



All Party Parliamentary Group
on the Great Lakes Region

Arms flows in Eastern DR Congo

December 2004

The All Party Parliamentary Group on the Great Lakes Region & Genocide Prevention

The All Party Parliamentary Group on the Great Lakes region and Genocide Prevention (APPG) comprises 148 MPs and Peers from the UK Parliament. It was founded by its Chair, Oona King MP, following a visit to Rwanda by the International Development Select Committee in 1998. Today, it is the leading forum in the UK Parliament for discussion and critical analysis of issues affecting the Great Lakes region.

The APPG is not a UK Governmental organisation. It is made up of individual Parliamentarians from all parties, and both chambers of Parliament, acting on a voluntary basis.

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NOTE

In resolution 1533, the UN Security Council, acting under Chapter VII of the Charter of the United Nations:

'Urges all States, relevant United Nations bodies and, as appropriate, other organisations and interested parties, to cooperate fully with the Committee and with the Group of experts and MONUC, in particular by supplying any information at their disposal on possible violations of the measures imposed by paragraph 20 of resolution 1493.' (Para 12, emphasis added).

'Calls upon the international community, in particular the specialised international organisations concerned, to provide financial and technical assistance to the Government of the Democratic Republic of the Congo with a view to helping it exercise effective control over its borders and its airspace.' (para. 13).

The All Party Parliamentary Group on the Great Lakes Region and Genocide Prevention has been closely monitoring events in the Great Lakes Region since 1998. In seeking to promote conflict resolution, APPG delegations have travelled on fact-finding missions to Burundi (2000); Democratic Republic of Congo (DRC) (2001, 2003, 2004); Rwanda (2000, 2002, 2004); Uganda (2004), and a series of reports have been published making recommendations to the UK Government, the International Community and states in the region. In particular, this report builds on previous APPG research which examined the role of natural resources in fuelling the conflict in the DRC.[1] Pursuant to Security Council resolution 1533 (para. 12), the APPG commissioned Johan Peleman[2] from the International Peace Information Service (IPIS) to assemble a team to conduct both field and desk research.[3] Using this data, the APPG with other experts, prepared recommendations.

This report is therefore a direct response to the UN Security Council's Chapter VII invitation to 'supply any information at their disposal' and provide 'assistance'. This report would not have been possible without the cooperation of Ambassador Swing and MONUC, for which the APPG is appreciative.

Readers should be aware of the unusually difficult circumstances involved in conducting research in the DRC. The authors of the report have done their best, in all the circumstances, to be objective and fair in the compilation of this report. Special attention is drawn to the 'Standards for evidence' section at Annex 5.

Notes:

[1] 'Cursed with Riches: who benefits from resource exploitation in the DRC?' APPG Great Lakes 2002, see www.appggreatlakes.org.

[2] Chairperson of the UN Expert Panel on Somalia; Member of the UN Expert Panels on Liberia, and Sierra Leone; Consultant to the UN Expert Panel on Angola.

[3] The names of the IPIS team are listed on p47 in the section entitled 'Acknowledgements'.



All Party Parliamentary Group
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Arms flows in Eastern DR Congo
A report pursuant to UN Security Council Resolution 1533 (para 12)

December 2004

FOREWORD

This All Party Parliamentary Group report highlights the urgent need to tackle the problem of arms flows in Eastern DRC. As the results of our investigation emerged, the gravity of the situation became increasingly apparent. The APPG communicated our findings officially to the United Nations Security Council Sanctions Committee on the DRC, and to the UN Expert Group on Arms in the DRC on 28th September 2004.

This report is a revised and updated version of the document received by the Security Council. Several leads identified in our report are now being followed up by the UN Expert Group. Several of our recommendations, most notably those relating to training of MONUC arms monitors, have been accepted and the first training sessions are due to take place in December 2004.

Current events in the DRC show how fragile the situation remains, and underscore how the primary responsibility for peace and stability lies with countries in the region. At the same time, the international community must do all it can to ensure that no more arms get into the hands of rebels in the DRC.

I hope you will have time to consider our recommendations in full, they suggest practical steps to be taken in relation to a wide range of issues. One of the most important steps would be for human rights to be put at the core of the export controls of governments that supply arms. This can be done by states supporting the proposed International Arms Trade Treaty, and by fully implementing the UN Programme of Action on Small Arms and Light Weapons. As our report also shows, the establishment of legally binding instruments on marking and tracing and the control of arms brokers and traffickers would make a real difference to the lives of people in countries such as the DRC.

I very much hope that our friends in the Great Lakes region, Governments and the UN, as well as all those whose work relates to small arms, will find much of interest in this report.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Oona King', with a stylized, flowing script.

Oona King MP
December 2004

PRAISE FOR THE APPG's REPORT

Rt Hon Jack Straw MP, Foreign Secretary, UK :

'The UK welcomes this informative and thorough report. It is clear that the flow of arms in the volatile Great Lakes region adds to insecurity and hampers international efforts to bring about a durable peace. The Government will continue to assist the relevant UN Expert Group, wherever possible, and work to deter those seeking to add to the proliferation of arms in the region.'

Kathi Austin, DRC Group of Experts, Security Council Resolution 1552 (2004):

'The Group of Experts on the DRC found the APPG report an invaluable tool, not only in regards to its presentation of original data but also for the recommendations it made pointing the way forward.'

EXECUTIVE SUMMARY

The UN arms embargo on the DRC plays a vital role in reducing conflict across the country. The widespread availability of arms undermines the peace process, and encourages groups to resume armed struggle. Events in the east destabilise the transitional government in Kinshasa and weaken prospects for free and fair elections. Recent ethnically-based fighting in Ituri and Bukavu, combined with the continuing presence and activities of ex-FAR and Interahamwe, illustrate the dangers. As the end of the transitional period nears, it is critical that the UN's ability to monitor the arms embargo is enhanced. Enforcing the arms embargo is vital to help the DRC complete its transition to peace, and prevent another devastating war.

The embargo can be made effective: violations can be traced and arms transfers intercepted. Effective monitoring must, however, be based on realities in the DRC. Lack of state control in the east of the country means few border controls, no airspace control, and no administrative control. This long-standing vacuum has largely been filled by a network of private entrepreneurs and military figures. The economy in eastern DRC is closely linked to Kampala, Kigali, and Bujumbura, and the arms trade is no exception - arms networks are controlled by businessmen whose interests coincide with those of combatants. The air, water and land borders in the DRC are used extensively for smuggling arms and ammunition. The monitoring of these shipment routes must be increased, including, where appropriate, with a 24-hour MONUC presence. Those who deny MONUC access to inspect airports should be treated as having committed an embargo violation. The embargo must be approached from a regional perspective, and attention focused on the shifting alliances of different groups in eastern DRC which lead to frequent changes in arms supply routes.

The UN mission in the DRC (MONUC) is mandated to enforce the embargo. However, the vast, often impenetrable land mass, coupled with MONUC's capacity constraints, makes this very difficult. Surveillance must be increased, with some of the new air-assets proposed by the Secretary General¹ being used for monitoring compliance with the embargo; better technology should be employed, for example, low-flying drones with digital video imagery capacity would greatly enhance MONUC's ability to both monitor and evidence embargo violations. More detailed records should be kept of intercepted goods: without these, tracing arms back to source is impossible. This report outlines some of the measures the UN Security Council should agree, so that MONUC can do its job.

The report examines the current boundaries of the embargo. The cases illustrate the need for donors and multilateral agencies to demand greater transparency from *all* countries in the region in respect of arms procurement, as well as from MONUC itself. Licensed arms procurement should be transparently reviewed, and donors should demand increased scrutiny. Most important, the targets of the arms embargo should be clarified: the embargo should be extended to the whole of the DRC and only MONUC and the integrated national police and army of the DRC should be exempt. If the measures outlined in this report are put in place, the UN and member states will be better placed to bring sanctions-busters to justice, enhance prospects for peace and democracy in the DRC, and stabilise the Great Lakes region as a whole.

¹ Third Special Report of Secretary General, S/2004/650, para. 102.

LIST OF ACRONYMS

AFDL	Alliance des Forces Démocratiques pour la Libération du Congo-Zaïre
Air Ops	Air Operations
ALC	Armée pour la Libération du Congo
ANC	Armée Nationale Congolaise
APPG	All Party Parliamentary Group on the Great Lakes Region and Genocide Prevention
APC	Alliance Patriotique Congolaise
CAGL	Compagnie Aérienne des Grands Lacs
DRC	Democratic Republic of Congo
FAPC	Forces Armées du Peuple Congolais
FAR	Forces Armées Rwandaises
FARDC	Forces Armées de la République Démocratique du Congo
FDLR	Forces Démocratiques pour la Libération du Rwanda
FIPI	Front pour l'Intégration et la Paix en Ituri
FLC	Front de Libération du Congo
FLEC	Front de Libération de l'Est du Congo
FNI	Front Nationaliste et Intégrationniste
FPDC	Forces Populaires pour la Démocratie au Congo
FRPI	Forces de Résistance Patriotique en Ituri
GIS	Geographic Information Unit
HQ	Headquarters
ICC	International Criminal Court
ICG	International Crisis Group
IPIS	International Peace Information Service
LDF	Local Defence Forces
MIBA	Société Minière de Bakwanga
MLC	Mouvement pour la Libération du Congo
MONUC	United Nations Mission in the DRC
MP	Member of Parliament
NGO	Non-governmental Organisation
ONUB	United Nations Mission in Burundi
PRA	People's Redemption Army
PUSIC	Parti pour l'Unité et la Sauvegarde de l'Intégrité du Congo
RCD	Rassemblement Congolais pour la Démocratie
RCD-ML	Rassemblement Congolais pour la Démocratie-Mouvement de Libération
RDF	Rwandan Defence Forces
RPA	Rwandan Patriotic Army
RUF	Revolutionary United Front
RVA	Régie des Voies Aériennes
SPLA	Sudan People's Liberation Army
UK	United Kingdom
UN	United Nations
UNITA	União Nacional para a Independência Total de Angola
UPC	Union des Patriotes Congolais
UPDF	Ugandan People's Defence Forces

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1. BACKGROUND

Internal rivalry within the Transitional Government² and continued fighting in eastern DRC have created a potentially explosive situation. With free and fair elections in June 2005 a challenging target, parties to the Transitional Government may feel increasingly inclined to abandon the peace process and resume armed struggle. Close monitoring of the arms embargo is therefore absolutely essential so that armed groups are encouraged to work within the peace process. Easy availability of arms reduces the scope for political progress.

Fighting continues in the east of the DRC, and lives continue to be lost: on 20 September 2004, 14 people were killed and 91 homes were burnt in Lengabo, Ituri. On 8 July 2004, MONUC announced that two rebel groups³ clashed in Ngote – about one hundred kilometres north of Bunia – thereby violating the terms of the ‘Acte d’Engagement de Kinshasa’ both had signed on 14 May 2004. The fighting appeared to be aimed at controlling the Ndjanji gold mine in Ngote.

As well as leading to loss of life, events in the Kivu region continue to cause unrest in Kinshasa. Eight prominent *Rassemblement Congolais pour la Démocratie*–Goma (RCD-Goma) Members of Parliament announced the suspension of their participation in the national transitional assembly on 13 July 2004.⁴ The main reason for their decision appeared to be a profound discontent with the way the Rwandophone issue is handled by the Transitional Government. The RCD-Goma MPs demanded the withdrawal of 10,000 government soldiers deployed to Kivu following the attacks on Bukavu launched by Brigadier-General Laurent Nkunda and Colonel Jules Mutebutsi in June 2004.

Amid this government troop deployment and allegations concerning Rwandan support for these rebel forces, President Kabila of the DRC and President Kagame of Rwanda agreed to meet in the Nigerian capital, Abuja on 25 June 2004. The talks resulted in an agreement on the establishment of a Joint Verification Mechanism, allowing the Congolese and Rwandan governments to monitor activities on their frontiers. The creation of this mechanism is in line with the terms of the Pretoria Peace Agreement of 2002.⁵ This mechanism should increase oversight at the borders and, working with MONUC, it could be a useful tool to control arms smuggling into the embargoed region.

There are still numerous armed groups operating in eastern DRC. Splits and regroupings are commonplace. The arms-supply routes of these groups vary in accordance with their shifting alliances. These patterns have been established over a long period, and were particularly clear when foreign states actively supported the rebel groups during the Congo wars. For example, Rwanda and Uganda originally both supported the RCD, but disagreements among RCD members, and between Kampala and Kigali, splintered the original movement into competing factions.⁶ Accordingly, the Rwandan and Ugandan governments established separate lines of military supply to their respective allies in eastern DRC. Divide and rule tactics came to

² The main sources of contention are power-sharing within the integrated army, decentralization, amnesty for war crimes, the restructuring of a number of public services and, finally, the nationality question (Interview with UN source, 6 September 2004.)

³ The FAPC clashed with the FNI - supported by Hemas.

⁴ Three of the eight deputies, including Bizima Karaha, returned to Kinshasa with Vice President Ruberwa on 30 August 2004.

⁵ ‘Kabila, Kagame agree steps to end tensions’, *irinews*, 25 June 2004.

⁶ International Crisis Group: ‘Scramble for the Congo’ op. cit.: p. 21.

dominate foreign intervention. Individual army commanders and businessmen pursued commercial agendas, often using the veneer of genuine regional security concerns as a fig leaf.⁷

The newly formed RCD-*Mouvement Liberation* (RCD-ML) was backed by Uganda and led by Ernest Wamba dia Wamba, a former academic. Rwanda supported RCD-Goma. Many further splits and fragmentations occurred. For example, Thomas Lubanga withdrew from the armed wing of the RCD-ML in June 2002 to create his own rebel movement, the *Union des Patriotes Congolais* (UPC). Originally supported by Uganda, Lubanga managed to gain control of Bunia in August 2002. Lubanga then established links with Rwanda and RCD-Goma after being excluded from the Mambasa ceasefire talks in December 2002. According to UN sources, Rwanda organised arms airdrops to the UPC camps in Mandro, Tchomia, Bule, Bulukwa and Dhego. Rwanda also reportedly trained Hema elements in the UPC.⁸ In March 2003, Jérôme Kakwavu Bukande, a UPC commander, defected from the UPC to create his own rebel movement called the *Forces Armées du Peuple Congolais* (FAPC).⁹

Another important grouping that has numerous chains of supply are the Rwandan Hutu rebels. The Rwandan government has been concerned about their presence in the DRC since the genocide in 1994. Broadly speaking, these rebels are comprised of: former members of the *Forces Armées Rwandaises* (ex-FAR) and Interahamwe who perpetrated the Rwandan genocide; other ex-FAR soldiers and officers who did not take part in the genocide; new recruits from various areas in eastern and central Africa.¹⁰ After the start of the second Congo war in August 1998, Rwanda faced a joint offensive by troops loyal to President Kabila and Rwandan Hutu rebels receiving logistical support from Kinshasa.¹¹ According to the International Crisis Group, the delivery of arms and other supplies took place by air to locations in the DRC, or by boat from Tanzania.¹² Current estimates of numbers of these rebels range from 8,000 - 15,000; whilst they undoubtedly constitute a threat for the Rwandan government, observers in the field argue that they are used as a pretext for Rwanda to control mineral rich Congolese territory.

⁷ The example of the UPDF officers in Ituri is a clear case in point. The same commanders who were responsible for the creation, training and arming of armed militias also became key players in the trade of Congolese natural resources. Very tellingly, only two of the seven Ugandan sector commanders in Ituri left the region without being confronted with serious looting allegations (source: 'Special report on the events in Ituri', January 2002-December 2003, S/2004/573: § 27.)

⁸ Special report on the events in Ituri, January 2002-December 2003, S/2004/573: § 29.

⁹ The movement's headquarters are located in Aru and it is assumed among observers of the DRC conflict that the revenues of the Aru and Mahagi border posts are divided between Jérôme Kakwavu and Ugandan military officers with whom he appears to have established relations.

¹⁰ They are currently known as '*Forces Démocratiques pour la Libération du Rwanda*' (FDLR). Judging by the information collected from interview with various sources, it seems that Rwanda and Burundi have reasons to remain concerned about the continued presence of FDLR combatants on Congolese soil. Apparently, the aim of certain FDLR groups is to conduct destabilisation operations in Rwanda. (Interviews with various sources, July 2004).

¹¹ International Crisis Group: '*Rwandan Hutu rebels in the Congo: a new approach to disarmament and reintegration*', ICG Africa Report N° 63, Nairobi/Brussels, 23 May 2003: p. 4.

¹² International Crisis Group: '*Scramble for the Congo*' op. cit.: p. 13.

