

**Security Council**

Distr.: General
2 December 2011

Original: English

Letter dated 29 November 2011 from the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council

On behalf of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo, and in accordance with paragraph 5 of Security Council resolution 1952 (2010), I have the honour to submit herewith the final report of the Group of Experts on the Democratic Republic of the Congo.

In this connection, I would appreciate it if the present letter, together with its enclosure, were brought to the attention of the members of the Council and issued as a document of the Council.

(Signed) Maria Luiza Ribeiro **Viotti**
Chair



Enclosure

Letter dated 18 October 2011 from the Group of Experts on the Democratic Republic of the Congo addressed to the Chair of the Security Council Committee established pursuant to resolution 1533 (2004)

The members of the Group of Experts on the Democratic Republic of the Congo have the honour to transmit herewith the final report of the Group, prepared in pursuance of paragraph 5 of Security Council resolution 1952 (2010).

(Signed) Fred **Robarts**

(Signed) Nelson **Alusala**

(Signed) Ruben **de Koning**

(Signed) Steven **Hege**

(Signed) Marie **Plamadiala**

(Signed) Steven **Spittaels**

Summary

Foreign and Congolese armed groups are positioning themselves for the campaign and post-electoral periods in eastern Democratic Republic of the Congo. Despite further reorganization, the Forces armées de la République démocratique du Congo (FARDC) is still divided by parallel chains of command, with many former soldiers of the Congrès national pour la défense du peuple (CNDP) still loyal to General Bosco Ntaganda, who has encouraged them to resist attempted reforms. Some mineral processors, traders and end-users have made encouraging progress in implementing due diligence, but the mining sector as a whole remains some distance from adequate implementation of the due diligence guidelines produced by the Group of Experts on the Democratic Republic of the Congo, which the Security Council unanimously supported taking forward in paragraph 7 of its resolution 1952 (2010).

Foreign armed groups

The Forces démocratiques de libération du Rwanda (FDLR) remains the most militarily strong and politically significant rebel force in the Kivus, despite being riven by internal tensions stemming from the hard-line leadership of its commander, General Sylvestre Mudacumura. Since the arrests of several of the most senior FDLR leaders in Europe during 2009/10, the group's remaining political representatives have gone into hiding, although telephone logs demonstrate their continued communication with these international contacts and senior commanders in the Kivus.

While in the past, FDLR derived much of its funding from mining, its direct access to and control over certain natural resources have been reduced. Instead, the main sources of financing for FDLR are trade in commercial products in mining areas under its control, and taxation and agricultural sales of products such as palm oil and cannabis.

FDLR has been subject to little military pressure from FARDC, in 2011, aside from joint operations of the Rwandan Defence Forces (RDF) and FARDC in Rutshuru, and has continued to build alliances with Congolese armed groups. Negotiations between FDLR and the Government of the Democratic Republic of the Congo concerning the group's relocation to the country's Maniema Province lost momentum owing to disagreement over the Government's requirement that FDLR disarm first.

There is widespread interest among rebel groups, including FDLR, in an alliance with the South Africa-based political opponents Patrick Karegeya and Kayumba Nyamwasa. To date, however, the Group has not found conclusive evidence indicating that the dissidents themselves have provided either financial or material support to FDLR or any other group in eastern Democratic Republic of the Congo.

Activity by the Lord's Resistance Army (LRA) in the Democratic Republic of the Congo decreased during the second half of 2011, owing to the fact that most units have moved to the Central African Republic. LRA continues to subsist on looted food and goods and does not appear, from the available evidence, to be benefiting from external support.

During the reporting period, the Ugandan Allied Democratic Forces regained control over territory that it had previously lost to FARDC. The movement continues to receive income from money transfers, taxation on small gold mines and timber production, and has recruited members from Uganda, the Democratic Republic of the Congo, Burundi and the United Republic of Tanzania, and from among Somali refugees within Kenya.

