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Report of the Secretary-General pursuant to paragraph 8 of resolution 1698 (2006) concerning the Democratic Republic of the Congo

I. Introduction

1. In paragraph 6 of its resolution 1698 (2006), the Security Council requested the Group of Experts originally established pursuant to its resolution 1533 (2004) to provide recommendations on feasible and effective measures the Council might impose to prevent the illegal exploitation of natural resources financing armed groups and militias in the eastern part of the Democratic Republic of the Congo, including through a certificate-of-origin regime.

2. In tandem with that request, in paragraph 8 of the same resolution the Security Council requested the Secretary-General to present before 15 February 2007, in close consultation with the Group of Experts, a report comprising an assessment of the potential economic, humanitarian and social impact on the population of the Democratic Republic of the Congo of the implementation of the possible measures referred to in paragraph 6 of the resolution. The present report is submitted pursuant to the latter request.

II. Measures proposed by the Group of Experts

3. On 25 January 2007, the Group of Experts presented its latest report (S/2007/40, annex), as requested by the Security Council in its resolution 1698 (2006). In paragraph 51 of that report, the Group of Experts stated, “urgent intervention against all forms of illegal natural resource exploitation is required”. The Group of Experts recommended, in paragraph 52, that “the existing laws of the Democratic Republic of the Congo, particularly the regulations governing natural resources and their orderly exploitation, be used as a baseline for a new sanctions regime”.

4. The implementation of the proposed United Nations sanctions regime would require a clear demarcation between what is and is not legal in exploiting and commercializing natural resources in the Democratic Republic of the Congo. Making this demarcation is a challenge in itself, and however the line is drawn, the number of potentially sanctionable targets under such a proposal would be considerable. It would include the vast majority of artisanal miners who do not have

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the required licence, most of the middlemen who are not in possession of the necessary permits, buyers and traders that are engaged in fraudulent activities and members of the national police and the Forces armées de la République démocratique du Congo (FARDC) who extort fees from miners, as well as mining companies that have engaged in irregular payments to government officials or that do not comply with the Mining Code of the Democratic Republic of the Congo. The considerable scope of the proposed measures makes them unwieldy and difficult to apply in a fair and non-arbitrary way.

III. Procedure and methodology

5. Referring to Security Council discussions prior to the adoption of resolution 1698 (2006) and following discussions with the Experts and others, the present report focuses only on a limited number of natural resources that are exploited in the Democratic Republic of the Congo and relating to which the Council may consider possible future sanctions, including gold, cassiterite, copper, cobalt and diamonds. This assessment does not evaluate possible sanctions on other commodities in the Democratic Republic of the Congo, such as timber or petroleum. Assessments of potential impacts on those industries might be needed at a later stage, once the Council decides on the general approach it wishes to take regarding possible coercive measures. Furthermore, the present report assumes that only those economic operators, that engage in conspicuous fraud, use armed groups to secure access to concessions and/or to extort payments from miners and engage in tax evasion and corrupt payments would become potential targets of United Nations sanctions.

6. The methodology for this assessment is informed by the *Sanctions Assessment Handbook: Assessing the Humanitarian Implications of Sanctions*[1] and is designed to examine the potential impacts of sanctions measures proposed by the Group of Experts against economic operators deemed to be in violation of Congolese law. Two impact questions were used in assessing the potential impact of the proposed sanctions:

(a) What is the likely impact on the extent of armed conflict? The objective of the sanctions proposed by the Group of Experts is to prevent the illegal exploitation of natural resources financing armed groups and militias;

(b) What is the likely impact on artisanal miners? They are the most numerous stakeholders and those for whom the impact of sanctions would likely be the most severe.

7. Furthermore, two critical factors can be expected to influence the impact of the proposed sanctions:

(a) How will the existing trading system affect the impact of the proposed sanctions? The ability and readiness of new actors to substitute for sanctioned ones will reduce the effectiveness of the proposed measures;

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[1] Manuel Bessler, Richard Garfield and Gerard McHugh, United Nations, Office for the Coordination of Humanitarian Affairs, in collaboration with member agencies of the Inter-Agency Standing Committee, October 2004; available at www.humanitarianinfo.org/sanctions/handbook/index.htm.