The long-term presence of these and other armed groups has prevented the state from exercising control in eastern DRC. Instead, control is wielded by mafia-type organisations, private armies, businessmen and state elites from both within and outside the region. Domestic and foreign ‘client’ networks have flourished, and this has been accelerated by exploitative patterns of foreign investment.¹³ The Congolese war economy – which mainly revolves around the transnational trade in arms and natural resources – is

Box 1: The discovery of arms caches in the Kivu provinces

A substantial arms cache was discovered on 3 February 2004 at a residence of an associate of Xavier Chiribanya, the former governor of South Kivu. The discovery occurred during President Joseph Kabila’s visit to Europe and was followed by violent clashes between forces loyal to Brigadier-General Nyabiolwa – the then commander of the Tenth Military region – and soldiers of Colonel Jules Mutebutsi, the deputy commander of the Tenth Region. The latter was suspended from his position as governor by the Council of Ministers on 7 February 2004. Remarkably, however, he was not arrested for the possession of arms. The conflict between Nyabiolwa and Chiribanya began when Nyabiolwa received military command of South Kivu, which was previously controlled by RCD-Goma.

Following this incident, troops of General Nyabiolwa invaded the houses of two RCD-Goma military officers closely linked to the suspended Governor. Major Kasongo, who had previously been sentenced to death by a military court of the Kinshasa government for his alleged involvement in the murder of Laurent-Désiré Kabila, was arrested by General Nyabiolwa and transferred to the capital. The apprehension of Kasongo deeply concerned senior RCD-Goma leaders and nearly provoked their withdrawal from the transitional government. The situation was remedied after President Kabila and Vice President Azarias Ruberwa (leader of the RCD-Goma) agreed to send Major Kasongo back to Bukavu on a MONUC flight on 25 February 2004. The transition government also decided to dismiss General Nyabiolwa and replace him with General Felix Mbuza Mabe, who was part of the government FAC forces during the civil war.

Sources: ‘Pulling back from the Brink in the Congo’, ICG Africa Briefing, Kinshasa/Nairobi/Brussels, 7 July 2004: p. 3.; Fifteenth report of the Secretary-General on the United Nations Mission in the Democratic Republic of Congo, S/2004/251, 25

primarily a transborder issue. Networks controlling this trade usually operate in several countries simultaneously, using the neighbouring capital cities as transit points for their goods. These networks are typically composed of influential players on both sides of the Congolese border.¹⁴ Deals have been struck between influential businessmen, politicians and high-ranking military officers on the one side and multinationals on the other. Both sides benefit. Armed groups use resource exploitation to finance their war efforts. Foreign mining companies have paid war taxes to access Congolese natural resources at discounted prices.¹⁵

Effective monitoring of the arms embargo will not solve all of these problems. However, reducing the capacity of armed groups’ to both buy and sell weapons, and removing the opportunity for parties to the Transitional Government to prepare for an armed alternative to the peace process, will go a long way to securing the process of bringing stability to this troubled region.

¹³ Ian Taylor: ‘Conflict in Central Africa: clandestine networks & regional / global configurations’ in: *Review of African Political Economy*, nr. 95 (2003): pp. 45-55.

¹⁴ This has been described in detail by researchers and official bodies, such as the United Nations Panel of Experts on the Illegal Exploitation of Natural Resources in Congo. Further, the Congolese war economy has been described in great detail in the following reports: UN Security Council Documents S/2003/1027 and S/2002/1146; ‘Cursed by riches’ op. cit.; Tim Raeymaekers: *Network war: an introduction to Congo’s privatised conflict economy*, International Peace Information Service, Antwerpen, October 2002.

¹⁵ The UN Panel of Experts developed the concept of ‘elite networks’ to describe the actor groups responsible for the illegal exploitation of natural resources from the DRC (see: S/2002/1146: § 21).

Box 2: AngloGold Ashanti

Given the urgent nature of the demobilization and disarmament process, Ituri was declared a weapon free zone with the May 2004 signing of the *Acte d'Engagement de Kinshasa*. This poses a serious challenge for AngloGold Ashanti that has considerable gold mining interests in the Mongbwalu area. According to MONUC, the first AngloGold Ashanti team arrived at their concession in November 2003.ⁱ In April 2004, AngloGold Ashanti concluded a contract for the provision of on-site security with Site Logistics, a Kinshasa-based subsidiary of the international ArmorGroup. This security team was deployed on 1 June 2004.ⁱⁱ

The ArmorGroup recommended that its guards be equipped with shotguns and sidearms at a minimum. According to correspondence with ArmorGroup, an agreement in principle exists with the Congolese authorities to procure these weapons.ⁱⁱⁱ However, this would be in contradiction with the spirit of the declaration of a weapons-free zone, and the situation creates a dilemma. The UN would like to promote economic development in Ituri, but within the context of current insecurity in the region, this may not be practical. Furthermore, if unarmed, the private security force might rely on MONUC for protection at the mine site, or be forced to discuss security with one of the local militia groups. In written correspondence, AngloGold Ashanti acknowledges that during a meeting with the FNI leader Njabu Ngabu on 18 March 2004 it had been 'assured of the FNI's commitment to peace in the region and to that organisation's support for [AngloGold Ashanti's] presence and work in this area'.^{iv}

Notes:

i Confirmed by AngloGold Ashanti in letter 13 July 2004.

ii Letter from AngloGold Ashanti, 13 July 2004.

iii Letter from ArmorGroup, 26 June 2004.

iv Letter from AngloGold Ashanti, 13 July 2004.

Violence in Ituri and Kivu prior to the Transitional Government's inauguration prompted the UN Security Council to take action: resolution 1493 was adopted on 28 July 2003. It was announced that the military strength of the United Nations Mission in the DRC (MONUC) would increase to 10,800 troops. An arms embargo was imposed on Kivu and Ituri. Paragraph 20 of the resolution provides:

*(...) all States, including the Democratic Republic of the Congo, shall, for an initial period of 12 months from the adoption of this resolution, take the necessary measures to prevent the direct or indirect supply, sale or transfer, from their territories or by their nationals, or using their flag vessels or aircraft, of arms and any related materiel, and the provision of any assistance, advice or training related to military activities, to all foreign and Congolese armed groups and militias operating in the territory of North and South Kivu and of Ituri, and to groups not party to the Global and All-inclusive agreement, in the Democratic Republic of the Congo.*¹⁶

The United Nations Expert Panel

on Illegal Exploitation of Natural Resources and other Forms of Wealth in the Democratic Republic of the Congo welcomed the imposition of the arms embargo in its final report on 23 October 2003.¹⁷ It pointed out that the flow of arms was the critical element in 'the vicious cycle of exploitation, arms and continued conflict' and noted that the international community could play an effective role in resolving the issue of illegal arms trafficking. The Security Council was urged to establish a monitoring mechanism to check member states' compliance with the arms embargo, amongst others by:

'tracking the full scope of the arms flow supply chain, from manufacturer or supplier to the final beneficiary, including the financing of the process through the illegal exploitation of resources of the DRC'.

The Panel believed that the creation of a monitoring mechanism would increase the risk of exposure for violators of the embargo.¹⁸ The Security Council responded to the Panel's call for the establishment of a monitoring mechanism through the adoption of resolution 1533 on 12 March 2004. A Group of Experts was established, tasked with the investigation of

¹⁶ Resolution 1493 (2003), adopted by the Security Council at its 4797th meeting, on 28 July 2003.

¹⁷ UN Document S/2003/1027.

¹⁸ Third report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo, 15 October 2003, S/2003/1027: § 59, 60, 61.

possible violations of the arms embargo. The Group of Experts presented its findings on 15 July 2004. Subsequently, the Group's mandate was renewed under resolution 1552 of 27 July 2004. A new report is due to be remitted in early 2005.¹⁹

The European Union has had an arms embargo on the DRC since 1993. It still applies today and has been revised to take account of the changed situation.²⁰ It covers the whole country, but excludes transfers to the integrated army and police, and also to MONUC. The embargo binds all member states of the EU.

This report examines the routes by which arms are delivered; namely by air and over land and water. It explains the challenges to monitoring and suggests ways in which the embargo may be made more effective. A number of case studies highlight systemic problems such as fraudulent aircraft registrations, and of access to airports. Next, several examples of procurement of defence equipment by the DRC are examined. They demonstrate the importance of transparency and oversight. Finally, information about MONUC's capacity and procurement practices is examined in order to suggest how effectiveness can be increased.

2. ARMS DELIVERY ROUTES: air and surface

Arms arrive in Kivu and Ituri primarily via Rwanda, Uganda and from Kinshasa. These locations serve as transit points for weapons destined for the embargoed region.²¹ The fact that the economies of Kivu and Ituri are largely directed toward the east of the continent means that Kampala, Kigali and Bujumbura serve as trading centres for commodities exported from, or consumer goods supplied to, markets in eastern DRC. Both Rwanda and Uganda are ideally located as intermediary points in the arms trafficking pipeline to Kivu and Ituri: they are proximate neighbours of eastern DRC and are also linked by road, rail and lake to Kenya and Tanzania, both of which have substantial ports. The legal framework governing the trading relations between these countries creates a technical loophole which may facilitate arms-trafficking.²² During the research information was also received on small-scale arms flows into the DRC from Sudan, Burundi, Tanzania, the Central African Republic and Somalia.

Arms networks appear to be controlled by private entrepreneurs whose interests coincide with those of the warring parties. Businessmen involved in the import and export of goods and raw materials from the DRC are also involved in the supply of arms and ammunition to armed

¹⁹ Resolution 1552 (2004), adopted by the Security Council at its 5011th meeting, on 27 July 2004.

²⁰ Council Regulation (EC) 1727/2003 of 29 September 2003 concerning certain restrictive measures in respect of the Democratic Republic of Congo.

²¹ Beyond this report's capacity to confirm but worthy of further investigation are reports that ammunition and/or arms are supplied by the Ugandan arms factory in Nakasongola District (114km north of Kampala, Uganda) to the Congolese FAPC militia led by Jerome Kakwavu. The Nakasongola arms factory in Uganda is part of the National Enterprises Corporation, established to service the needs of the Ugandan armed forces. The factory produces small arms and ammunition and refurbishes tanks and armoured vehicles. The factory was privatised and is now called Luwero Industries. In 2003 it was reported that the factory not only serves the UPDF but was also selling arms to private dealers for domestic use or for exports. Rumours about the continued production of landmines have never been confirmed (source: 'Ugandan arms bazaar', *Africa Analysis*, 3 October 2003).

²² E.g. the Protocol for the establishment of the East African Customs Union (2003) prohibits practices, by customs, 'which adversely affect free trade', including the inspection of cargo shipped through the common borders of Kenya and Uganda. The National Focal Points on Small Arms and Light Weapons in both countries are currently revising the legislation because it is recognised that such measures create a loophole that can be abused by arms traffickers.

groups in the embargoed region. The following sections analyse arms transfers which take place by air, and on the ground, by land and water.

2.1 Air

Aviation is commonly used to transfer arms and ammunition from the DRC's neighbours to armed groups in Kivu and Ituri. Numerous rebel or militia groups control at least makeshift runways where smaller aircraft land. Sometimes runways are not even necessary – reports were received of supplies being para-dropped into eastern DRC. Moreover, it appears that the majority of arms delivered by air are micro-shipments comprising limited quantities of light arms and ammunition that can be rapidly dispersed to any one of the many armed groups. The vast territory covered by the UN arms embargo and the often impenetrable landscape of Kivu and Ituri impedes efficient monitoring of the more than one-hundred known airports and landing strips. This, coupled with the lack of even rudimentary air traffic control mechanisms as well as MONUC's lack of manpower and specific expertise, creates tremendous challenges when intercepting arms and related materiel shipped by air.

Depending on the source, between 350 and 400 airfields can be found in the country, but MONUC has only seventy-one observer teams and they have many additional operational tasks. An additional weakness is the lack of radar equipment to monitor the airspace and the lack of screening equipment²³ to search the aircraft's contents. MONUC also has no night vision capacity, nor does it maintain any presence at airports at night.

The research into arms-trafficking by air focussed on airports and airfields, and also airspace monitoring and airline operators. Airfields were identified so as to determine likely points of embargo violations and other illicit activity. The practical issues of airspace control in eastern DRC were examined to ascertain how best to implement practical surveillance over airspace or local aviation companies operating in the embargoed region.

Intercepting flights at landing: Mapping

The research sought to locate and identify all known runways and landing strips in the embargoed region. MONUC uses 53 airports and 130 landing sites within the DRC. However, MONUC's aviation unit (AirOps), has not mapped airfields which MONUC does not use.²⁴ The MONUC website displays a GIS map of airfields in the DRC that identifies approximately three hundred airfields. Most of these are outside the embargoed Kivus and Ituri which fall predominantly in MONUC sectors five and six – the GIS map locates about 25 airfields in these two sectors combined. The *Régie des Voies aériennes* (RVA) in Kinshasa, which oversees airport infrastructure in the DRC, is in charge of 52 airports but only controls half of them.²⁵ Preliminary mapping of airfields in the embargoed region was commenced, using specialised aerial navigation charts, open source material and interviews with pilots operating in eastern DRC: 171 airports, airfields and landing strips in eastern DRC territory²⁶ were identified. This includes Kivu, where 110 airstrips were identified, and Ituri, as well as adjacent territory that could also be used to provide arms and ammunition to the embargoed region. The large number of landing sites reinforced the supposition that aviation smuggling routes play a significant role in the supply of arms and related materiel to eastern

²³ There are a limited number of handheld metal detectors available.

²⁴ Interview with MONUC Air Ops, Kinshasa, 17 June 2004.

²⁵ Interview with RVA, Kinshasa, 24 June 2004.

²⁶ This was within the grid 026° 00' East to 031° 20' East, and 05° 00' North to 06° 10' South.

DRC, and that only a small fraction of these landing sites fall under any form of MONUC monitoring.

Denial of access to suspected arms flights

Even when MONUC personnel are stationed in the vicinity of airfields, their access to aircraft is sometimes obstructed. MONUC military observers have on numerous occasions been denied access to sensitive areas, including training camps and incoming flights. Two of these cases of denied access are outlined in Box 3. Denial of access illustrates the sensitivity of the MONUC mandate, and more importantly, fosters mistrust between all parties.

New runways

Mapping is essential, but it must be borne in mind that armed groups in eastern DRC may use roads as temporary runways or can create new landing strips in a matter of days. These strips, although cut out of the bush, are capable of receiving transport-aircraft ferrying weapons or other contraband. This prospect means that smuggling routes can change almost immediately, thereby greatly reducing the effect of monitoring known airstrips. Moreover, these freshly created landing strips are difficult to identify from the air, so their existence could remain concealed for some time – even if there was adequate air surveillance over the embargoed area at some point in the future. The use of helicopters, although more costly than fixed-wing aircraft, also significantly increases the clandestine delivery options for armed groups.

Regional airports

Regional airports should not be overlooked when monitoring the embargo. Many consumer goods traded in Kivu and Ituri are imported through the airports of Uganda, Rwanda or Burundi. To avoid import duties aircraft will sometimes file false flight plans declaring that they are only moving cargo from one Congolese airport to another. Planes are also often diverted from their original route, for example under the guise of emergency landings. This allows aircraft to land at airports at times after closing hours, when there is no inspection.

Research revealed that most of the aircraft suspected of delivering arms to Kivu and Ituri are commercial carriers operating out of Beni, Bunia, Butembo, Bukavu or Goma, as well as some of the smaller airports in eastern DRC. Their local operations are overseen from offices in Kinshasa, Kigali or Kampala where the aircraft load cargo and offload goods from DRC.²⁷ Many of these activities appeared suspicious because companies routinely violate aviation regulations for commercial gain, not necessarily for arms smuggling. One example of this is the status of flights between Uganda and the DRC. Officially, commercial air traffic between Uganda and DRC was suspended after the UPDF withdrew from eastern DRC.²⁸ The Ugandan Civil Aviation Administration and the Congolese RVA concluded a Bilateral Air Service Agreement in May 2004 that would enable

²⁷ This was confirmed by representatives of various aviation companies interviewed during a study trip in the Great Lakes region in June 2004.

²⁸ 'No Flights yet between Uganda and Congo'; *The East African*, Nairobi, 12 July 2004.

Box 3: Denial of access

Gbadolite Airport

Between mid-January and mid-February 2004, MONUC military observers were denied access to Gbadolite airport on at least four occasions. The military observers were also prevented from verifying the cargo arriving on ex-ALCⁱ flights (Antonov 12s and Antonov 26s). These flights sometimes coincided with the arrival of Vice-President Jean-Pierre Bemba at the airport. Bemba was traveling on a separate, Boeing, aircraft. According to MONUC, explanations that these flights were being used to centralise and prepare an inventory of ex-ALC weaponry and equipment ‘did not appear consistent with the secrecy that surrounded these flights as well as the off-loading and loading of their cargoes’.