Combatants belonging to the Forces nationales de libération (FNL) of Burundi have continued to use the province of South Kivu as a rear base for their remobilization efforts, having built a strong alliance with the Congolese rebels of Mai Mai Yakutumba, in Fizi territory. While it has yet to announce a formal identity and structure, FNL benefits from political, material and financial support from political leaders belonging to the Alliance démocratique pour le changement-Ikibiri. The FNL combatants also have support from within both Burundian and Congolese security forces, and have procured weapons in the United Republic of Tanzania. The arming by FNL of Mai Mai Yakutumba has emboldened the latter to expand its involvement in the mineral trade, piracy and attacks against members of the rival ethnic Banyamulenge local population.

Congolese armed groups

Congolese armed groups have been readying themselves for possible outbreaks of unrest as a result of post-electoral disputes. Those already integrated into FARDC, particularly the Coalition des patriotes résistants congolais (PARECO), CNDP and the Forces républicaines fédéralistes, have sought to consolidate their grip on key command positions and territories, hoping to ensure maximum support for the campaigns of their own candidates and the campaign of President Kabila. Having joined the Alliance pour la majorité présidentielle, these former armed groups have stated to the Group of Experts on the Democratic Republic of the Congo that important aspects of current peace arrangements would be jeopardized by an opposition victory.

The Government of the Democratic Republic of the Congo orchestrated a reform of army units in the eastern part of the country, made possible in part by the presidential suspension of mining activities from September 2010 to March 2011, which was accompanied by orders to demilitarize mining sites. Although one objective of the restructuring into regiments was to break parallel chains of command and address systematic insubordination, ex-CNDP member General Bosco Ntaganda ultimately hijacked the process by placing his most loyal officers in critical positions throughout North and South Kivu. In order to ensure a common front for elections, Ntaganda also reconciled with officers loyal to General Laurent Nkunda, still imprisoned in Kigali.

For their part, non-integrated armed groups, such as Mai Mai Yakutumba in South Kivu and PARECO LaFontaine in North Kivu, have found fertile ground in the pre-electoral period as they seek to capitalize on anti-Kabila and anti-CNDP sentiment in the two provinces. Some senior FARDC officers support these groups owing to their discontent at being marginalized by the army reform process. Most Congolese armed groups have not sought to disturb the electoral process, but rather have consolidated their forces, strengthened alliances with other groups and positioned themselves to respond to the election results. A few, such as the Alliance des patriotes pour un Congo libre et souverain and Nduma-Defence for Congo, have supported their political allies by maximizing voter registration in their home territories and, in the case of the latter's leader, running for elected office.

Natural resources

The Group evaluated the impact of its due diligence guidelines and examined steps taken by Member States to urge importers, processing industries and consumers of Congolese mineral products to exercise due diligence by applying the guidelines.

Since April 2011, most tin, tantalum and tungsten *comptoirs* in eastern Democratic Republic of the Congo have had no buyers for untagged minerals, with the exception of three — TTT Mining, Huaying Trading^a and Donson International — which have sold to smelters, refiners and trading companies in China that do not require tags or evidence of due diligence. The Group has evidence that these *comptoirs* have made purchases that finance armed groups and criminal networks within FARDC. Since Chinese refiners, smelters and trading companies make up a significant proportion of the buyers of tin, tungsten and particularly tantalum from eastern Democratic Republic of the Congo, awareness and implementation of due diligence on the part of such companies are of particular importance. However, the Group was unable to visit China to investigate the due diligence implementation of such refiners and smelters or to discuss with the Government the steps that it is taking to raise awareness and urge implementation of due diligence.

Few *comptoirs* in eastern Democratic Republic of the Congo and neighbouring countries are currently implementing due diligence. In non-conflict areas, where *comptoirs* and other traders have exercised due diligence and introduced traceability systems, mining sector governance has improved, and mineral production and export have risen. In areas where no traceability systems have been introduced, particularly the Kivus and Maniema, mineral production and exports have fallen. This has not only decreased conflict financing, but also weakened mining sector governance, with a greater proportion of trade becoming criminalized and with continued strong involvement by military and/or armed groups.