(b) What is the extent of the formal sector? Sanctions will have a meaningful impact only when they target formal-sector actors.

8. Reports by national and international non-governmental organizations (NGOs) have provided information on these questions, as have reports of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), journalistic articles and reports by State actors and donors. Extensive consultations, field observations and interviews were conducted for the present assessment report with informed interlocutors from United Nations agencies, the World Bank, NGOs, State agents and a variety of economic actors during an assessment mission to the Democratic Republic of the Congo from 20 November to 14 December 2006.

9. Because artisanal miners are likely to experience the most direct impact of the proposed sanctions regime and are the most numerous stakeholders, they have received special attention. The assessment draws upon "livelihood security" questionnaires that were designed to elicit income and expenditure data, along with selected demographic variables. The questionnaires were administered in all locations visited by the assessment team with the exception of North Kivu, where there was no access to the mining sites. The results of the 39 cases surveyed are used throughout the assessment report in order to profile a selection of artisanal miners. However, they should not be taken as statistically representative.

IV. The mining industry in the Democratic Republic of the Congo

10. The human development indicators for the Democratic Republic of the Congo have declined markedly in recent years. The gross domestic product per capita, in terms of purchasing power parity, fell from $822 in 1998 to $705 in 2006. Poverty rates have risen, public services are limited and the human development index declined from 0.447 in 1985 to 0.430 in 1998 and 0.361 in 2006[2]. The country is currently ranked 167 out of 177 countries on the human development index listing. These development indicators are symptomatic of a country emerging from nearly a decade of conflict.

11. If the Democratic Republic of the Congo is to embark on a process of recovery, it will have to rely on the generation of State revenues from extractive industries. At present such revenues are minimal for at least three reasons. First, the formal mining sector accounts for only a modest proportion of the total production, which remains unregulated and vulnerable to considerable interference from a variety of military elements, rebel groups, foreign interests and unscrupulous traders. The investigations, consultations and interviews conducted in the course of this assessment revealed that those actors are often linked to and protected by Congolese personalities, who are complicit in supporting dishonest business practices. Secondly, the investigations showed that corruption and mismanagement are widespread in the Democratic Republic of the Congo mining sector.[3] As a result, the large majority of sales and exports of the country's minerals take place outside

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[2] United Nations Development Programme, *Human Development Report*, 2000 and 2006.

[3] See also the Corruption Perceptions Index, 2006, issued by Transparency International, in which the Democratic Republic of the Congo is ranked 156th out of 163 countries (www.transparency.org/policy_research/surveys_indices/global/cpi).

of the authority of the State. Thirdly, State mining companies in the Democratic Republic of the Congo, such as the Générale des carrières et des mines (Gécamines), the Office des mines d'or de Kilo-Moto (OKIMO) and the Minière de Bakwanga (MIBA), have difficulty securing and protecting their concessions. Therefore, large numbers of mining concessions are exploited by "hand-pickers" or diggers whose production is unregulated and inefficient and who pose a threat to social stability.

12. The assessment team has chosen to examine five different mining environments separately in order to give an appreciation of the variation in mining regimes in the Democratic Republic of the Congo and to provide a foundation for articulating an overview that takes this variation fully into account. These regimes, described more fully in the following sections, are as follows:

(a) Gold in Ituri district, Province Orientale;

(b) Cassiterite in North Kivu;

(c) Gold and cassiterite in South Kivu;

(d) Copper and cobalt in Katanga;

(e) Diamonds in Kasai Oriental.

13. The descriptions in each of those sections address the four key questions discussed in paragraphs 6 and 7 above and are structured as follows:

(a) Extent of armed conflict;

(b) Vulnerability of artisanal miners;

(c) Structure of the trade;

(d) Formal sector;

(e) Potential impact of proposed sanctions.