On 16 January 2004, coinciding with the arrival of Vice-President Bemba in Gbadolite on a separate aircraft, another An-12 owned by the MLC landed at Gbadolite airport. MONUC military observers were denied access to the airport by ex-ALC military personnel. MONUC believed that the An-12 originated in Basankusu. According to MONUC, Bemba’s unannounced visit was aimed at regrouping ex-ALC arms and ammunition and officers that would not be integrated into the FARDC. MONUC also cites sources saying that another of the An-12 flights transported two tons of arms and related materiel between 16-24 January. On 21 January 2004, military observers were also barred from the Gbadolite airport prior to the same An-12 landing, and were denied access to verify the aircraft’s cargo. A representative of Bemba assured MONUC that the aircraft had only transported ex-ALC officers and their families, but military observers reported that they could only identify one passenger disembarking from the plane. Separately, another witness told MONUC that the plane was carrying arms from Basankusu, Equateur Province. MONUC was also denied access to an An-26 that landed at Gbadolite airport on 21 February and departed the following day.

Kamina Airbase

On 31 October 2003 an Antonov 28 crashed in stormy weather near the military base of Kamina. A newspaper reportⁱⁱ alleged that the aircraft was ferrying arms and ammunition to armed groups in South Kivu.ⁱⁱⁱ MONUC tried to obtain an official version of the facts but reports of the crash were neither confirmed by the military nor by the civilian authorities in Kinshasa. MONUC then asked permission to inspect the crash site, which was about 800 meters from the Kamina base runway. Military observers, however, only received permission to visit the site on 3 November. When the military observer team arrived, led by a Congolese Warrant Officer Makobo Kitoba, it was prevented from reaching the aircraft by soldiers stationed around the plane. At the same time four civilians were seen taking photographs of the plane and the crash site. The soldiers pointed their weapons at the military observers team and forced the UN personnel to depart the site, while taking custody of Warrant Officer Kitoba. Kitoba was later tried by court martial on 19 November and was found guilty of quitting a duty post and sentenced to five years imprisonment. MONUC officially notified the Congolese Presidency of its concern that the army officer had appeared to have been prosecuted for assisting MONUC in carrying out its mandate.^{iv}

It was not possible to visit the site of the crash. The owner of an airline company in Kinshasa, however, claimed that General Numbi of the *Maison Militaire* had tried to persuade him to use his aircraft to fly the cargo.^v The aircraft owner said he had refused because the cargo, according to him, consisted of weapons. He said that another local airline, Flight Express, had been hired by General Numbi. Flight Express leases aircraft from a company called Tepavia Trans in Moldova.^{vi} Tepavia confirmed that one of its aircraft had been chartered for a flight from Kinshasa to Kamina on 31 October 2003 and had crashed. The six passengers on board were all unharmed. Tepavia also replied that it had conducted its own investigation into the crash and that it was ‘absolutely certain’ that the airplane had not been transporting weapons.^{vii} An attempt was made to interview the pilot in command of the flight but Tepavia’s Director General only provided his name, without contact details, toward the end of the research period. The pilot was therefore unable to be located. An attempt was made to physically locate the offices of Flight Express in Kinshasa, but at the company’s reported address^{viii}, nobody had heard of Flight Express or its owners.^{ix} One week after the crash, Tepavia cancelled its insurance for this particular aircraft, but did not file an insurance claim.^x

Notes:

ⁱ ALC (*Armée pour la Libération du Congo*) is the former armed wing of the MLC rebel movement.

ⁱⁱ ‘UN Protest Over Suspected Arms Smuggling in DRC’, AFP, 5 November 2003.

ⁱⁱⁱ Vice President Ruberwa also claimed that the plane was carrying weapons during an official meeting with MONUC.

^{iv} Information about these case studies was collected during interviews with UN Staff in the DRC in June 2004.

^v It was agreed not to mention the individual’s name. The interview was conducted on 14 June 2004 in Kinshasa.

^{vi} Telephone interview with Tepavia, 23 June 2004.

^{vii} Fax from Tepavia Trans Ltd. Received on 25 June 2004.

^{viii} Mentioned on a Flight Express business card. Kinshasa, June 2004.

^{ix} Visit to the stated address for Flight Express on 24 June 2004.

^x Documents provided by and email communication from the insurance company Donaris Group, 15 July 2004.

flights to resume.²⁹ The agreement stipulated that aircraft destined for the DRC could only depart from the civilian airport in Entebbe, but the aircraft making these flights are all Antonovs, which are not allowed to operate from the civilian airport. As a result and despite the ban, several airline operators with aircraft based at the Entebbe military airbase, which is not overseen by the Ugandan Civil Aviation Authority, lease aircraft to companies in eastern DRC.³⁰ Some aircraft disregard the bilateral agreement as they land at airports in eastern DRC that are not among the valid points of entry stipulated in the agreement.

Arms transfers by parachute

Monitoring landing sites will enable a significant proportion of transfers to be monitored. However, some equipment is delivered to armed groups in eastern DRC by parachute drops. Through interviews with MONUC staff, individuals at airports in the Kivu provinces, diplomatic sources and intelligence services in a number of countries, specific information was received of at least three dropping incidents: on 19 February 2004 two unidentified aircraft entered Congolese airspace crossing Lake Albert, flying in the direction of the UPC-L territory. Locals were interviewed and stated they had seen two waves of parachutes with cases attached – one plane dropped 23 parachutes and the second 22 parachutes. During the night of 11-12 March 2004 two rotations were spotted of an Antonov dropping cases in an area where the UPC-L was thought to be located. A recent case of parachute droppings took place early in June 2004 when three tons of ammunition were para dropped 20 kilometres south of Bukavu from a very high altitude.³¹ The plane arrived from Lubumbashi, where a high ranking Congolese officer oversaw the operation.³²

Intercepting flights at landing: recommendations

MONUC should maintain as comprehensive a list as possible of landing sites in Eastern DRC so as to increase the effectiveness of its aerial monitoring.

MONUC should be provided with low-flying drones which have digital video imagery capacity. This would enable it to both monitor and evidence embargo violations. MONUC should also be provided with increased air surveillance capability, including night vision capacity mounted on its helicopters. States should actively share satellite imagery with MONUC to monitor troop movements and potential border crossings.

All signatories to the Global and All-inclusive Agreement must ensure that MONUC can fulfil its mandate as required under resolutions 1493 and 1533. In particular, all parties in the DRC should be reminded, in the strongest terms, to provide MONUC with immediate, unconditional and unhindered access to any facility in the DRC. Denying MONUC access should constitute a breach of the embargo.

²⁹ Interview with Mr. Ambrose Akandonda of the CAA in Kampala on 21 June 2004. Prior to the interview, an official request for a copy of the Agreement was sent to the CAA but no reply had been received at the time of writing. It remains therefore unclear which Ugandan based airlines are legally licensed to operate in eastern DRC.

³⁰ Interviews with representatives of airline companies in Entebbe, 21-24 June 2004. Copies of several of these contracts are held.

³¹ The information was received from a source who was present at Lubumbashi airport when the cargo was loaded. The information was later confirmed by an intelligence source in Europe. Additional details of the flight, such as the registration number of the aircraft, could not be confirmed but would require further investigation.

³² When an attempt was made to set-up a meeting to interview the officer, threats were received. One of the research team had to leave the DRC due to the seriousness of these threats. The information concerning the three parachute droppings was confirmed through interviews with intelligence officials, embassies and MONUC.

MONUC must deploy military observer teams at the major airports in eastern and south-eastern DRC, and also the airport of Lubumbashi, for twenty-four hours a day. MONUC must be given free access to inspect any airport, whether civilian or military, or any aircraft in the DRC, and also Uganda and Rwanda. Random searches by MONUC at airports in the DRC would be an additional deterrent to traffickers.

MONUC, when inspecting aircraft and airport facilities, should not only thoroughly inspect an aircraft's cargo, but also the documentation: pilot's logbook; pilot's various licences; airline company details and the airworthiness and insurance documents of the aircraft. MONUC should do so with the assistance of the appropriate airport authorities and the representatives of the *Régie des Voies Aériennes* and the *Direction de l'Aviation Civile* present. Data on unauthorised landings or landings after the official closure time of an airport should be centralised by MONUC for analysis or follow-up by the Group of Experts.

The operation of civilian aircraft from the military airport in Entebbe should be cancelled immediately; furthermore all flight movements should be recorded by the Civil Aviation Authority.

The producers and suppliers of parachutes, which can be used for para-dropping, should refrain from providing such equipment to countries in the region, including the DRC, Rwanda, Burundi and Uganda or request from these countries proper explanations as to end-use. These systems should be considered as 'arms or related materiel' in the context of UN resolutions 1493 and 1533 and their use in Kivu or Ituri should be a violation of the arms embargo, and result in appropriate sanctions.

2.2 Control of airspace

Airspace monitoring

There is no systematic monitoring of flights in Kivu and Ituri, something common throughout Africa. Whilst few African countries have good radar systems, this has created a particular problem in the DRC where the general breakdown of state control over the territory and the importance of aviation in ferrying cargo and passengers across the country, have created a free-for-all situation that is readily exploited by businessmen and traffickers.

The absence of radar in the DRC means that air traffic controllers must rely on information provided through radio contact with aircraft. The controllers at Kisangani for example, which is a major hub for MONUC and civilian aircraft, provide sequencing and separation for aircraft by issuing instructions over the radio tower's frequency and by using binoculars – a level of oversight usually used for small airports with limited commercial traffic. This is the same at the other main airports in Kivu and Ituri. Smaller airfields have no control at all. The absence of monitoring in the airspace above Kivu and Ituri therefore presents considerable challenges to the successful implementation of UN resolutions 1493 and 1533. MONUC efforts to lobby UN member states for radar equipment have so far been unsuccessful.³³ MONUC has a presence at different airfields in the Kivu provinces but it cannot control the activity of myriad airline companies operating smaller aircraft that can land virtually anywhere.

Perhaps the most pressing problem is the need to identify all aircraft operating in the airspace of eastern DRC. The *Regie des Voies aériennes* and MONUC record flight arrivals and departures only from a limited number of airports. This information does not appear to have been compiled and analysed in any systematic way, and neither MONUC nor the *Regie des Voies aériennes*, nor any other authority, can identify all aircraft and operators in the region.

³³ Interview with MONUC, Political Affairs Department, 14 June 2004

Kinshasa's aviation register is incomplete because during the war, airport authorities in the East licensed and registered aircraft without consulting the capital. It is therefore almost impossible to verify the operations of aircraft in DRC territory. In May 2004 a team of the *Direction de l'Aviation Civile* was sent to eastern DRC in an attempt to regulate and centralise all data on the aircraft that were operating in the DRC. Their report was not complete at the time of writing.

Identifying aircraft

Any embargo violation committed by an aircraft can be traced in theory because the aircraft or its cargo normally generate paperwork at some point during the flight. A substantial portion of the initial research for this report was devoted to identifying aircraft operating in the DRC in order to detect possible arms delivery flights. This information was collected through numerous interviews with private aviation companies, pilots and air traffic control operators for compilation in a central database. Large amounts of information concerning illegal operations such as false flight plans, undeclared cargos or false cargo manifests, and unlicensed operators and pilots was analysed. These illegal activities may be committed for various reasons other than arms smuggling, and therefore all such cases were followed up with more extensive investigation to determine the cause of the violation.

Many aircraft operating in the Great Lakes region use fake registrations, sometimes to hide their true ownership structures or to avoid costly but mandatory airworthiness inspections.³⁴ In other cases the aircraft owners or operators seek to avoid overflight and landing fees by using another aircraft's call-sign and another company's billing address.³⁵ Aircraft are also registered in countries lacking proper oversight of their aviation registries or of the aircraft under their supervision. This means that some aircraft operators forego mandatory aircraft maintenance checks. In one alleged example, Volga Atlantic Airlines registered a number of aircraft in Burundi that the Antonov Design Bureau in Kiev - responsible for their mandatory annual technical checks and clearances - states were in violation of international civil aviation regulations.³⁶ These aircraft have been used to supply the South African peacekeepers in Burundi and the DRC. An investigation into the use of these aircraft was ongoing in South Africa at the time of publication.³⁷

Camouflaging air operations

Tracking the movement of suspicious flights is more difficult when aircraft use fake registration numbers and appear to be ghost aircraft without owners or points of origin. Several UN Security Council Expert Panels covering the arms embargoes on UNITA in Angola, and on Sierra Leone and Liberia have expressed their concern over fake aircraft

³⁴ The registration and deregistration of an aircraft can only take place if valid insurance and airworthiness documents can be provided. These need to be renewed each year. See also paragraph on fake registration below.

³⁵ Two aviation companies reported such abuses, showing claims they were asked to pay for landings of aircraft that were not theirs.

³⁶ Letter Antonov Design Bureau to the Civil Aviation Authorities in South Africa, 05.02.2004, a copy of the letter was received and turned over to MONUC and the *Régie des Voies Aériennes* in Congo.

³⁷ 'Civil Aviation to probe foreign cargo firm', *Business Report*, Johannesburg, 23 February 2004. *This Day*, another newspaper from South Africa, also published a series of articles on Volga Atlantic and was sued by Volga's owners, but on June 25 2004 the Court in Johannesburg ruled in favour of the newspaper.

Box 4: Fraudulent aircraft registrations: the case of Viktor Bout

An Mi-8 transport helicopter crashed around 10 May 2004 while travelling from Walikale to Goma with cassiterite and two passengers. One of the helicopter's engines failed, forcing an emergency landing, although sources contacted noted that there were suspicions the Mi-8 was overloaded with 1.5 tons of the mineral cassiterite.ⁱ None of the passengers were badly injured and the pilots later returned to Russia, according to sources.ⁱⁱ

The helicopter's registration, supplied by several aviation sources in the region and confirmed by a photograph supplied to the researchers, is 9Q-CQM. The 9Q prefix is used for all DRC registered aircraft but documentation provided by the RVA that lists all registered aircraft in the DRC as of May 2004ⁱⁱⁱ indicates that the registration number 9Q-CQM is used by a McDonnell-Douglas DC-8-53F fixed wing aircraft, suggesting that the crashed Mi-8 helicopter had been operating with a registration number that was already in use. Research revealed that the Mi-8 in question was operated by a company based in Goma, the Great Lakes Business Company. This company is managed locally by Mr Douglas, but according to information provided, was run by Dimitri Popov who currently lives in Russia,^{iv} while it has been alleged that Viktor Bout was the supervisor of the company.

Popov's operations in Central Africa came under scrutiny in late 2002, when Popov was stopped and interrogated at Amsterdam Schiphol Airport, and then searched while passing through Kinshasa Ndjili Airport. He was also arrested and searched at Nairobi's Jomo Kenyatta International Airport in 2003.^v Popov continued to operate from Rwanda until the end of 2003, when the Rwandan authorities apparently pressured him to relocate. The pressure applied to Dimitri Popov was initiated due to his presumed association with Viktor Bout,^{vi} the fugitive arms dealer residing in Russia for the past two years.^{vii}

Several sources interviewed reported that the crashed Mi-8 of GLBC registration 9Q-CQM was previously registered as 3C-QQM.^{viii} According to a publication by a group of non-governmental organisations, this helicopter was spotted in eastern DRC in mid-2003: 'a white helicopter with a blue registration 3C-QQM is regularly supplying the RCD-Goma positions at Bunyatenge, Mbingi, Muhanga with arms and munitions, with the full knowledge of MONUC personnel based in the south of the Lubero territory'.^{ix} The helicopter 3C-QQM is said by diplomatic sources to be used by the Great Lakes Business Company, although the ownership of the Mi-8 has been more difficult to obtain.^x Tracing this former registration number reveals that the helicopter had been previously registered in Equatorial Guinea under the name of CET Aviation, a company associated with Viktor Bout.^{xi} At the time of registration CET Aviation had its main office in the United Arab Emirates. The phone number of the company was the same as the one for San Air, Viktor Bout's main company in the UAE until 2002,^{xii} when it was shut down after detailed reports of arms trafficking operations to Liberia forced the network around Bout to cancel some of its business operations.^{xiii} The 3C-QQM registration was cancelled by the Ministry of Transport in Equatorial Guinea in early 2002.^{xiv} Equatorial Guinea cancelled the registrations of about ten aircraft operated by different companies linked to Bout following a UN report that concluded there had been 'massive fraud' in Viktor Bout's registrations in the Central African Republic and Equatorial Guinea.^{xv}

The helicopter crash may have brought an end to the operations of the helicopter but the Great Lakes Business Company is still in business in Goma and is importing new aircraft. When Popov was questioned in Amsterdam in late 2002 he carried a list of small landing strips in eastern DRC.^{xvi} While this does not establish violations of the arms embargo, the continued presence of companies associated with Viktor Bout in the embargoed area is an issue of concern.

