ahead with its registration, the delivery never materialized. Mworio promised he would be able to lift the 500kg gold consignment by 5 January 2011, but, in the end, he failed to meet the deadline he had set for himself. Meranti Holdings Limited is now thinking of taking the matter to court, just like the other companies that have tried in vain to buy gold from individuals or enterprises belonging to Paul Kobia's business network.⁶⁰ The company continues to be very dissatisfied with the way the Kenyan authorities are handling the matter. Much to the dismay of the Meranti management, whistle-blower Chris Obure (now a Meranti director, cfr. supra), was not given permission to testify during a hearing in the Kobia case held in a court in Nairobi in the beginning of June 2011.⁶¹

⁵⁷ Personal communication with Ben Fourie (AU Traders & Refiners Ltd), 3 May 2011. According to Fourie, his company had investigated the matter through its clearing agent in Kenya.

⁵⁸ Personal communication with James George, 20 April 2011.

⁵⁹ Personal communication with James George, 20 April 2011.

⁶⁰ Personal communication with James George, 20 April 2011.

⁶¹ Personal communication with James George, 1 June 2011.

Conclusions

The cases presented in this paper bring back memories to the so-called Goldenberg scandal, which occurred during the 1990s and which for the first time revealed the importance of Kenya as a transit country for Congolese gold. The scandal was named after Goldenberg International Ltd, the company of Kamlesh Pattni, the Nairobi trader who masterminded the scams. Taking advantage of an export compensation scheme that had been set up by the Kenyan government with the aim of replenishing the country's foreign exchange reserves, Pattni started claiming money for exports of gold and diamonds that were mostly fictitious.⁶² Because Kenya's domestic gold production was very limited at the time, Goldenberg International Ltd sometimes smuggled Congolese gold into the country and then presented it as Kenyan gold.⁶³ The Goldenberg scandal caused quite a stir in Kenyan politics, because it involved several high-ranking state officials, because it cost the Kenyan state approximately US\$ 600 million in less than three years⁶⁴, and, finally, because the political party KANU was discovered as having used Goldenberg funds to finance its campaign in the multiparty elections of 1992⁶⁵.

From the cases presented above, it can be gathered that Kenya continues to play a key role as a transit point for Congolese gold destined for markets outside the African continent.⁶⁶ Several factors help to account for this, including the porosity of Kenya's international frontiers and the widespread corruption at different levels of the Congolese and Kenyan public administrations.⁶⁷ That being said, the evidence presented in this paper also suggests that some of the Kenyan businessmen offering Congolese gold for sale on the international market resemble Nigerian email scammers, who advertise their services on the internet and then ask their clients for money under the pretext that they need to cover certain costs at the local level. Just like Nigerian email scammers, the aforementioned category of Kenyan businessmen takes advantage of a number of widely held assumptions about Africa. Realising that many Western businessmen think of Africa as a continent characterised by enormous mineral wealth, endemic corruption and weak state structures, they invent stories that are meant to confirm these prejudices. Knowing that their victims can be easily fooled into believing that a great deal of money can be made through the conclusion of deals with high-level officials in corrupt regimes, they do everything they can to make this happen. Since the international media often portrays the DRC as the prototypical example of a failed state – riddled with difficulties in managing its own natural resources in a rational way – it is not so hard for businessmen such as Paul Kobia to seduce foreign buyers with stories of privileged access to certain gold mines in eastern DRC.

⁶² 'What about that other Kenyan scandal?' Mail & Guardian, 3 February 2006.

⁶³ *Report of the Judicial Commission of Inquiry into the Goldenberg Affair*, October 2005: § 131.

⁶⁴ *The Goldenberg conspiracy: the game of paper gold, money and power*, Peter Warutere, Occasional Paper 117, September 2005: p. 1.

⁶⁵ 'Political corruption, party financing and democracy in Kenya', Oscar Gakuo Mwangi (2008), in: *Journal of Modern African Studies*, vol. 46, nr. 2: p. 273.

⁶⁶ Gold production in Kenya itself is relatively limited and mainly dominated by artisanal mining. According to a report of the US Geological Survey that describes the state of affairs in the Kenyan mineral industry in 2009, artisanal miners operate in various mines in the Nyanza, Rift Valley and Western Province (source: 'The mineral industry of Kenya', US Geological Survey (2009)).

⁶⁷ 'Top government officials caught in a web of blood gold', *The Standard*, 5 March 2011. As far as the corrupt reputation of the Kenyan authorities is concerned, it should be noted that the Kenyan public perceives both the judiciary and the police as corrupt and weak. According to the East Africa Bribery Index of 2009, the Kenya Police is the most corrupt institution in East Africa. The Corruption Perception Index published by Transparency International in 2010 ranked Kenya 154th out of 178 countries surveyed worldwide.