V. Gold in Ituri district, Province Orientale

Extent of armed conflict

14. Today the conflicts between rebel groups and the violence against civilians have diminished. Following the deployment of MONUC in summer 2003 and the integration of the FARDC fourth brigade, most of the competing rebel groups have dispersed. Where fighting does continue, it is contained, and many of the former rebels have now entered the gold fields as artisanal miners or traders to make their living, returning to an occupation that diminished during the war. This does not mean however, that the population and the artisanal miners are significantly less exposed to military pressure. The field observations and consultations carried out in Ituri indicated that the threat of hostilities continues, as now soldiers and ex-rebels occupy the gold fields, replacing the various militias and using force to impose obligations and extort taxes from the mining communities.

Vulnerability of artisanal miners

15. With more calm and stability in Ituri, there are appreciably more artisanal miners and traders, better known as *négociants*. A significant number of ex-rebels, ex-police, teachers and health workers have moved into the gold fields. Estimates of

the number of artisanal miners in Province Orientale vary considerably, between 30,000 and 200,000, reflecting in part the variation from season to season. It is probable that 150,000 gain some livelihood throughout the year from artisanal mining, making it the province's largest source of employment[4]. Hence, over a million people in Province Orientale, counting family members and other dependants of artisanal miners, may depend entirely or in part, directly or indirectly, on artisanal mining, making it the backbone of the regional economy. The gender balance is conspicuously skewed, since women are marginalized as fuel-gatherers and small traders.

16. Only a very few of the miners interviewed earn more than a subsistence income. Among 17 cases surveyed, only four had positive net incomes. Gross incomes might be as high as $4 to $5 per day, but the high cost of living and the numerous fees that have to be paid make it difficult for the miners to break even. The average net income among the cases surveyed was a negative $6.[5] Any reduction in the capacity of the miners to produce and sell gold would put large numbers of them and their dependants at risk, with the exception of those able to fall back on alternative sources of livelihood, agriculture in particular.

Structure of the trade

17. Artisanal miners work in teams, headed by a subcontractor who presumes to have the authority of the State company OKIMO to manage pits and collect a portion of the production. After paying the subcontractors and protection fees to FARDC and others, the miners sell their small amounts of gold to *négociants* around the gold fields, who sell to larger traders in Bunia, the district capital, and they in turn sell to exporters, or *comptoirs*. In most cases, the *comptoirs* sell the gold fraudulently in Kampala or Dubai avoiding Congolese state royalties and taxes.[6] The Manager of the only *comptoir* that is officially registered in Bunia explained to the assessment team that he is unable to obtain sufficient operating capital and cannot compete with the large number of unofficial, hence illegal, *comptoirs*. An estimated 90 to 95 per cent of the gold from Ituri is carried fraudulently across the borders by traders who have not been approved by authorities of the Democratic Republic of the Congo and who pay neither fees nor export duties, nor for licences.

Formal sector

18. The State company OKIMO has, over a number of years, become a more restricted actor in Ituri's gold production. It has not been able to purchase gold and sell it on the market in spite of efforts over the past decade to do so. In lieu of trading the gold obtained from its considerable holdings, OKIMO has leased concessions and put a system in place that gives the subcontractors the role of overseers of an area with the right to collect commissions. A portion of the

[4] Karen Hayes and Kevin P. C. J. D'Souza, "Orpaillage activity in the Orientale Province, situational analysis report", commissioned by Angolo Gold Ashanti Ltd. and OKIMO, 19 May 2006.

[5] Negative net incomes were common. This appeared to be characteristic of the rainy season, when hand digging was more difficult. Although positive net incomes were more common during the dry season, indebtedness was typical throughout the year, and mean annual incomes were at the survival level.