One link to Bout is pertinent and requires further investigation. Information was received indicating that an Antonov 8 of the *Compagnie Aérienne des Grands Lacs* transported small arms and ammunition to Kongolo airport, close to Kindu in early July 2004.^{xvii} The Antonov, suspiciously, carried the registration EL-WVA – a registration which should no longer exist. According to documentation, the aircraft usually flies under the

registration 3C-QQE. Apparently this tail number was changed for this operation. EL-WVA is an old registration for Viktor Bout's company AirCess^{xviii} that no longer exists. The UN Security Council grounded all aircraft with the prefix EL, which was previously used for Liberian registered aircraft, in May 2001 under UN resolution 1343.^{xix} Liberian-registered aircraft now use a new prefix, and EL no longer exists.

Notes:

ⁱ An Mi-8 transport helicopter has a load capacity of approximately 4,000 kilograms.

ⁱⁱ A photo of the crashed helicopter was obtained from a source in the area. Information was further confirmed after interviews with airport authorities and with representatives of airline companies operating in the same region, including the local manager of Great Lakes Business Company.

ⁱⁱⁱ The list was obtained from the *Régie des Voies aériennes* in Congo in June. It was the latest update of the register at that point.

^{iv} His identity was disclosed in May 2004 by owners of other airline companies and by the Goma airport authorities. In an interview, Mr Douglas said that Popov had only been a supplier of spare-parts. Mr Douglas refused to disclose the identity of the owner of Great Lakes Business Company. Several former colleagues of Popov who are still operating from the airport of Goma, stated that he was in Russia. His telephone number in Moscow was obtained by and was answered by a person who acknowledged to be working for Mr. Popov. Despite several attempts, Mr Popov himself could not be reached however.

^v Interview at Kenyan Police Headquarters, 3 July 2004. Popov was released after being interrogated.

^{vi} He was stopped for questioning at Amsterdam airport in 2002 because of his association with Viktor Bout's operations in the Great Lakes region, according to a law enforcement officer involved with the case in the Netherlands who was interviewed during the research. Popov's brother, who is also involved in aviation, was interviewed and identified as an arms broker representing Viktor Bout's interests in an expert report of the United Nations. (Report of the Panel of Experts established pursuant to Resolution 1343 concerning Liberia, S/2001/1015).

^{vii} Viktor Bout was first identified violating sanctions imposed against UNITA. In collaboration with Interpol, the UN Monitoring Mechanism established pursuant to Resolution 1295 analysed a significant number of arms flights organised by Bout and reported to the UN Security Council in its report S/2001/966. Months earlier, another UN Panel covering arms embargo violations in Sierra Leone also identified Bout as a major player (UN S/2000/1195). More details were then published in the Report of the Panel on Liberia in report S/2001/1015. The Belgian authorities informed the Security Council they had issued an international arrest warrant was issued against him in February 2002 (Panel of Experts on Liberia, S/2002/407). The information was confirmed by the Belgian Prosecutor who was contacted during the research.

^{viii} Interviews with pilots and the airport manager in Goma, and the former pilot of Bout in Kinshasa, June 2004. All these sources were positive that it was the same helicopter. The information was later also confirmed by Mr. Douglas, the local manager for the Great Lakes Business Company.

^{ix} 'Monuc in the DRC: strengthen its mandate, denounce the warmongers', Concertation Chretienne Pour L'Afrique Centrale, Great Lakes Advocacy Network and Réseau Européen Congo, June 2003, www.recim.org

^x Interviews with embassy staff in Kinshasa. Additional interview with a former pilot of Bout who now runs his own company in the DRC.

^{xi} Documents obtained from the Ministry of Transport, Equatorial Guinea, May and June 2004.

^{xii} Report of the Panel of Experts concerning Liberia pursuant to Security Council Resolution 1343, UN Document S/2001/1015 (<http://www.un.org/docs/sc/committees/Liberia2/1015e.pdf>, §271). Information also checked by IPIS-Research, October 2002.

^{xiii} Report of the Panel of Experts concerning Liberia pursuant to Security Council Resolution 1343, UN Document S/2001/1015 (<http://www.un.org/docs/sc/committees/Liberia2/1015e.pdf>).

^{xiv} Cancellation documents obtained from Equatorial Guinea Ministry of Transport, June 2004.

^{xv} Report of the Panel of Experts concerning Liberia pursuant to Security Council Resolution 1343, UN Document S/2001/1015 (<http://www.un.org/docs/sc/committees/Liberia2/1015e.pdf>, §271, and §278). Documents obtained from the Ministry of Transport, Equatorial Guinea.

^{xvi} Interview with investigating officers, Amsterdam, May 2004.

^{xvii} A source in Kindu reported this incident; the information was then further examined. This still needs further investigation but the aircraft was indeed seen with the fake tail number by the *Régie des Voies aériennes* in Goma in July, returning from Kindu.

^{xviii} Information obtained from the Liberian Ministry of Transport, Civil Aviation Authority, Aircraft Registry.

^{xix} United Nations Security Council Resolution 1343, Section B, §2 (d).

registrations.³⁸ The connection between breaching international civil aviation requirements and sanctions-busting was highlighted when the UN Security Council decided in May 2002 to

³⁸ Final Report of the Monitoring Mechanism on Angola Sanctions (S/2000/1225), Report of the Panel of Experts pursuant to Resolution 1306 of the UN Security Council, concerning Sierra Leone (S/2000/1150), Report of the Panel of Experts pursuant to Resolution 1343 of the UN Security Council, concerning Liberia. (S/2001/1015).

ground all Liberian registered aircraft after a UN Panel of Experts had documented several ghost flights by unidentifiable aircraft.³⁹

The arms shipper and broker Viktor Bout and several other individuals used the Liberian registry to camouflage sanctions-busting operations with aircraft that were almost untraceable. The planes used fake tail numbers and forged documentation, and hid behind fake companies.⁴⁰ Similar fraud was detected in the Central African Republic and Swaziland often involving aircraft that were used to supply Liberia, the rebels in Sierra Leone, and also UNITA rebels in Angola.⁴¹

Sanctions-busting will remain a largely risk-free and lucrative business until aircraft and owner identification regulations are enforced. The lack of capacity of many African countries to control operations at their airports and in their airspace creates the loopholes traffickers require.⁴²

Much evidence of similar practices can be found in eastern DRC. A number of aircraft are using tail numbers showing registration in Equatorial Guinea. Research revealed that aircraft had indeed been registered in Equatorial Guinea's capital Malabo but their registrations expired in 2001, and in 2002. The aircraft owners were notified of this cancellation of registration, but many disregarded it and continue to operate aircraft that are now illegal. This is in clear breach of international civil aviation regulations, and prevents oversight by Equatorial Guinea or any other aviation authority.⁴³

Forced flights

One method for sanctions-busters to avoid the need to camouflage, or arrange for false registration is simply to force an airline to carry arms. During the research, several cases were discovered where aviation companies transported arms and related materiel, as well as basic consumer goods, under duress. Pilots and airline owners complained that they had been forced to fly military equipment. They feared for the future viability of their companies if the requests were refused, as well as their physical safety. All of these cases were shared only after researchers pressed individuals with questions concerning specific flights and cargoes, calling into question the credibility of their revelations of victimisation. However, more investigation is warranted to reveal those individuals responsible for transporting arms.

One flight diverted from its path and made an emergency landing in Beni in July 2003. The Antonov-28 aircraft registered as 3C-DDB was flying from the Ugandan border town of Arua to the DRC gold mining town of Mongbwalu. Upon arrival in Beni the aircraft was impounded by the local APC commander who detained the passengers – two FAPC colonels, four Lendu combatants and one member of the Congolese police force – and seized the cargo on board. This cargo, which was handed over to MONUC four days after the seizure of the

³⁹ United Nations Security Council Resolution 1343, Section B, §2 (d).

⁴⁰ Report of the Panel of Experts pursuant to Resolution 1343 of the UN Security Council, concerning Liberia. (S/2001/1015).

⁴¹ Brian Wood and Johan Peleman: *The Arms Fixers*, PRIO, Oslo, 2000.

⁴² Johan Peleman: 'The Logistics of Sanctions-Busting', in: Jakkie Cilliers and Christian Dietrich, *Angola's War Economy*, Institute for Security Studies, Pretoria, 2001. This was also illustrated by UN Expert Panel reports on embargo violations in Angola, Sierra Leone and Liberia.

⁴³ The deregistration order for these aircraft was obtained through the Civil Aviation Authority in Equatorial Guinea and copies of letters that had been sent to the respective owners of these aircraft.

aircraft, consisted of 66 rounds of mortar bombs and eighteen boxes of ammunition – see Annex 2.

According to UN sources, the aircraft was operated by the company Mavivi.⁴⁴ This company is now bankrupt, but at the time it was regularly chartering an Antonov 28 of the company Viktoria Air. The owner of Viktoria Air in Kinshasa was interviewed and he acknowledged that he was aware of the facts that had unfolded in July 2003. According to this individual his client was the owner of Mavivi, who had been held hostage by armed groups in the area of Mongbwalu after refusing to airlift three planeloads of weapons from Aru to Mongbwalu. He was eventually forced to fly to Aru to pick up arms and on the way back to Mongbwalu, he had to make an emergency landing in Beni. According to the source, the sender was Commander Jérôme Kakawavu, who was supporting the military activities of the FAPC and the FRPI against the UPC. Reportedly, after the aircraft was impounded in Beni, Commander Jérôme held two other planes in Aru. He wanted to negotiate the release of his cargo with the APC in return for those aircraft.⁴⁵ MONUC eventually had the weapons destroyed in Luwero. No attempt has been made to actively trace the origin of these weapons or to reconstruct the arms transactions that eventually led to their presence in the embargoed area,⁴⁶ between the Ugandan border and the gold mine of Mongbwalu.

Air operations in Mongbwalu should be regarded with suspicion. The gold area is under the control of armed groups involved in illicit gold trading. The APPG is in possession of photos of the arms that were captured after the Beni incident. They were of recent production and illustrate the preparedness of the armed groups around Mongbwalu to defend their territory and the commercial interests of their backers. The amount and type of weapons also suggests that the armed groups, or Commander Jérôme, have the means to acquire serious quantities of arms on the international black market.⁴⁷

Another company, Air Butembo is now one of the few companies able to operate in the Mongbwalu area. Dr Kisonyi, owner of Air Butembo acknowledged during interviews that he regularly supplied food rations to the armed groups controlling the area. In the same interview, he stated that he was ‘just a transporting agent’ and consequently does not check the cargo contents.⁴⁸ He also mentioned that the armed groups controlling the airstrips would not allow any cargo inspections. The gold deposits of the Mongbwalu mine have been subject to controversy ever since the first Congo war started in 1996. The area is firmly controlled by the armed group of Commander Njabu and the gold is traded through business contacts in Kampala.⁴⁹ Information from the area is hard to verify because it is too dangerous to visit. Two MONUC observers were killed and mutilated there in May 2003.

⁴⁴ Fourteenth Report of the Secretary General on the United Nations Mission in the Democratic Republic of the Congo, S/2003/1098, 17 November 2003, §26. Information on the identity of the aircraft was also confirmed by the *Chef d’Escale* of Beni Airport, interviewed on 15 July 2004.

⁴⁵ Interview with owner of Cetraca, who stated he had been shortly held hostage by Commander Jérôme during the events, 9 July 2004.

⁴⁶ Mavivi could not be located by MONUC.

⁴⁷ The researchers are not aware of any initiatives by MONUC or the UN Security Council Committee in New York to trace the origin of the weapons. The UN Committee will be supplied with photos showing the Serbo-Croatian markings that can be traced back to the original producer.

⁴⁸ Interview with Dr Kisonyi, 13 July 2004.

⁴⁹ Interview with businessman, who said he had witnessed several gold transactions between Dr. Kisoniye and other businessmen in Kampala, Kinshasa 14 June 2004.

Airspace: recommendations

The *Direction de l'Aviation Civile* in Kinshasa must regulate and register all aircraft operating in DRC territory. The use of civilian aircraft for military means by the Transition Government in Kinshasa should be properly monitored by the *Direction de l'Aviation Civile* and MONUC should be notified about any movement of military equipment or troops to provinces in the east.

MONUC should follow-up on the identification of all aircraft, especially those operating anywhere in Kivu and Ituri. Irregularities such as fraud or fake registration should be investigated, to improve monitoring and deter arms traffickers.

Aircraft, and aircraft companies identified with any embargo violations or other irregularities should be banned from contracts by all United Nations agencies and NGOs, and should be closely monitored by MONUC. Any contracts between local operators known to have imported arms and airline companies should be reviewed.

MONUC should have a clear channel to receive complaints regarding forced transport of arms or related materiel.

MONUC should monitor the activities of the Great Lakes Business Company closely, also bearing in mind that Viktor Bout's assets are to be frozen pursuant to UN Security Council resolution 1532.

The DRC *Régie des Voies aériennes* should ground the aircraft with registration EL-WVA immediately and report their findings on its operations to the UN Security Council Committee on Liberia.

The deployment of MONUC in the Mongbwalu area should be accelerated. MONUC should conduct regular inspections of the aircraft operating in the Mongbwalu area and confront their owners with any irregularities. MONUC and the Security Council Committee should actively investigate the landing in Beni in July 2003 and trace the captured arms back to source in order to identify the original official transaction that led to the presence of these weapons in the hands of Commander Jérôme.

2.3 Surface

Rivers and lakes are also used to deliver arms to Kivu and Ituri. Owing to time constraints, it was not possible to research transfers by lakes in detail, but the research indicates that this is a significant arms delivery route and merits close attention.

Lakes

A significant portion of the DRC's eastern border is defined by Central Africa's Great Lakes: Lake Albert (150 kilometres in length), Lake Edward (65 kilometres), Lake Kivu (89 kilometres) and Lake Tanganyika (670 kilometres).⁵⁰ They are unmonitored and information obtained during the course of the research indicates that these lakes are used extensively for smuggling arms and ammunition. Illicit activities range from illegal fishing to gun running. None of the states bordering these lakes have sufficient assets to monitor them. Most rebel and militia groups in Kivu and Ituri control territory adjacent to the water, making the lakes integral to arms-trafficking. Moreover, sophisticated watercraft and landing sites are not necessary for the shipment of light weapons.

⁵⁰ These four Great Lakes have a surface area of approximately 42,000 square kilometres – note by comparison that Belgium's surface area is just over 30,000 square kilometres.

Some of the more important shipment points include arms transfers from Uganda across Lake Albert to Kasenye and Tchomia,⁵¹ in an area currently controlled by PUSIC, and from Rwanda across Lake Kivu to towns such as Goma and Bukavu via Idjwi Island.⁵² The use of these lakes appears to be similar to smuggling from Tanzania and Burundi across Lake Tanganyika. Kalemie, Baraka and Uvira are the suspected initial destination of arms supplies. Arms and ammunition destined for Mayi Mayi groups and other militias operating in Kivu also pass through the Tanzanian port of Kigoma, located on the eastern shore of Lake Tanganyika.⁵³ According to a recent study by the Belgian research institute GRIP, the arms are offloaded in small ports on the Congolese side of the lake – such as Dine, Ubwari, Hewa Bora, and Moba – where they are collected by Mayi Mayi delegates. The origin and delivery routes of the arms remain unclear, but Tanzania, China and several countries in eastern Europe have been cited as possible sources by Mayi Mayi officials interviewed by GRIP.⁵⁴

MONUC has capacity to monitor traffic on the numerous waterways in eastern DRC and along the DRC border, including Lakes Albert, Edward, Kivu and Tanganyika. MONUC only has access to six ‘pushers’ and four fast patrol boats that are all deployed on the Congo River. These river assets, besides providing limited water transport for military observer verification and monitoring, are used primarily to show a UN presence on the Congo River; to build local confidence in MONUC and the peace process; to provide limited security for UN watercraft between Kinshasa – Mbandaka – Kisangani; and to support MONUC evacuation contingency plans.

Land Routes

The DRC border is almost completely open to arms supply networks using land routes other than the official border posts. Numerous official border crossings remain under the control of armed groups. The porous nature of the DRC’s borders can be attributed to several factors:

- Years of financial mismanagement during the Mobutu era devastated public institutions and services. Civil servants usually received little or no salary and relied on corruption to secure their livelihood;⁵⁵
- The recent war resulted in administrative fragmentation in eastern DRC. Almost every party involved in the conflict imposed its own rules and regulations in the territory under its control.⁵⁶ The reunification of the country during the transition period poses significant problems at the local and provincial administrative levels;
- Some border posts remain under the control of armed militias;

⁵¹ Smaller landing places such as Koga along the shores of Lake Albert are used to avoid detection by MONUC. MONUC has a presence in Tchomia and Kisenye.