There is good awareness of the Group's due diligence guidelines among international refiners and smelters of tin, tantalum and tungsten ores belonging to the International Tin Research Institute, an industry association, while awareness among non-members is weaker. For many Institute members, a more immediate concern is to attain "conflict-free smelter" status. "Conflict-free smelter" audits require refiners and smelters to show evidence of due diligence, and their form has been significantly influenced by the Group's due diligence guidelines.^b General awareness of the issue of conflict minerals, and of the need for due diligence to mitigate the risk of funding conflict through mineral purchases, has increased internationally in most affected industries, particularly electronics, vehicle manufacture and aerospace. This is most obvious in the United States of America, which has introduced legislative requirements for due diligence disclosure.

By contrast, Congolese gold is much in demand. Most of the gold trade in the country goes unrecorded, and most transactions are concluded in neighbouring cities such as Kampala, Bujumbura, Nairobi or Mwanza (United Republic of Tanzania). The Group found substantial discrepancies, of more than three tons, between gold import statistics provided by the authorities of the United Arab Emirates and those exports claimed by the Government of Uganda. The gold trade is among the main sources of financing available to Congolese armed groups and FARDC criminal

^a S/2010/596, para. 188.

^b See <http://www.un.org/sc/committees/1533/egroupguidelines.shtml>.

networks. In addition to selling real gold, criminal networks organize elaborate scams in which counterfeit gold is sold to clients ranging from driving instructors to oil magnates.

Gold *comptoirs* in eastern Democratic Republic of the Congo and neighbouring countries have not demonstrated significant awareness of the Group's due diligence guidelines. Due diligence implementation on the part of gold refiners, smelters and jewellers sourcing artisanally mined gold has also been weak, although gold industry associations are developing guidelines strongly influenced by those of the Group.

On 6 September 2011, the Ministry of Mines of the Democratic Republic of the Congo issued a *note circulaire* obliging all mining operators in the country, at every point of their supply chains, to exercise due diligence as defined in Security Council resolution 1952 (2010) and the guidance provided by the Organization for Economic Cooperation and Development. Other countries in the region have also taken measures to raise awareness of the due diligence guidelines, particularly Burundi and Rwanda, assisted by the International Conference on the Great Lakes Region. It remains unclear, however, how effectively the Rwandan mining authorities have been able to prevent the fraudulent importation of Congolese minerals into Rwandan mines, where they are then tagged as Rwandan.

On 10 March 2011, the Government of the Democratic Republic of the Congo lifted its suspension of all artisanal mining activity in the provinces of North Kivu, South Kivu and Maniema, which had been in place since 11 September 2010. The Group determined that during the ban, the mining of tin, coltan and wolframite had continued in several areas, often under the control of FARDC or armed groups. The involvement of FARDC units in mining activities sometimes leads to violent conflicts of interest between army units, revealing the persistence of parallel chains of command. Beyond the Kivus, mining activities are much less tainted by armed group or military involvement. Traceability efforts are ongoing in Tanganyika district, North Katanga, which is free from armed group control. In Maniema, the Group found conflict-free trading of minerals in the territories of Kailo and Pinga.

Smuggling is a widespread problem. Minerals can pass unrecorded through official crossings, but most smugglers use illegal border crossings. The Group identified a number of such crossings, including a street controlled by General Bosco Ntaganda in Goma and a small Lake Kivu port north of Bukavu run by elements of the FARDC navy. Smugglers sometimes try to launder untagged material into the International Tin Research Institute Tin Supply Chain Initiative in Rwanda, threatening the credibility of the system.

Armed groups continue to generate income from natural resources other than minerals. Among other things, the Group investigated instances of illegal taxation on fishing, timber and charcoal production.

Arms and ammunition

Armed groups continue to obtain most of their arms, ammunition and uniforms from FARDC. Leakage from FARDC stocks, whether through small-scale barter, larger transactions, abandonment or seizure on the battlefield, is widespread and largely uncontrolled. State-owned arms are not yet marked or registered before being issued.

Human rights

Finally, the Group looked into a number of human rights violations perpetrated by members of armed groups or FARDC. The recruitment and use of children remains a common practice within most armed groups. Within the national army, former CNDP officers continue to recruit minors, targeting those formerly associated with armed groups.