[6] Karen Hayes and Kevin P. C. J. D'Souza, op.cit., provides a thorough analysis of the dangers posed to artisanal miners and the structure of the trade.

commissions has, in the past, been forwarded to OKIMO. But the practice of providing commissions to OKIMO through appointed subcontractors continues now in name only. At present, OKIMO relies mainly on its electricity grid and the vestiges of its once-productive farms to sustain the remaining 1,500 employees.

Potential impact of proposed sanctions

19. The plethora of traders, including *négociants* and *comptoirs*, and the considerable range of export possibilities mean that sanctioning one or two of them, no matter the size of their operations, will result in others emerging with little interruption in the fraudulent flow of gold. Hence, sanctions are unlikely to help significantly in regulating the trade, nor are they likely to make a noticeable difference in the artisanal miners' livelihoods. Nonetheless, some reduction in income may be felt from sanctioning one or another trader, and this may have certain limited consequences, particularly for the most vulnerable among the miners. Among these, women are likely to be more affected than men because of their marginal and dependent role in the artisanal mining process. Any measures that reduce the incomes of artisanal mining, however modestly, could be met with social protest triggering a return to some of the fighting that much effort has sought to dispel.

VI. Cassiterite in North Kivu

Extent of armed conflict

20. The security situation in North Kivu remains volatile. Conflicts are fuelled by the spillover of Rwandans into the region and ethnic tension. Resentment of Tutsis and, more generally, of Rwandophone influence persists among Congolese in the region. The Tutsi-dominated Rassemblement congolais pour la démocratie-Goma (RCD-Goma), which portrayed itself for the last five years as the "government" in North Kivu and imposed tax schemes to extort funds from the population, has fuelled this resentment (see S/2002/1146, annex, paras. 65-96). Furthermore, the presence of Interahamwe has intensified ethnic friction. At the same time, large numbers of Rwandophones consider the Democratic Republic of the Congo their home and are prepared to secure their "homeland" against an antagonistic population, even by violent means.

21. Around Walikale, in the west of North Kivu, a dispute broke out over the valuable cassiterite mines in the area. The local communities are concerned that Rwandophones and Rwanda's agents will manoeuvre themselves into a position to benefit while the local population gains little.[7] Two corporate entities are now vying for access to the Walikale mines: one, Mining Processing Congo (MPC), is a South African company that played an integral role in Rwanda's military commercialism in the Democratic Republic of the Congo during the war; the other, Groupe Minier Bangandula, is a Rwandophone company with close ties to members of the Rwanda-supported rebel group RCD-Goma.[8] Each of these companies has engaged its own

[7] Extensive background to the conflict over access to natural resources is provided in *Undermining Peace: The Explosive Trade in Cassiterite in Eastern DRC, Global Witness*, June 2006.

[8] MONUC has produced a special report on this conflict: "Competing mining companies at Bisie spark insecurity", November 2006.

protection force to defend the company's interests and to extort payments from the local population.[9]

Vulnerability of artisanal miners

22. Although a team of 10 miners can bag cassiterite worth on average $100 per day, the pay for transporters and the string of fees artisanal miners must pay cuts deeply into their earnings. After making regular and irregular payments plus transportation charges and extortions imposed by police and military personnel, an artisanal miner can earn up to $50 to $60 per month ($2-$3 per day). The assessment team was unable to administer questionnaires to artisanal miners on site and instead conducted inquiries in Mubi, the selling point for cassiterite. These off-site interviews indicate that artisanal miners around Walikale, as elsewhere, are unable to cover their expenses and are often in debt to local entrepreneurs. Their vulnerability is magnified by their isolation from the outside world and by the fact that there is essentially no farming or other alternative occupation in the mining areas. This dependency also has gender implications: women's work outside the family is limited to petty trading or prostitution near the mines, and inside the family to marginal domestic chores.