⁵² There are reports that these weapons have then been transported to Minova, west of Goma. Idjwi Island is situated in Lake Kivu and it is nearly equidistant from Rwanda and the DRC as both are about 10-15 kilometres from its shores. Idjwi, which is forty kilometres in length, has been the source of much speculation ever since weapons were first discovered there, shortly after the genocide in Rwanda. Several credible reports were received that the island is now used to stockpile weapons and ammunition that is then shipped in small boats to rebel groups in the DRC.

⁵³ Hans Romkema: ‘The situation in the Kivus’, in : ‘*Challenges of peace implementation*’, Institute for Security Studies, Pretoria, 2004: p. 228.

⁵⁴ ‘*Qui arme les Maï Maï ? Enquête sur une situation originale*’, GRIP, Brussels, 2004 : p. 20.

⁵⁵ For an academic analysis of the growth of the informal economy during the Mobutu era, see: Janet MacGaffey, ‘*The real economy of Zaire: the contribution of smuggling and other unofficial activities to national wealth*’, James Currey, London, 1991.

⁵⁶ A good illustration of the administrative chaos during the war is given by the UN Panel of Experts on the Illegal Exploitation of Natural Resources of the DRC in their report of October 2002 (S/2002/1146: § 105).

- The length and inaccessibility of the DRC's borders precludes thorough monitoring.

Four border posts were analysed and the lessons from these case studies can be applied more generally.

Kasindi

UN sources stated that the border post of Kasindi has served as an important transit point for military deliveries to the RCD-ML and their allies during the war.⁵⁷ According to a well-informed source in Beni, vehicles carrying arms and ammunition have continued entering the DRC via Kasindi after the inauguration of the Transitional Government. It is believed that the vehicles are escorted to their final destination under military supervision after the number plates have been removed in Bwera. As the vehicles are often discharged at night, little is known about the final destination of the deliveries. There are strong indications that a network of high-ranking ex-APC officers and civilian authorities was involved in arms trafficking operations from Uganda to Beni via Kasindi in February 2004.⁵⁸

Information was also received that arms destined for the Ex-FAR and Interahamwe are also transferred into the DRC from roads at Butembo and Kasindi, possibly originating from the ports of Mombassa and Dar es Salaam. Given the serious consequences of the continued presence of these forces in the DRC, it is suggested that further attention be paid to intercepting any possible transfers to them, as a matter of priority.

Aru and Mahagi

The towns of Aru and Mahagi are controlled by Jérôme Kakwavu Bukande's FAPC rebel movement. A Congolese intelligence source provided information about a specific incident in early 2004 involving the truck of a local transport company. According to this information, the truck was carrying arms and ammunition and was heading towards Sudan when it was stopped in Aru. Customs officials were said to have received orders from Kakwavu that the vehicle was not to be released until a substantial ransom was paid. Accurate information was obtained about the sources of supply as well as the actors involved,⁵⁹ and the

Surface: recommendations

States must supply MONUC with fast patrol boats for immediate deployment in Lake Albert, Lake Edward, Lake Kivu and the northern portion of Lake Tanganyika. These patrol boats should be assisted by aerial surveillance.

Co-ordination with national authorities of neighbouring countries should also be ensured through regular MONUC-led liaison meetings.

States bordering the lakes should work both individually and together to improve monitoring and increase control over the lakes.

Donors should consider the lakes from a regional perspective and seek to ensure that their development policies share resources between all states bordering the lakes.

MONUC military observers should deploy on a 24-hour basis to all official border posts to conduct surveillance work and inspect all questionable goods in transit. MONUC border teams should be equipped with metal detectors and heavy loading equipment to inspect all vehicle contents passing through border posts.

Once MONUC's surveillance capacity is increased at official border posts, MONUC should deploy military observers to the known illicit border crossings in order to further constrict the shipment of arms and related materiel.

⁵⁷ Interview with UN source, June 2004.

⁵⁸ Interview with local source in Beni, 22 June 2004.

⁵⁹ Information obtained from Congolese intelligence source, Kinshasa, 12 June 2004.

information was shared with MONUC for further investigation by the UN Expert Group. An additional allegation concerning the smuggling of light arms produced in Uganda through the Aru border post could not be followed up due to time constraints.

Goma

The border crossings at Goma are also important shipment points. Numerous allegations were supplied but many could not be verified. Further investigations and monitoring should be carried out.

Sudan

The DRC-Sudan border is also recognised as a shipment-point for arms and ammunition. MONUC sources indicated that there are arms markets along the Sudanese border, such as in the villages of Nabiapai, Doruma and Bangbi. The types of weapons that are regularly sold in these markets include Kalachnikov, SMG, FAL, G3, GP, SAR 40 and SAR 80 (or Galil). Possible smuggling routes are from Yambio (location of another arms market), Ezo and Maridi in Sudan, and can pass via Bitima and Bagbele in the DRC before reaching the markets. Another large regional market, Ariwara, also sells smaller quantities of weapons and is used by the FAPC militia to purchase single weapons for personal use. This market is linked to Aba, Yambio, Juba, and other towns in Sudan, Arua in Uganda, as well as to Kisangani. Goods are transported by bicycle over vast distances, and many of the transporters are Sudanese refugees based in Uganda. Much of this cross-border trading of weapons with Sudan is linked to the Sudan People's Liberation Army (SPLA). Information was received about arms smuggling networks that use SPLA territory as a shipment point for weapons arriving in Mombasa, Kenya and destined for eastern DRC. These examples show that the border zone between the DRC, Sudan and Uganda is at the centre of smuggling routes which contribute to small arms proliferation. The cross-border nature of arms proliferation and the movement of armed groups is highlighted by resolution 1545 on Burundi. It mandates ONUB to work together with MONUC to address exactly this issue.⁶⁰

3. DRC DEFENCE PROCUREMENT

Successful implementation of UN Security Council resolutions 1493 and 1533 is difficult because the embargo only covers two Congolese provinces and one administrative district. Arms deliveries to adjacent Congolese territory, or to neighbouring countries, are not covered by the embargo despite the fact that the armed groups in Kivu and Ituri have been backed by Rwanda and Uganda, as well as the Kinshasa government. Increasing the scope of the embargo to cover the whole country, as well as clarifying the objects of the embargo so that only MONUC, and the integrated army and police force of the DRC were excluded would go a long way towards making the embargo more effective.

Given the difficulties in intercepting small shipments, which are often transported over short distances in a vast, impenetrable landscape, it is important to examine Kivu and Ituri as part of a larger geographical area. This is of additional importance in the context of the current political and military situation in the DRC: uncertainties about the status of the peace process, and reliance on the good faith of former adversaries, means that every party in the Government of National Unity is concerned about its own survival. In this environment,

⁶⁰ UN Resolution 1545 (2004).

events are often dictated by speculation and rumour. Rumours that one signatory of the peace process is rearming for war can serve as a catalyst for others to break from ceasefires and find their own arms supplies. This in turn can re-ignite hostilities.

A further crucial factor is that the integration of the new Congolese national army is not complete. This creates difficulties when examining possible arms transfers made by members of the transitional administration. Whilst they may not breach the embargo, they do little to add to the confidence of the parties to the Transitional Government. Army integration should be reinvigorated but alongside this, strict legality and transparency must become the guiding principles for procurement strategies in the DRC.

The cases below do not represent embargo violations, but they illustrate the need to immediately increase monitoring of procurement falling outside UN resolutions 1493 and 1533, and increase transparency.

3.1 DRC arms with a Namibian end user certificate

The attention of the researchers was drawn to a planned sale of 50 T-55 tanks, 20 armoured personnel carriers (APC) and approximately 34 million cartridges to the Kinshasa government in 2003 by the Czech company Thomas CZ. This was not in violation of UN Security Council resolutions 1493 and 1533. However, several states believe that arms delivered to Kinshasa may eventually be transferred to armed groups in eastern DRC – this is one of the main reasons why a country-wide arms embargo is important. In light of this, the researchers decided to investigate this case further. It is not a violation of the embargo, but it has been included in this report because serious irregularities appear to have occurred in the defence procurement practices of the Congolese government, namely the proposed use of an End-User Certificate from a country other than the DRC. The End-User Certificate is one of the most important documents in an arms transaction. The document is a guarantee by the recipient country that the military equipment itemised on the document, will not be re-exported. If a Namibian End-User Certificate is used, the equipment must go to Namibia, not the DRC. Further investigations should be undertaken to clarify the apparent inconsistencies between the evidence.

The tanks, APCs and ammunition were to be delivered to the DRC with a Namibian End-User Certificate, issued on 14 February 2003 and signed by Namibian Lieutenant General Hawala (see Annex 3).⁶¹ Initially the Czech company Thomas CZ had requested an export licence for the delivery of the tanks to Namibia from the Czech Republic, but this was denied by the Czech Foreign Ministry.⁶² Thomas CZ then requested an export license from the Czech authorities to send the tanks to the Slovak Republic, using the company Technopol International⁶³ as an intermediary. Technopol International in turn requested two export licenses for Namibia from the Slovak authorities, which were granted on 8 April 2003.⁶⁴

However, the export license that Thomas CZ obtained from the Czech Republic was revoked in June 2003. The reason for the revocation is not clear. Some sources suggest that it was because the weapons were destined for the DRC instead of Namibia,⁶⁵ and further that the

⁶¹ End-User Certificate 14 February 2003, Ministry of Defence, Namibia.

⁶² Telephone interview with Czech Foreign Ministry 28 June 2004.

⁶³ Telephone interview with Mr. Kooecany, Technopol International, 14 June 2004.

⁶⁴ Email from Sensitive Goods Department (Slovak Ministry of Economy) 9 July 2004.

⁶⁵ Telephone interview with Czech Foreign Ministry on 28 June and 13 July 2004.

Technopol International licenses were revoked by the Slovak authorities on 4 August for the same reason.⁶⁶ A Slovak government source stated that the end-user certificate was genuine, but that it was being ‘used in a fraudulent way’, and that was why the export licence was revoked.⁶⁷ This statement was put to Technopol International and their response was that the Slovak government should be contacted in relation to this issue.⁶⁸

Contact was made with the head of Thomas CZ, Mr Jiri Tomes, on 16 June 2004 to enquire about this issue. Despite assurances by Mr Tomes that he would answer all of the questions put to him, he has yet to do so. The Permanent Secretary at the Namibian Ministry of Defence, Petrus Shivute, was contacted on 2 July 2003 concerning the Namibian End User Certificate. On 2 September 2004 he stated that Namibia has never issued such an End-User Certificate, and therefore has no records pertaining to its existence. Mr Shivute declined to put this statement in writing.⁶⁹ In apparent contradiction to this statement, on 8 November 2004, a letter was received from the Namibian Ministry of Foreign Affairs, stating that an End-User Certificate had been issued for suppliers in the Czech and Slovak republics to purchase arms for the Namibian Defence Force.⁷⁰

3.2 MLC acquisitions⁷¹

According to sources, DRC Vice-President Jean-Pierre Bemba conducted business with Victor Bout and was photographed with the Russian businessman when he was still headquartered near Gbadolite as leader of the MLC. Bemba entertained Bout for several weeks. According to a journalist who joined them on several trips in the region, they discussed long-term business deals for Bout in the DRC.⁷² Bemba was also said to have obtained a number of helicopters and fixed wing aircraft from Bout,⁷³ including the transport helicopter that he registered recently with the *Direction de l’Aviation Civile* in Kinshasa under his airline company CO-ZA.⁷⁴ The new registration number of this helicopter is 9Q-CBM, but its serial number, 5960, shows that the helicopter was previously registered as 3D-MIA in Swaziland. The certificate of airworthiness for this helicopter was issued by AirCess Swaziland, a company of Viktor Bout according to information obtained.⁷⁵ Insurance documents show that the helicopter then moved to the registry of the Central African Republic as TL-AGC for Centrafrique Airlines, another Viktor Bout company.⁷⁶

⁶⁶ Interviews with Slovak Sensitive Goods Department, Ministry of Economy, E-mail correspondence 29 June 2004, 01 July 2004, 2 July 2004, 9 July 2004.

⁶⁷ Telephone interview with Slovak government source, 23 November 2004.

⁶⁸ Telephone interview with Mr. Kooecany, Technopol International, 29 November 2004.

⁶⁹ Telephone interview with Mr. Petrus Shivute, Permanent Secretary at the Namibian Ministry of Defence, 2 September 2004.

⁷⁰ Letter from Namibian Ministry of Foreign Affairs, 8 November 2004.

⁷¹ The information included in this section was faxed to Vice President Bemba on 3rd September 2004. No response was received. Researchers for the APPG tried to meet the Vice President between the 6-16th of June 2004, but were not successful. Members of the APPG sought meetings with Vice President during their visit to Kinshasa in November 2004, but the Vice President was not available. The APPG secured agreement from the Vice President to meet in London on two occasions, but both meetings did not take place owing to the cancellation of the Vice President’s visit to the UK. The APPG remains willing to meet with the Vice President and to publish any comments which he may have on this or any other relevant information contained in this report.

⁷² Interviews with Dirk Draulans, journalist of the weekly *Knack*, Belgium, May 2004.

⁷³ Ibid.

⁷⁴ Interview with *Direction de l’Aviation Civile* in Kinshasa, 24 June 2004.

⁷⁵ Correspondence with former Inspector of Civil Aviation in Swaziland, Mr. John Tambi.

⁷⁶ Information obtained by the UN Panel of Experts on Liberia. The information was confirmed by the Civil Aviation Authorities in Bangui, Central African Republic.

The aircraft were already in use by Bemba when he was still based in Gbadolite as the MLC commander and prior to UN resolution 1493,⁷⁷ and are thus not embargo violations. However, Vice-President Bemba's aircraft were involved in the incidents described above in which MONUC was denied access to the Gbadolite airport. Also, information was received concerning a direct intervention of Vice-President Bemba to obtain operating licences for the aircraft registered under his private company CO-ZA with the Civil Aviation Authorities in Kinshasa.⁷⁸ This does not constitute a violation of the embargo. However, Vice-President Bemba's past business dealings with Viktor Bout are of concern, especially in light of the fact that an arrest warrant was issued for Bout on 29th June 2000 in the Central African Republic due to his fraudulent aircraft registrations.⁷⁹ Furthermore, both Bout and Sanjivan Ruprah – a former Bout business partner who was recently residing in and conducting business from Brazzaville, Republic of Congo⁸⁰ - are subjected to targeted sanctions imposed by the Security Council.⁸¹

3.3 Alleged supplies from Kinshasa to the East

Information was received that on 10 July 2003 an aircraft landed in Minembwe with representatives of President Kabila and ammunition for Colonel Patrick Masunzu. The researchers were told that Masunzu received ammunition supplies in Minembwe by aircraft flying from Lubumbashi or Kinshasa, with backing from the Congolese Presidency. One aircraft company in Bukavu flew Masunzu from Minembwe to Lubumbashi on 17 January 2004 for a meeting with Kabila, and then back to Minembwe the following day with ten boxes of uniforms, according to the pilot. This delivery does not constitute a violation of the arms embargo, since the embargo was not in place at the time of the events.

3.4 Companies recorded as having previously transported arms

A Rwandan-registered Antonov 32 aircraft (9XR-SN) diverted to Goma airport from its official flight plan to Beni on 31 May 2004. Sources interviewed reported that the plane, despite filing a flight plan from Goma to Beni, instead flew from Goma to Kigali, and then to Beni. It was then denied permission to land in Beni due to its stop-over in Rwanda that had not been indicated on the flight plan and was forced to return to Goma.⁸² 9XR-SN landed in Goma at 17:45 hours after the airport was closed.⁸³ This diversion, although possibly common in eastern DRC, raised suspicion locally due to on-going tension in Goma and

⁷⁷ Five aircraft were already photographed in Gbadolite, carrying new registration numbers, in 2002. Interview with Dirk Draulans, who interviewed Bout and Bemba at length in Gbadolite and provided photographs.

⁷⁸ Information obtained from various aviation sources in Kinshasa, June 2004.

⁷⁹ Obtained from a copy of the arrest warrant: 'Signification d'Arret, Cour d'Appel de Bangui, Tribunal de Grande Instance de Bangui', 29 June 2000.

⁸⁰ Information obtained from a former Ruprah business partner in Kinshasa, on-going communication; also see 'Sanjivan Ruprah/ US Government Letters', IPIS Research, Antwerp, 2003. IPIS Research had several interviews with Ruprah in November and December 2001 and in January 2002, shortly before he was arrested.

⁸¹ The UN Travel Ban was imposed by UN Security Council Resolution 1343 and was last revised in Resolution 1521 (2004). The 'Assets Freeze List' is a measure imposed pursuant to Resolution 1532 (2004).

⁸² Interview with RVA official in Beni, 22 June 2004, / personal communication with Déo Mazimpaka, 8 July 2004.