Structure of the trade

23. The off-site interviews in Mubi also revealed the working environment of the miners: they work in groups of 5 to 10 under an entrepreneur who finances the preparation of the ground until a vein is located. Once the pit produces, the entrepreneur takes a major share of the miners' production. As the ore leaves the site, miners are required to pay a string of charges, first to the local chief, then to FARDC (the non-integrated 85th Mayi-Mayi brigade) and subsequently to the Mining Police. The bags of ore are carried 50 km on foot out of the forest by transporters. A reported average of 7 to 10 planes daily,[10] each carrying two tons of ore, fly the cassiterite from Mubi to Goma, where the ore is purchased by *comptoirs* for official export or, as apparently is often the case, to unofficial *négociants* who do not have the required export licences and smuggle the ore at night across the border to Rwanda. In the consultations held in Goma for this assessment, several actors involved in the mining or processing industry indicated that government troops stationed at the borders are often complicit in such smuggling. In Rwanda, where there are no export duties, cassiterite is processed or shipped directly abroad for processing.

24. The practice of smuggling large amounts of cassiterite to Rwanda is so lucrative that fraudulent exporters buy up most of the cassiterite at prices legitimate exporters cannot afford to pay, making it difficult for legal *comptoirs*, who pay border taxes and royalties, to compete with the fraudulent ones. The role of fraudulent operators increased during the transition period.[11] The proportion of the total trade controlled by fraudulent operators increased to an estimated 50 to 60 per

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[9] Consequences of the battle for mining rights in North Kivu are explored in depth in a Pole Institute report by Dominic Johnson and Aloys Tegera, "Digging deeper: how the DR Congo's mining policy is failing the country" *Regards Croisés*, No. 15, December 2005.

[10] The numbers vary greatly from month to month.

[11] "Congo: staying engaged after the elections", Africa Briefing No. 44, International Crisis Group, January 2007.

cent between 2000 and 2003, and then further increased to an estimated 70 to 75 per cent in 2005.[12] Reliable Congolese traders claim that the amount passing fraudulently across the border to Rwanda has increased dramatically in the last 18 months.[13]

Formal sector

25. In North Kivu as in South Kivu, the State company Société minière et industrielle du Kivu (Sominki) held mining rights until the war. Claims and counterclaims have since produced contesting demands by an array of companies as they bid to control the concessions once held by Sominki. This has largely dismembered Sominki, which exists now in name only. One of the claimants is Société minière du Congo (Somico), a legal entity created by former President Laurent-Désiré Kabila to replace Sominki. Another is the above-mentioned South African company MPC, which, according to the information obtained in Mubi and Goma, assisted Rwanda's commercial military wing to funnel the Democratic Republic of the Congo's mineral wealth across the border during the war and which has recently purchased claims to cassiterite sites around Walikale. MPC claims to sites around Walikale have been aggressively contested by the other economic operator, GMB, which is owned by the wealthy Makabuza brothers and has relied on the non-integrated 85th Mayi-Mayi brigade and other Mayi-Mayi armed groups to impose its claim.[14] None of these competing companies or the other *comptoirs* operating in North Kivu contribute to the building of a formal mining sector.[15]

Potential impact of proposed sanctions

26. Sanctioning one or two of these illegal *négociants* who fraudulently export cassiterite may possibly demonstrate to others that punitive measures can be taken. However, most economic operators in the area know that these measures are rarely applied. Even if sanctions target one or two notorious operators with financial or travel restrictions, this would most probably not effect a change in overall behaviour, since the elimination of one makes room for others. Therefore, it is difficult to imagine how sanctions would have any far-reaching consequences in North Kivu. However, if they did, and if as a consequence even a modest reduction in the cassiterite trade resulted, artisanal miners in the remote interior would experience negative consequences because of their dependence on the cassiterite trade for a large portion, if not all, of their livelihood.

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[12] These percentages are informed guesstimates derived from the number of known fraudulent operators year to year and their level of commercial activity verified in interviews with Goma-based cassiterite exporters.

[13] Cassiterite export strategies and amounts change year by year as new operators enter the market and old ones discover new ways to circumvent State obligations. Three recent studies of export fraud provide guesstimate figures: (a) Dominic Johnson and Aloys Tegera, op. cit.; (b) "Congo: poches trouées, province de Sud Kivu: flux et fuite des recettes douanières", Observation governance et paix, November 2006; and (c) "Les dynamiques transfrontalières dans la région des Grands Lacs: Burundi, République démocratique du Congo, Ouganda et Rwanda" Initiative for Central Africa (INICA), Laboratoire d'analyse et d'expertise sociales, March 2006. All three studies attest to fraud being practiced in a variety of forms along the border.

[14] Interviews with traders and transporters on site at Mubi, outside of Walikale, 29 November 2006.

[15] Conflicting demands over Sominki concessions are discussed in *Undermining Peace*, op. cit., and Dominic Johnson and Aloys Tegera, op. cit.

27. Possible sanctions measures would also be much less effective than any concerted governmental reform initiatives of departments such as the Ministry of Mines, the Mining Police, the intelligence services and/or the Customs. Those departments are charged with monitoring the production of the Democratic Republic of the Congo's minerals and regulating the cross-border trade. If they functioned up to their potential, they would be capable of promoting legitimate trade, reducing criminal involvement and raising public revenues.

28. Another concern must also be raised: there is the possibility of a backlash against the highly visible United Nations in the Democratic Republic of the Congo if United Nations sanctions were to be imposed on the country's mining industry. When the North Kivu NGO Tout pour la paix et le développement was placed on the United Nations sanctions list, there was an immediate reaction from the local population, and protesters blockaded the MONUC compound in Goma and shouted anti-United Nations slogans. In the event of a more comprehensive United Nations sanctions regime, the Congolese population, possibly manipulated and agitated by a public information campaign, would likely hold the United Nations responsible for any negative consequences suffered as a result of the sanctions.

VII. Gold and cassiterite in South Kivu

Extent of armed conflict

29. The Hutu Forces démocratiques de libération du Rwanda (FDLR) groupings continue to occupy mining sites in remote areas of South Kivu, defending their claims and preying on local communities. These groups purchase arms and munitions with funds obtained by controlling access to cassiterite sites. They also pillage villages in the region and occasionally kidnap civilians. There are reported attempts by FARDC to dispel FDLR, but the latter is strong enough to repel FARDC troops and continue its war economy around mining centres. According to well-informed sources, FDLR controls between 7 and 10 mining sites[16] in South Kivu, where it has established its bases. Other mining sites where gold is extracted, such as Kamituga, experience little conflict apart from that resulting from the frustration among artisanal miners at the large number of illegal taxes and levies.

Vulnerability of artisanal miners

30. No information could be obtained on the cassiterite artisanal miners operating in the remote areas of South Kivu under FDLR control. However, a study of the impact of cassiterite mining in Maniema province, north-east of Kindu, where comparable conditions exist, reports low and variable incomes of artisanal miners, high living expenses, high rates of malnutrition and no health or any other social services.[17]

31. In most gold-mining towns in South Kivu, of which Kamituga is characteristic, there is virtually no livelihood except artisanal mining and a modest amount of agriculture that supplements the unpredictable incomes from digging for gold. The

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[16] This information was obtained from *Undermining Peace*, op. cit., supplemented by interviews with commercial operators.

[17] "Impact de l'activité minière au Maniema", Office for the Coordination of Humanitarian Affairs working paper, August 2005.

disorder, criminal elements, luxury goods and malnutrition are signs of a mining town with pockets of wealth amid generalized poverty. Some miners earned in excess of $200 a month, but the majority have nothing for months on end. Out of seven cases surveyed, two had no income at all in the past month. After expenses and fees, the average income of the cases surveyed in the previous month was a negative $21. Consultations with a local artisanal mining cooperative confirmed the pattern in these few cases to be representative of Kamituga miners generally. Local health workers reported a high rate of chronic malnutrition among children. Unlike at other sites, however, the majority of those artisanal miners, 63 per cent of the cases that were interviewed, owned plots of farmland operated by their families within a day's walk, which provided at least a modest safety net.