⁸³ Interview with the loadmaster of 9XR-SN in Beni, 23 June 2004. Strangely, an RVA official in Goma informed the Investigative Group that 9XR-SN was not entered into the airport logbook on 31 May (telephone interview with RVA official, 14 July 2004). The plane then flew from Goma to Beni on 1 June 2004 and, following mechanical problems upon departure from Beni, 9XR-SN flew to Kigali airport where it crash landed (source: interview with the loadmaster of the 9XR-SN in Beni, 23 June 2004).

Bukavu. Moreover, the incident occurred on the same day that a government delegation from Kinshasa, including Vice-President Azarias Ruberwa, was on a visit to Goma.⁸⁴ Several Congolese sources suggested examining the activities of this aircraft because of the timing of the diversion.

The initial suspicions by local observers in North Kivu appear to have been warranted given previous allegations concerning the aircraft. UN sources indicated that 9XR-SN had been detained at Goma airport in mid-July 2003. Allegedly, the plane was held at the airport on suspicion of carrying armaments for a militia in Kasai-Oriental province.⁸⁵ The aircraft owners, the Rwandan company Sun Air Charter Ltd, say that the local operator, Goma-registered Peace Air Company, which was leasing 9XR-SN at the time of its detention denies the allegations. The management of Sun Air Charter Ltd explained that the crew of the aircraft maintained that a non-governmental organisation from the Kasai region had chartered the aircraft. The crew was quoted as saying that the cargo of the impounded aircraft consisted of pharmaceuticals and foodstuffs.⁸⁶

Despite the contradictory statements about the detention of 9XR-SN in mid-July 2003, documentary evidence shows that Peace Air Company was involved in military transports for RCD-Goma in 2003. Raymond Sangara Bera, the coordinator of the RVA in Goma, wrote a letter on 20 March 2003 noting that Peace Air was to receive special treatment by the rebel movement. The letter explained that all planes carrying military personnel and their equipment would be subject to a special billing regime whereby the costs for the flights were to be reimbursed via the Department of Finance, Budget and Portfolio of RCD-Goma.⁸⁷

Apart from the UN allegations, suspicion about 9XR-SN's involvement in arms transports was also fuelled by the aircraft's insurance certificate, linking it to a company which the UN claims was involved with arms shipments to Sierra Leone. The certificate, issued by the Russian company Spasskiye Vorota on 1 February 2004, not only mentions Sun Air Charter Ltd as one of the parties insured, but also lists the company Aviatrade Ltd under the same heading.⁸⁸ It was ascertained that Aviatrade was established in Gibraltar on 25 October 2000. It was also verified that the Russian businessman Valery Cherny has been the company's director since 7 November 2000.⁸⁹

Previously, Valery Cherny was involved in a violation of the UN arms embargo on Liberia in July 2000. Aviatrend, another Cherny company, brokered the delivery of Ukrainian

⁸⁴ One of the principal aims of their mission was to end the fighting between rival factions of the Congolese army in Bukavu. At a certain point, the government officials reportedly asked MONUC to take them from their hotel and give them shelter, because rumours about the alleged closure of Goma airport had spread panic among the local population. According to UN spokeswoman Jacqueline Chenard, this was because a local commander had mistakenly informed the people at the airport that all flights landing and taking off had been cancelled (source: 'UN takes Congo officials under protection', AP, 31 May 2004). General Obedi Rwibasira, the commander of the 8th military region, contended in a telephone interview with the Investigative Group, that the airport had never been closed. Instead, special security measures had been taken to protect the government delegation visiting Goma. In the view of the military commander, these measures had been misinterpreted by the local population, because it was terrified of an imminent attack from Rwanda (source: telephone interview with General Rwibasira, 8 July 2004). The commander of the military police in Goma confirmed General Rwibasira's version of the facts and added that the security measures had only been in place for a period of 45 minutes (source: telephone interview with Claude Micho, 8 July 2004).

⁸⁵ Interview with UN source, 14 July 2004; Confidential part of the last UN Report on the illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of Congo, October 2003: § 20.

⁸⁶ Personal communication with Déo Mazimpaka, 8 July 2004.

⁸⁷ Letter of Raymond Sangara Bera to Peace Air, 20 March 2003.

⁸⁸ Insurance certificate nr. 0570503C, Spasskiye Vorota, 1 February 2004.

⁸⁹ Incorporation document Aviatrade Ltd, obtained on 4 May 2004.

ammunition to Ivory Coast, which eventually ended up with the RUF in Sierra Leone.⁹⁰ Cherny's name was also mentioned in a report by one of the investigators with the Office of the Prosecutor at the International Criminal Tribunal for the Former Yugoslavia. The report stated that, according to Bulgarian police officials, Valery Cherny 'is also known under the name Viktor Vassilievich Dudenkov and is alleged to be connected with arms trafficking'.⁹¹ Valery Cherny's son Semen, who is part of the management of Sun Air Charter Ltd was contacted. He stated that Sun Air Charter Ltd has no connections with Aviatrade Gibraltar. He also explained that Aviatrade was only mentioned on the insurance certificate because the office of Aviatrade in Moscow was used to negotiate insurance for Sun Air Charter Ltd on the Russian insurance market. According to Semen Cherny, 'the most attractive rates at the moment can only be found in the Russian insurance market'.⁹² In this incident, no evidence was found of embargo violations nor association with the armed parties in South Kivu.

3.5 Eugene Serufuli's Local Defence Forces

Eugène Serufuli was named governor of North Kivu by the RCD-Goma rebel movement in December 2000. During his term as governor, he used the Local Defence Forces (LDF) – established by his predecessor to prevent Congolese Hutu communities from supporting Rwandan Hutu rebels in the DRC – to develop a parallel military structure and become an internal opponent of the RCD. Tellingly, the LDF were known locally as '*l'armée du gouverneur*'.⁹³ UN sources indicate that Serufuli discussed cooperation between the Rwandan Defence Forces and the LDF.⁹⁴ Despite Serufuli's governorship being confirmed by the Transitional Government, the strength of his commitment to the peace process remains difficult to ascertain.

⁹⁰ The UN Panel of Experts for Liberia established that, on 14 July 2000, an Antonov 124 carrying 113 tons of 7.62-millimeter cartridges and chartered from the Antonov Design Bureau by Cherny's company Aviatrend left the Ukrainian airport of Gostomel. It arrived in Abidjan on 15 July after a fuel stop in Libya. After being stored in an Abidjan warehouse, the boxes of cartridges were loaded onto an Ilyushin-18, which operated for the company West Africa Air Services. This plane needed 8 flights to get all the cargo transported from Abidjan to Monrovia. From there on, it was transferred to the RUF rebels in Sierra Leone (Report of the Panel of Experts pursuant to Security Council resolution 1343 (2001), §19, concerning Liberia: §207-§223).

⁹¹ Amended expert report of Morten Torkildsen, investigator with the Office of the Prosecutor at the International Criminal Tribunal for the Former Yugoslavia: p. 31.

⁹² Personal communication with Semen Cherny, 13 August 2004.

⁹³ Koen Vlassenroot: 'Land and conflict: the case of Masisi', in: Koen Vlassenroot & Tim Raeymaekers (eds), '*Conflict and social transformation in eastern DR Congo*', Academia Press, Gent, 2004: pp. 96-97.

⁹⁴ Interview with UN source, 14 July 2004; Confidential part of the last UN Report on the illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of Congo: § 14.

Evidence was collected that the Governor had purchased 50 hand-held Motorola radios on 30 July 2003⁹⁵, which UN sources alleged were used to recruit new members for the LDF⁹⁶. According to Serufuli, however, the Motorolas were supposed to improve the communication between the local police and the eighteen *chefs de quartiers* in Goma. He explained that their previous equipment was obsolete and that ‘decent communication equipment was essential to the well functioning of every police force around the world’.⁹⁷ The broker of the Motorola deal, a Congolese national named Kapalata Ndashimye⁹⁸ was unable to clarify the intended use of the radios. He stated that his involvement in the transaction was purely accidental and that he did not know what the Motorolas were to be used for. Kapalata confirmed that the governor was a personal friend and that he had been contacted by Serufuli while on holiday in Uganda.⁹⁹

Determining whether the Motorolas were meant for local authorities and not the LDF - as Serufuli contends - is further complicated by documents provided by the Governor. A copy of the payment order for the 50 radios, which lists a Ugandan supplier, is contradicted by a copy of another invoice for the purchase of the same radios supplied by

Box 5: Denial of access to military camps in North Kivu

Certain officials affiliated with RCD-Goma took an uncooperative stand towards MONUC in the early stages of the transition. This became evident when MONUC was denied access on multiple occasions in October and November 2003 to several military facilities located in an area controlled by former RCD-Goma military commanders. These included the military camps in Katale, Rumangabo, Runyoni Hills and Mushaki. When MONUC observers wanted to visit the Mashaki training camp, located in Masisi territory, about 60 kilometers west of Goma, they were obliged to obtain written permission from Governor Serufuli and then from the 8th military region deputy commander General Mufu Kiyana. The researchers were informed by MONUC that by the time that permission had been given and MONUC gained access to the camps, no military personnel or weapons stockpiles were found.⁽¹⁾

Notes:

(1) Personal communication with MONUC officials, June 2004.

Serufuli. This invoice appears to have been drawn up on 30 July 2003 by a company called ‘Informatique discount’, with a listed address of ‘Rue Thier du Ry, 145’ in Brussels, Belgium. It describes the unitary price as US\$ 465 US and the total price as US\$ 23,250 US. In addition to the invoice, the governor also provided a copy of the matching payment order. According to this document, dated 28 July 2003, the cabinet of the governor requested the local office of the *Banque Commerciale du Congo* in Goma to transfer an amount of US\$ 23,750 US from the account nr. 11.210/237 of the ‘Province du Nord-Kivu / Générale Sécurité Publique des Provinces’. The name of the beneficiary is not specified, nor are any details provided concerning the nature of the transaction. The company named on the invoice provided by Serufuli does not exist on the Belgian trade register.

The radios were eventually confiscated by MONUC. They were discovered onboard a TMK aircraft in Beni on 11 August 2003. The plane was on its way from Entebbe to Goma and had landed in Beni for a fuel stop.¹⁰⁰ According to several observers, one of the main reasons the Motorola incident caused such a stir was that Beni was under control of the RCD-ML rebel

⁹⁵ A source in Uganda provided the payment order for US\$ 20,500 for these radios, with the payment taking place on 30 July 2003 through an account of the Bank of Commerce and Development (Interview with source in Uganda, 16 June 2004; copy of payment order, obtained on 6 May 2004).

⁹⁶ Interview with UN source, 14 July 2004; Confidential part of the last UN Report on the illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of Congo: § 15.

⁹⁷ Telephone interview with Eugene Serufuli, 8 June 2004.

⁹⁸ Ndashimye works in Goma as a programs manager for the US-based NGO World Relief.

⁹⁹ Telephone interview with Kapalata Ndashimye, 7 June 2004.

¹⁰⁰ Interview with RVA official in Beni, 22 June 2004.

movement during the war. Since most members of the RCD-ML's administration were still in office at the time of events, there is speculation that by raising concerns about the Motorola delivery, they were seeking to demonstrate their loyalty to the newly installed Transitional Government.¹⁰¹

If it were proven that the Motorolas were indeed meant for recruitment purposes, the delivery would constitute a violation of resolution 1493, adopted two days earlier (i.e. 28 July 2003). The confiscation of the Motorolas shows that the embargo can be successfully implemented, if all parties provide MONUC military observers with full access to ports, airports, airfields, military bases and border crossings in the DRC.

3.6 Uniforms delivered from Armenia to Goma, North Kivu: further clarification required

A Yak 40 transport aircraft registered in Armenia landed at Goma airport on 14 August 2004 carrying approximately three hundred military uniforms.¹⁰² The plane's flight plan outlined a trip from Yerevan, Armenia to Kinshasa via Turkey, Syria, Jordan, Egypt, and Sudan.¹⁰³ The aircrew did not declare any cargo upon arrival in Goma, but the Military Police of the 8th FARDC military region, during an inspection of the aircraft, discovered and then impounded the uniforms.¹⁰⁴ These uniforms bore an insignia with six stars and the anagram 'FAC', which in the DRC is commonly used as an abbreviation for the *Forces Armées Congolaises*, the former name of the Congolese army.¹⁰⁵

The Yak 40 that delivered the uniforms, EK-88262, belongs to the Armenian company Simeron Enterprises LLC, which deals in general trading and military surplus. Simeron operates two aircraft that are regularly seen in the DRC, and the company maintains an office in Kinshasa.¹⁰⁶ The researchers sought information concerning the uniforms and contacted a member of the Simeron aircrew who was familiar with the case of impounded uniforms in Goma. This crew member told the researchers that the uniform delivery was an imprudent act by a few of Simeron's overambitious salesmen who sought to re-establish business with the DRC military.¹⁰⁷ This source noted that the uniforms were to serve as a gift for the local military commander in Goma, General Obedi, and as such the transaction was to occur in the absence of paperwork, explaining the lack of cargo manifest or packing list accompanying the aircraft when it landed in Goma.¹⁰⁸ The researchers were further informed that Simeron was not aware of the strained relationship between General Obedi and the Kinshasa government.¹⁰⁹ General Obedi, however, stated that he had not been informed about the

¹⁰¹ Interview with RVA official in Beni, 22 June 2004; interview with source in Uganda, 16 June 2004; interview with UN official, 14 July 2004.

¹⁰² Personal communication with UN official, 17 August 2004.

¹⁰³ Permission number - 41008060 DUVTCNK 2004 - YAK40EK88262 (Email Head of Flight Safety Inspection Department, Serob Karapetyan, 25 August 2004).

¹⁰⁴ Personal communication with UN official, 17 August 2004.

¹⁰⁵ Uniform insignia information obtained from UN official, 17 August 2004, and source at Goma airport, 14 August 2004. The Congolese newspaper *Les Coulisses* also reported in their September 2004 issue that the uniforms were of a military nature ('*Des cadavres dans les bras de Ruberwa*', *Les Coulisses*, N° 142-143, septembre 2004).

¹⁰⁶ Telephone interview with a director of a Congolese aviation company, 18 August 2004.

¹⁰⁷ Telephone interview with a crew member of a Simeron aircraft, 18 August 2004.

¹⁰⁸ Telephone interview with a crew member of a Simeron aircraft, 18 August 2004.

¹⁰⁹ Telephone interview with a crew member of a Simeron aircraft, 18 August 2004.

delivery and had been on a business trip at the time the aircraft arrived.¹¹⁰ Congo is rife with speculation on General Obedi's loyalties, and this incident has raised the tensions.

Hoping to clarify matters regarding the transaction that led to the delivery in Goma, the researchers contacted representatives of the company Simeron in Armenia. On 10 September Simeron Enterprises told the researchers that the uniforms were not of a military nature. Simeron also stated that there were 30 uniforms. The company stated that the uniforms were destined for Luft Cargo and were yellowish in colour with the word 'Simeron' printed on the back.¹¹¹ Additional information was sought and the head of Armenia's Flight Safety Inspection Department, Serob Karapetyan, informed the researchers that the 'FAC' insignia stood for a company named Federal Aviation Center, and that the 30 uniforms were meant for the technical staff of Luft Cargo in the DRC.¹¹²

The researchers also requested Simeron to send documentation including freight manifest, insurance papers, contact details of the pilots etc. The only documentation received so far from the company is, after closer scrutiny, not related to this case. It is a request, from Luft Cargo, for a landing permission at Goma airport for a AN-2 Special (EK-02301) between 3 August and 8 August 2004.

The researchers were informed by sources in the DRC that two samples of the uniforms were taken to Kinshasa for further investigation. The remainder of the cargo was allegedly taken by unidentified Rwandophone military and disappeared.¹¹³

The arrival of the Yak 40 and impoundment of uniforms came at a time of severely heightened tensions in the region.¹¹⁴ Adding to the cycle of tension and suspicion, a few days after the incident, two Congolese military intelligence officers were killed in Goma. According to a communiqué released by the FDLR, they were murdered after having discovered several arms caches and uniforms.¹¹⁵ The investigation into their deaths was ongoing at the time of writing of this report.

In a separate incident, a picture was obtained of the aircraft (YAK 40), parked at Kisangani airport in February 2004. Simeron informed the researchers that EK 88262 was present at Kisangani airport on 13 February 2004 due to technical reasons: refuelling of the airplane. The YAK 40 was chartered by Air Kongo (Congo-Brazzaville) to fly between Brazzaville and Pointe Noire.¹¹⁶ It is not clear why the plane was refuelling at Kisangani airport, approx. 1250 km due east from Brazzaville, while flying between Brazzaville and Pointe Noire.

Further clarification should be sought from all of the parties concerned in this matter.

¹¹⁰ Telephone interview with General Obedi Rwibasira, 18 August 2004.

¹¹¹ Fax Simeron Enterprises LLC, 10 September 2004.

¹¹² Email from Mr. S. Karapetyan, Head of Flight Safety Department, Armenia, 25 August 2004.

¹¹³ Personal communication with UN official, 17 August 2004.

¹¹⁴ For example, another event on 14 August was a massacre in the Gatumba refugee camp in neighbouring Burundi.

¹¹⁵ '*Les rebelles hutus rwandais nient avoir attaqué l'armée dans l'est de la RDC*'. Agence France Presse, 26 August 2004

¹¹⁶ Fax Simeron Enterprises LLC, 10 September 2004.

DRC defence procurement: recommendations

The embargo should be extended to the whole of the DRC and only MONUC and the integrated national police and army of the DRC should be exempt.

The Security Council Committee should establish a mechanism that both guarantees confidentiality, and transparently reviews all licensed arms procurement by DRC, Rwanda, Burundi and Uganda; and donors and multilateral agencies should demand increased scrutiny of the budgets of the DRC, Rwanda and Uganda so that all defence related expenditures, including procurement, are in line with their legitimate defence and law enforcement needs.

Arms-supplier governments should harmonise export controls according to human rights and international humanitarian law by supporting the proposed International Arms Trade Treaty.

Governments should fully implement the UN Programme of Action on Small Arms and Light Weapons, including working to establish legally binding instruments on marking and tracing and the control of arms brokers and traffickers.

The Transitional Government should follow international rules concerning arms transfers. Arms producing and exporting countries should seek guarantees that End-User Certificates used for arms sales to the DRC and its neighbours are valid and that the supplied weapons remain in the countries of End-Use. Periodic inspection of inventories is recommended to ensure that weapons are not diverted. All government and private parties in the DRC to adhere to the UN Security Council's decision to freeze the assets of Viktor Bout and sever all links to him.

The UN Panel of Experts on Somalia and the Monitoring Mechanism on the DRC should share findings of their investigations in order to deal with the subregional problem of small arms proliferation in the Great Lakes region and the Horn of Africa.

The signatories of the Nairobi Declaration on Small Arms and Light Weapons should, through the Nairobi Secretariat, put the issue of regional arms trafficking on the agenda of the next Ministerial Conference.

MONUC should be informed by the Congolese authorities of every arms delivery to non-state actors that may be considered as a violation of resolution 1493. Furthermore, MONUC should be given the opportunity to check the delivery and the eventual use of the equipment to ensure that no unannounced diversions take place.

Countries in the region should all play their part in preventing flows of arms transiting through their territory, and should work together in support of the UN arms embargo.

4. THE UN's ROLE

The UN has a three-tiered approach to the embargo. MONUC carries out front-line interception and monitoring; a Group of Experts examines and analyses information gathered by MONUC, carries out field investigations – including outside of the DRC – and liaises with states and other actors to gather and analyse all relevant information on arms flows; a Committee of the Security Council seeks and examines information on implementation of the embargo, and on alleged violations of the embargo. The Committee reports to the Security Council and makes recommendations about ways to improve the embargo's effectiveness. Member states also play a key role in making the embargo effective: they are requested by the Security Council to implement the embargo and communicate the measures taken to the Committee. These communications are an important way of deterring potential violations by demonstrating state support for the embargo.

4.1 The Group of Experts

The Group of Experts provides the technical expertise needed to make the embargo effective. With the capacity to travel to any country in the world in the pursuit of its mandate, it also plays a strong deterrent role. It produced its first report on 15th July 2004,¹¹⁷ which makes a series of recommendations which, if adopted, would greatly assist the implementation of the embargo. As an impartial, technical body, it should be regarded as an ally of all those who wish to see the embargo made effective. The APPG, in seeking to help bring peace and stability to the Great Lakes Region, and pursuant to Security Council Resolution 1533, has provided a copy of this report to the Expert Group, and encourages other interested parties to do the same.

4.2 MONUC

The MONUC mission is guided by five core programmes: (1) peace and security, (2) facilitating the transition, (3) support for the establishment of rule of law and human rights, (4) improving human conditions for sustainable peace and (5) support and management. The arms embargo relates directly to the first programme.¹¹⁸ However, the issue of illegal arms supply impacts three of the other four programmes.

Resolution 1493 requested that all parties give MONUC military observers full access to all ports, airports, airfields, military bases and border crossings in the DRC. The resolution also stipulated that MONUC military observers would be deployed in Ituri and Kivu with a view to reporting to the Security Council on a regular basis on the positions and movements of armed groups, arms supply and foreign military presence. Emphasis was placed on monitoring the use of landing strips in the aforementioned areas of the eastern DRC.¹¹⁹ MONUC additionally received a number of specific instructions from the Security Council through resolution 1533 on how it should carry out its monitoring task. The mission's military observers and troops were asked to inspect – without notice, if necessary – the cargo of aircraft and of any transport vehicle using the ports, airports, airfields, military bases and border crossings in North and South Kivu and Ituri. Furthermore, MONUC was authorised to seize or collect arms and related materiel whose presence in the DRC was considered to be a violation of the arms embargo.¹²⁰ The Group of Experts are mandated to exchange information with MONUC, as well as to analyse the data collected by it.

An information-gathering cell was established in 2003 in Kinshasa to collate and analyse information about possible arms embargo violations. It consisted of two military officers assisted by a political officer. It conducted regular follow-up with sector headquarters in the field on reports alleging illegal arms supply, and also carried out some investigations. MONUC headquarters in Kinshasa maintains details on the arms and ammunition that have been surrendered, recovered or confiscated. Each of the sector headquarters (presently numbering five) reports periodically on possible embargo violations; part of this reporting has been in response to directed queries from Kinshasa headquarters. MONUC relies upon information derived from reports by its seventy-one military observer teams, peacekeeping forces deployed on the ground, its civilian sections, UN agencies, non-governmental

¹¹⁷ S/2004/551

¹¹⁸ Henri Boshoff: 'Overview of MONUC's military strategy and concept of operations', in: Mark Malan & Joao Gomes Porto 'Challenges of peace implementation', Institute for Security Studies, Pretoria, 2003: pp. 136-137.

¹¹⁹ UN Resolution 1493.

¹²⁰ UN Resolution 1533, op. cit.: § 3 & 4.

organizations, interviews with surrendered militia and open sources such as local newspapers.¹²¹ The nature of these sources means that often, the identification and seizure of arms caches is performed on an ad hoc basis.

Recovering arms and ammunition also requires a delicate assessment of the local political and military dynamics in order to protect the safety of MONUC personnel deployed in the area. The MONUC procedure for searches in Ituri and the Kivu provinces dictates that ‘search operations in these areas will be conducted as the operational situation dictates, with attention to timeliness, security and on “a need to know” basis (...) operations are to be conducted after consideration of the parties that should be involved i.e. availability, security, sense of urgency etc’.¹²² Some of this tension should be diffused as the Group of Experts begin to conduct field research. Being mandated specifically to look for violations, they can operate in a way that MONUC cannot.

Based on information gathered and reviewed by the cell, MONUC submitted six reports to the Security Council on possible embargo violations between August 2003 and April 2004. Since the Group of Experts submitted its report in July 2004, MONUC has been considering how to revamp its work on the arms embargo, through training and improving information-collection. All military information officers at Kinshasa headquarters, rather than a special cell, are now tasked with following up on possible embargo violations with sector headquarters.

Finally, mention should be made of the cooperation between MONUC and the United Nations Mission in Burundi (ONUB), which was established under Security Council Resolution 1545, on 15 May 2004. ONUB is expected to assist MONUC in the monitoring of illegal arms flows across national borders and Lake Tanganyika. It has also been asked to work with the Group of Experts, set up in accordance with resolution 1533.

Monitoring the embargo is one of many tasks which MONUC has been asked to undertake. Given its limited resources and broad mandate, the embargo is not perceived to be a top priority. MONUC has however performed admirably, and should be congratulated for its accomplishments.

MONUC’s relationships with government, other UN and humanitarian agencies and civil society are not helped by the difficulties MONUC faces in effectively communicating its mandate, or being seen publicly to respond scandals or crisis. This has a negative effect on morale within MONUC.

MONUC lacks military staff members able to speak French, Swahili or other local languages used in the embargoed region. Most MONUC civilian and military observers lack technical expertise in investigative work and evidence-gathering.¹²³

¹²¹ MONUC Briefing, Kinshasa, 14 June 2004.

¹²² Addendum to Standard Operating Procedures on Arrest, Detention and Searches, MONUC document, obtained 16 June 2004.

¹²³ Information sent to MONUC by its teams in the field is often unverifiable. Aircraft are described but the tail number is not recorded, and no distinction is made between fact and hearsay. This makes it difficult to assess the value of the information received. MONUC should improve the quality of its data records so that the original suppliers of arms and ammunition can be traced. Currently, MONUC only keeps serial numbers and a vague description of the confiscated weapon such as ‘AK-47, serial nr 12345’. Afterwards the weapons are collected for storage and destruction. To trace firearms, stamps on the weapon, showing the logo of the manufacturing company, must be noted as well. The limited number of weapons collected by MONUC also reflects the low priority that has been given to the arms embargo – see annex for a table of arms and ammunition recovered by

UN missions have no formal intelligence capacity. MONUC must rely on the voluntary cooperation from NGOs, other UN agencies, contacts with government officials in Kinshasa, Kigali and Kampala or with Embassies in these cities. MONUC needs to strengthen its intelligence-sharing with neighbouring countries. There are challenges to strong collaboration between states and MONUC, but these can be overcome if states are made more aware of the terms of the MONUC mission. Effective, consistent and verifiable information exchanges between the customs, policing and military sectors of neighbouring countries and MONUC would be of great assistance. A dedicated liaison officer in MONUC with skills in surveillance and monitoring compliance could be responsible for establishing such linkages.

UN peacekeeping staff are rapidly rotated. This means that they cannot adequately familiarise themselves with the terrain, their tasks or the MONUC bureaucracy. Collecting information on sensitive issues such as illicit arms transactions and supplies requires long-term, reliable local contacts. Whenever staff are redeployed to a new area, the process of establishing sources of information outside of the UN must be repeated, meaning that valuable sources and information are lost.

The lack of cooperation by many parties to the peace process seriously undermines MONUC's ability to successfully fulfil its mandate. This also increases the hazards to UN staff. Although Security Council resolution 1493 demands full access for the military observer teams to any facility in the DRC, as this report has shown, there have been instances when the UN monitoring teams have been denied access.

MONUC as of 13 May 2004. Additionally, at least one rifle captured by MONUC in Lubero territory was of recent South African manufacture, according to the markings on the weapon. MONUC noted that the origin of this weapon required further investigation, although it was thought to have previously been supplied to a country neighbouring the DRC under a contract with another African country (MONUC briefing, Kinshasa, 12 June 2004).

MONUC: recommendations

MONUC should provide selected staff members with proper training regarding knowledge of arms trafficking, the conduct of investigations and the collection, reporting and analysis of verifiable data.

MONUC must prioritise proper centralisation of all data relevant to the embargo.

More staff, especially those with the appropriate language skills, must be assigned to monitoring the embargo.

MONUC personnel monitoring the embargo should be assigned to one specific area for as long as possible, to enhance and maintain MONUC's knowledge of local terrain.

MONUC needs to strengthen its own intelligence-gathering capacities in neighbouring countries. A concerted effort to mobilise a comprehensive, agile and skilled surveillance capacity within MONUC is vital, with clear reporting mechanisms to central command.

MONUC needs to strengthen its liaising and sharing of intelligence with neighbouring countries. A dedicated liaison officer in MONUC with skills in surveillance and monitoring compliance could be responsible for establishing linkages, and provided with adequate resources to pursue this.

MONUC needs a focal point to allow NGOs, local people, or other interested parties to report suspicious activities related to the arms embargo. Strict confidentiality must be guaranteed. The office should have the capacity to staff a confidential hotline, run outreach programmes, and follow-up on reports.

MONUC needs to strengthen its outreach and PR capacities. A dedicated team of communications experts, with experience in liaising with government, donors, NGOs and the media is essential. Key tasks should be to focus on strategic outreach, and also respond to crises as they emerge.

It must be stressed that the APPG's recommendation to expand the scope of the embargo to cover the whole country would not place additional burdens on MONUC. The clarification of the targets would simplify MONUC's data recording process, and also enable it to communicate its arms monitoring mandate more effectively. The expansion of the geographical area would not oblige MONUC to deploy observers to all airports in the DRC, but would provide MONUC, or the Expert Group, with extra legitimacy to carry out investigations in any DRC airport at any time, should the need arise.

4.3 MONUC procurement

Arms delivered from Russia to the MONUC Uruguayan contingent¹²⁴ caused a political row between the UN and the DRC government in February 2004.¹²⁵ The plane delivering the weapons does not seem to have had the appropriate clearance from the DRC government, and its cargo manifest also misstated the nature of its cargo. The sensitive nature of the shipment, as well as poorly conceived efforts by the UN to release the plane, resulted in a widely circulated rumour that UN soldiers were supplying weapons to armed groups in Ituri.¹²⁶ Such rumours can have a devastating impact on the peace process, and on MONUC's perceived neutrality and the safety of its personnel. Some of the misunderstanding appears to have been generated by the events outlined below, according to sources.

¹²⁴ There were 1,827 Uruguayan troops with MONUC as of June 2004.

¹²⁵ Copies were obtained of the cargo manifest and several other documents relevant to the delivery of the weapons.

¹²⁶ Specifically, the rumour cited the arrival of two Ilyushin 76 aircraft in Kisangani, which have a combined cargo capacity of over sixty tons, quadruple the capacity of the single Ilyushin-18 that did in reality deliver the weapons.

An Ilyushin-18 registered RA-75496 with Aeroflot markings arrived at Kisangani airport on 13 February 2004 at 1420 hours from Russia via Cairo and Khartoum. The plane was carrying 9.3 tons of arms¹²⁷ for the Uruguayan MONUC contingent shipped by Rosoboronexport, the Russian state intermediary agency for military exports and imports.¹²⁸ The carrier was listed as Aerospets Service Airline, but the operator of the aircraft named as the Russian Air Force.¹²⁹

The following events occurred the day of the plane's arrival in Kisangani according to sources interviewed that chose to remain anonymous.¹³⁰ Following the flight's arrival, the crew reportedly did not provide any papers proving diplomatic clearance for the plane. This caused suspicion among the airport authorities because such flights usually pass through Kinshasa. Furthermore, MONUC in Kisangani did not appear to know of the plane's planned arrival except for MONUC air traffic control personnel at the airport and the Uruguayan contingent. A Uruguayan officer began assisting with the off-loading of cargo from the airplane by 16:00 hour. At 20:00 Congolese security officers demanded papers from the flight crew, who reportedly refused to co-operate. The plane's cargo manifest, a copy of which was obtained, only mentions 9.3 tons of 'equipment' in 211 packages. The manifest did not state that the aircraft was carrying 'dangerous goods', a standard requirement for the shipment of military cargo or explosives.

MONUC personnel arrived at the airport that evening with a fax from their Kinshasa headquarters noting that prior approval had been granted for the plane to arrive in Kisangani.¹³¹ The Congolese security officers, however, were suspicious that the papers had only been organised after the plane had already arrived at Kisangani that day, and refused to accept the documents or release the aircraft. Furthermore, a MONUC colonel reportedly informed the Congolese that the weapons were destined for the Uruguayan contingent in Bunia¹³², and that there were military instructors on board the aircraft. This contradicted a statement by the pilot that the plane only arrived with four crew – in fact another fourteen individuals were found to be hidden from view inside of the aircraft, and their presence has never been fully explained.¹³³

¹²⁷ The cargo comprised of 133 packages of weapons and 81 of munitions: 25 RPG-7 launchers and 400 grenades; ammunition for RGR heat-seeking; 100 AK 101 rifles, including four magazines and bayonets; 1,000 rounds of ammunition for AK 101; 100 grenade launchers 40 mm for GP25; 4,000 fragmentary grenades 40 mm for rocket launchers; 1,000 training ammunition for fragmentary grenades 40 mm; 40 night vision devices for FAL II; 50 night vision devices.

¹²⁸ Rosoboronexport website, www.rusarm.ru, as accessed 8 July 2004.

¹²⁹ RA-75496 is actually listed in the fleet of the Russian State Airlines 223rd flight unit 'letny otrayd', according to professional aviation manuals.

¹³⁰ Interview with source at the airport in Kisangani. The source wanted to remain anonymous.

¹³¹ Interview with representative of the Uruguayan contingent in Kinshasa, 15 July 2004.

¹³² A source interviewed noted that the Uruguayan 4th Battalion in Bunia uses FAL weapons and not AK arms.

¹³³ The APPG has a copy of the list with the names of all the 18 individuals on board. Some sources note that several of these were to serve as trainers as part of the arms delivery. This issue became more complicated when Colonel Papadopoulos was contacted, now stationed in Bukavu, whose name is listed on a Rosoboronexport document that accompanied the cargo. He stated that six Russian instructors indeed arrived in Kisangani but from Kinshasa and not with the aircraft; these instructors stayed in Kisangani for one week and then departed. Colonel Papadopoulos did not want to disclose when these instructors arrived, nor when they left Kisangani. For further information he advised the researchers to contact the Uruguayan contingent in Kisangani, which was done on two occasions. Two telephone calls were made and the research team's mandate and questions were explained first in English and then in Spanish. The individual who answered the telephone on behalf of the contingent hung up on both occasions immediately after the queries were provided. (Telephone interviews 15 July 2004).

It was not possible to document the dispute over the arms delivery flight in more detail. The crew and passengers of the aircraft were eventually allowed to seek accommodation at a hotel and the plane, after being grounded at Kisangani airport for several days, obtained clearance from the DRC government to depart Kisangani on 17-18 February 2004 en-route to Khartoum with all eighteen people on-board. Confusion surrounds the permission granted for the flight's arrival in Kisangani, and the presentation of the cargo manifest to the Congolese authorities. One Russian aviation expert called to mediate the situation noted that the DRC Ministry of Foreign Affairs, MONUC, the Uruguayan government and Russian embassy in Kinshasa were all informed of the plane's arrival and cargo.¹³⁴ Whether the DRC government was informed prior to arrival about the nature of the cargo cannot be confirmed at this point. A letter of enquiry was sent to the Government of Uruguay on 30 June 2004 and to Rosoboronexport on 5 July. Rosoboronexport recommended that an official request be forwarded through diplomatic channels.¹³⁵ The incident served as the basis for needless speculation about the final destination of the arms delivery. This is worrying given the fragile nature of the peace process and the sensitive issue of arms procurement by militia groups, especially in the vicinity of Bunia.

MONUC procurement: recommendations

MONUC arms supplies must be transparent, and coordinated with both the Department of Peacekeeping Operations in New York, and MONUC in Kinshasa. To avoid misunderstanding, it is recommended that, where possible, arms shipments to peacekeeping forces in the DRC arrive via Matadi port or Kinshasa only.

All MONUC arms procurement should be conducted in a uniform and transparent manner to prevent future misunderstanding that could jeopardise both MONUC's standing or the peace process.

¹³⁴ Interview with Russian intermediary who intervened to get the plane released, Kampala, 17 June 2004.

¹³⁵ Fax Rosoboronexport, 8 August 2004.

5. COMPLETE LIST OF RECOMMENDATIONS

Intercepting flights at landing

MONUC should maintain as comprehensive a list as possible of landing sites in eastern DRC so as to increase the effectiveness of its aerial monitoring.

MONUC should be provided with low-flying drones which have digital video imagery capacity. This would enable it to both monitor and evidence embargo violations. MONUC should also be provided with increased air surveillance capability, including night vision capacity mounted on its helicopters. States should actively share satellite imagery with MONUC to monitor troop movements and potential border crossings.

All signatories to the Global and All-inclusive Agreement must ensure that MONUC can fulfil its mandate as required under resolutions 1493 and 1533. In particular, all parties in the DRC should be reminded, in the strongest terms, to provide MONUC with immediate, unconditional and unhindered access to any facility in the DRC. Denying MONUC access should constitute a breach of the embargo.

MONUC must deploy military observer teams at the major airports in eastern and south-eastern DRC, and also the airport of Lubumbashi, for twenty-four hours a day. MONUC must be given free access to inspect any airport, whether civilian or military, or any aircraft in the DRC, and also Uganda and Rwanda. Random searches by MONUC at airports in the DRC would be an additional deterrent to traffickers.

MONUC, when inspecting aircraft and airport facilities, should not only thoroughly inspect an aircraft's cargo, but also the documentation: pilot's logbook; pilot's various licences; airline company details and the airworthiness and insurance documents of the aircraft. MONUC should do so with the assistance of the appropriate airport authorities and the representatives of the *Régie des Voies Aériennes* and the *Direction de l'Aviation Civile* present. Data on unauthorised landings or landings after the official closure time of an airport should be centralised by MONUC for analysis or follow-up by the Group of Experts.

The operation of civilian aircraft from the military airport in Entebbe should be cancelled immediately; furthermore all flight movements should be recorded by the Civil Aviation Authority.

The producers and suppliers of parachutes, which can be used for para-dropping, should refrain from providing such equipment to countries in the region, including the DRC, Rwanda, Burundi and Uganda or request from these countries proper explanations as to end-use. These systems should be considered as 'arms or related materiel' in the context of UN resolutions 1493 and 1533 and their use in Kivu or Ituri should be a violation of the arms embargo, and result in appropriate sanctions.

Airspace

The *Direction de l'Aviation Civile* in Kinshasa must regulate and register all aircraft operating in DRC territory. The use of civilian aircraft for military means by the Transition Government in Kinshasa should be properly monitored by the *Direction de l'Aviation Civile* and MONUC

should be notified about any movement of military equipment or troops to provinces in the east.

MONUC should follow-up on the identification of all aircraft, especially those operating anywhere in Kivu and Ituri. Irregularities such as fraud or fake registration should be investigated, to improve monitoring and deter arms traffickers.

Aircraft, and aircraft companies identified with any embargo violations or other irregularities should be banned from contracts by all United Nations agencies and NGOs, and should be closely monitored by MONUC. Any contracts between local operators known to have imported arms and airline companies should be reviewed.

MONUC should have a clear channel to receive complaints regarding forced transport of arms or related materiel.

MONUC should monitor the activities of the Great Lakes Business Company closely, also bearing in mind that Viktor Bout's assets are to be frozen pursuant to UN Security Council resolution 1532.

The DRC *Régie des Voies aériennes* should ground the aircraft with registration EL-WVA immediately and report their findings on its operations to the UN Security Council Committee on Liberia.

The deployment of MONUC in the Mongbwalu area should be accelerated. MONUC should conduct regular inspections of the aircraft operating in the Mongbwalu area and confront their owners with any irregularities. MONUC and the Security Council Committee should actively investigate the landing in Beni in July 2003 and trace the captured arms back to source in order to identify the original official transaction that led to the presence of these weapons in the hands of Commander Jérôme.

Surface

States must supply MONUC with fast patrol boats for immediate deployment in Lake Albert, Lake Edward, Lake Kivu and the northern portion of Lake Tanganyika. These patrol boats should be assisted by aerial surveillance.

Co-ordination with national authorities of neighbouring countries should also be ensured through regular MONUC-led liaison meetings.

States bordering the lakes should work both individually and together to improve monitoring and increase control over the lakes.

Donors should consider the lakes from a regional perspective and seek to ensure that their development policies share resources between all states bordering the lakes.

MONUC military observers should deploy on a 24-hour basis to all official border posts to conduct surveillance work and inspect all questionable goods in transit. MONUC border teams should be equipped with metal detectors and heavy loading equipment to inspect all vehicle contents passing through border posts.

Once MONUC's surveillance capacity is increased at official border posts, MONUC should deploy military observers to the known illicit border crossings in order to further constrict the shipment of arms and related materiel.

DRC defence procurement

The embargo should be extended to the whole of the DRC and only MONUC and the integrated national police and army of the DRC should be exempt.

The Security Council Committee should establish a mechanism that both guarantees confidentiality, and transparently reviews all licensed arms procurement by DRC, Rwanda, Burundi and Uganda; and donors and multilateral agencies should demand increased scrutiny of the budgets of the DRC, Rwanda and Uganda so that all defence related expenditures, including procurement, are in line with their legitimate defence and law enforcement needs.

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Arms-supplier governments should harmonise export controls according to human rights and international humanitarian law by supporting the proposed International Arms Trade Treaty

Governments should fully implement the UN Programme of Action on Small Arms and Light Weapons, including working to establish legally binding instruments on marking and tracing and the control of arms brokers and traffickers.

The Transitional Government should follow international rules concerning arms transfers. Arms producing and exporting countries should seek guarantees that End-User Certificates used for arms sales to the DRC and its neighbours are valid and that the supplied weapons remain in the countries of End-Use. Periodic inspection of inventories is recommended to ensure that weapons are not diverted.

The UN Panel of Experts on Somalia and the Monitoring Mechanism on the DRC should share findings of their investigations in order to deal with the subregional problem of small arms proliferation in the Great Lakes region and the Horn of Africa.

The signatories of the Nairobi Declaration on Small Arms and Light Weapons should, through the Nairobi Secretariat, put the issue of regional arms trafficking on the agenda of the next Ministerial Conference.

All government and private parties in the DRC to adhere to the UN Security Council's decision to freeze the assets of Viktor Bout and sever all links to him.

MONUC should be informed by the Congolese authorities of every arms delivery to non-state actors that may be considered as a violation of resolution 1493. Furthermore, MONUC should be given the opportunity to check the delivery and the eventual use of the equipment to ensure that no unannounced diversions take place.

Countries in the region should all play their part in preventing flows of arms transiting through their territory, and should work together in support of the UN arms embargo.

MONUC

MONUC should provide selected staff members with proper training regarding knowledge of arms trafficking, the conduct of investigations and the collection, reporting and analysis of verifiable data.

MONUC must prioritise proper centralisation of all data relevant to the embargo.

More staff, especially those with the appropriate language skills, must be assigned to monitoring the embargo.

MONUC personnel monitoring the embargo should be assigned to one specific area for as long as possible, to enhance and maintain MONUC's knowledge of local terrain.

MONUC needs to strengthen its own intelligence-gathering capacities in neighbouring countries. A concerted effort to mobilise a comprehensive, agile and skilled surveillance capacity within MONUC is vital, with clear reporting mechanisms to central command.

MONUC needs to strengthen its liaising and sharing of intelligence with neighbouring countries. A dedicated liaison officer in MONUC with skills in surveillance and monitoring compliance could be responsible for establishing linkages, and provided with adequate resources to pursue this.

MONUC needs a focal point to allow NGOs, local people, or other interested parties to report suspicious activities related to the arms embargo. Strict confidentiality must be guaranteed. The office should have the capacity to staff a confidential hotline, run outreach programmes, and follow-up on reports.

MONUC needs to strengthen its outreach and PR capacities. A dedicated team of communications experts, with experience in liaising with government, donors, NGOs and the media is essential. Key tasks should be to focus on strategic outreach, and respond to crises as they emerge.

MONUC procurement

MONUC arms supplies must be transparent, and coordinated with both the Department of Peacekeeping Operations in New York, and MONUC in Kinshasa. To avoid misunderstanding, it is recommended that, where possible, arms shipments to peacekeeping forces in the DRC arrive via Matadi port or Kinshasa only.

All MONUC arms procurement should be conducted in a uniform and transparent manner to prevent future misunderstanding that could jeopardise both MONUC's standing or the peace process.

6. ANNEXES

Annex 1

Arms and ammunition recovered by MONUC between August 2003 and April 2004 (source: MONUC)

Type	Quantity (estimation)
AK-47/ rifles	645
Rocket Propelled Grenades	8
Mortars	4
Machine guns	7
Grenades	138
Anti-personnel mines	53
Small arms ammunition	20,418

Annex 2

Arms recovered from Aircraft in Beni, July 2003

- 30 rounds of HE 82 mm Mortar bombs (M-69 or M-69A), probably of Serb or Ukrainian origin. Serial numbers were MINA (MORTAR)-Lot NO MIV 04 95 (25 rounds) and MINA (MORTAR) ZISN 01 97 (5 rounds);
- 36 rounds of HE 60 mm Mortar bombs (M-73), probably of Croatian origin. Serial numbers : MINOB/PATSACY-LOT: KB 8902-47 (4 rounds), MINOB/PATSACY-KB 9101-37 (16 rounds) and MINOBACACKA/TRENGTN M73T-RB-02-95 (12 rounds);
- 18 boxes of 7.62 x 39 mm ammunition (750 rounds in each box), a mixed collection of different batches of unknown origin;
- 10 boxes of 12.7 mm ammunition (85 rounds in each box), of unknown origin. Serial number API-TYPE 54-LOT Nr : 9-97-41

Annex 3

Namibian End-User Certificate used to procure heavy military equipment for the DRC government. *Available on request.*

Annex 4

Photograph Mi-8 helicopter (9Q-CQM), crashed 10 May 2004. *Available on request.*

Annex 5

Objectives

The aims of the research were to:

- Expose the flows of small arms into and around the provinces of North and South Kivu and Ituri district of Orientale Province;
- Assess and assist the arms embargo imposed by UN Security Council resolution 1493, and enable accurate monitoring of arms flows by MONUC, regional governments and others;
- Help prevent new consignments of small arms entering the region and control circulation of existing stocks;
- Ensure greater accountability for these flows at individual, local, regional and international levels;
- Understand the flow of new arms compared to existing arms and, through this, gain a more accurate picture of the demand side;
- Identify the individuals, governments or private companies involved in order to create a deterrent on both the supply and demand side;
- Better understand the difficulties faced by MONUC in controlling arms flows into embargoed areas;
- Determine the exact location of 171 airfields and landing strips in the Kivu Provinces and Ituri district, and their immediate vicinity;
- Make recommendations to improve the monitoring of the arms embargo.

Standards for evidence

The circumstances in the DRC make it almost impossible to produce a detailed report where one can vouch for all of the facts contained within it. The DRC is, in many respects, a lawless state in which many of the actors are themselves compromised and where everyone lives in varying degrees of fear. The research on which this report is based was carried out, to a large degree, in the DRC itself. The authors of the report have done their best, in all the circumstances, to be objective and fair in the compilation of this report.

Both documentary and oral sources have been used for this research. Oral evidence, unless a self-incriminating statement, was wherever possible corroborated by a second source. Written evidence, including documents, was also corroborated by a second source wherever possible. All documents relied upon are available for inspection by the DRC Sanctions Committee, the UN Group of Experts and MONUC, unless provided to the APPG or investigative group on a confidential basis. Where it was not possible to corroborate a source, this is stated in the report. Any allegations made in the report, as far as reasonably possible, were put to those concerned in order to afford a right of reply, but as indicated, the standards which would be normal and acceptable in the UK for the compilation of a report such as this, are simply not feasible in the DRC today.

Information that was not used in the report will be made available for inspection by MONUC or the UN Group of Experts. It is strongly advised that MONUC or the Group of Experts follow-up and carry out additional research and verification of all of the allegations contained in this report, including making additional attempts to contact all of those individuals against whom allegations are made to afford them additional opportunities to reply.

Program of research

Research was conducted in Nairobi, Kinshasa, Kampala and in the eastern provinces of the DRC over a three week period. The research commenced in late April 2004. Initially, reports and open sources were consulted, and were used to create an overview of known transportation and logistics routes. Transportation bottlenecks in the supply of arms and ammunition to the Kivu Provinces and Ituri district were then identified. Aviation was identified as the most important means of arms transportation. All private aviation companies operating in eastern DRC and neighbouring countries were contacted. Where possible, documents were obtained confirming their ownership structures and shareholders. These showed business links, and identify areas for continued investigation. Several local and foreign companies provided copies of their leasing contracts, pilots' licences, or technical documentation on their aircraft operating in the DRC. For specific flights, cargo manifests and airway bills were obtained. Other companies refused to cooperate or only communicated through their legal representatives.

Several hundred interviews were held with airline company owners, pilots, loadmasters, air traffic controllers, UN personnel and staff of international organisations. Attempts were made to discuss the situation in eastern DRC with some of the leaders of the armed groups or their alleged financiers. There was good contact with a number of law enforcement and intelligence services in Europe and with embassies in Kinshasa.

Throughout the investigation, there was cooperation with MONUC headquarters in Kinshasa and MONUC observers in the field.

Acknowledgements

The report has been commissioned and published by the APPG (www.appggreatlakes.org). The IPIS investigative group, commissioned by the APPG, comprised Johan Peleman (Chairperson of the UN Expert Panel on Somalia; Member of the UN Expert Panels on Liberia, and Sierra Leone; Consultant to the UN Expert Panel on Angola); Christian Dietrich (UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of the Congo); Jeroen Cuvelier, and Peter Danssaert, all of IPIS Research in Antwerp, Belgium (www.ipisresearch.be). All four members were also consultants to the Belgian Senate Commission on the Great Lakes. Many people have contributed to this report, including the APPG Chair, Oona King MP and the APPG Policy Director, Mark Pallis. The APPG would like to thank all those involved in the drafting of the report, and all those who assisted with the research. Special thanks are conveyed to the United Nations Mission in the DRC (MONUC).

The recommendations are the collective view of the APPG.