Structure of the trade

32. In Kamituga, as in other mining areas of South Kivu, 50 to 100 unregistered *négociants* purchase modest amounts of gold that they sell to local exporters such as Delta Force, the principal exporting company in the area. According to miners and *négociants* interviewed in Kamituga, Delta Force is the preferred exporter because it is known for its skills in smuggling large amounts of gold across the border to Burundi. Smuggling is rampant, as export taxes on gold are 4.5 per cent in the Democratic Republic of the Congo, whereas they are only 1.5 per cent in Burundi. In addition, official Congolese exporters are obliged to pay a minimum of $75,000 to operate.

33. There is only one officially registered *comptoir* in Bukavu, the capital of South Kivu, and it is well known that no more than 10 per cent of that *comptoir's* exported gold goes through official channels. According to information obtained from the Fédération d'entrepreneurs du Congo in South Kivu, of the estimated 500 kilograms of gold leaving the Democratic Republic of the Congo each month, valued at $8 million, 80 to 90 per cent leaves the country fraudulently.

34. Cassiterite's bulk makes it more difficult to smuggle. It is, however, systematically undervalued by customs authorities, who do so in exchange for rewards from the traders, essentially sharing the savings that the operators realize by officially reducing the value and quantity of their exports.[18] For that reason there are a number of official cassiterite buyers in South Kivu, at least half a dozen, who have paid the fee of $6,000 to obtain the required licence. The cassiterite passes formally through official channels, but the effect is the same as smuggling, since the State misses out on revenues. Undervaluation results in the loss of an estimated 50 to 60 per cent of the value of royalties, taxes and fees due to the State.[19]

Formal sector

35. Sominki, the State company in the Kivus, was sold in 1995 to Banro, a Canadian company that created Société aurifères du Kivu et du Mariema (Sakima), a Congolese subsidiary of Sominki. In 1998 Sakima was dissolved, but Banro, in a series of legal actions, recuperated its gold concessions. Sominki is currently

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[18] An in-depth study has been made of fraudulent practices in South Kivu cross-border trade: "Congo: poches trouées", op. cit.

[19] Estimate provided by Eric Kajemba, director of the Observatoire gouvernance et paix's recent research on customs fraud in South Kivu.

dormant. Banro has emerged as potentially the main industrial mining company in the region with the intention of producing and exporting gold by 2008.

Potential impact of proposed sanctions

36. A few cassiterite traders might be encouraged to pay the full and fair amount at the borders if they feared reprisals for their fraudulent activities. Sanctioning one or two prominent gold exporters, such as Delta Force, might reduce the level of smuggling and increase State revenues by allowing greater control over gold exports. An equally likely outcome, however, is that Delta Force or other sanctioned gold smugglers would simply disregard the international restrictions and continue smuggling gold. Therefore, targeting specific operators with United Nations sanctions would probably have little effect in the absence of resolute government action along the borders, accompanied by law enforcement and monitoring.

37. Some, though not all, artisanal gold miners in South Kivu have alternative occupations. Farming is practised around most of the gold sites in the region, unlike the remote cassiterite mines in the province. Should targeted sanctions reduce the capacity of artisanal miners to dispose of their gold, many miners would turn to farming as an alternative livelihood. This is not the case for cassiterite miners, who work in remote locations where farming has lapsed and where there are very limited opportunities to engage in alternative income-generating activities.

VIII. Copper and cobalt in Katanga

Extent of armed conflict

38. Katanga remained under government control and was spared the direct effects of the 1996-2002 war, while the other eastern provinces of the Democratic Republic of the Congo fell to rebel groups and militias. According to the October 2002 report of the Panel of Experts, the Government of the Democratic Republic of the Congo relied on Zimbabwe’s troops to secure Katanga militarily and, in exchange, granted mining concessions on favourable terms to prominent Zimbabwean businessmen (see S/2002/1146, annex, paras. 22-64). This furthered the practice of giving away pieces of the State-owned mining conglomerate Gécamines in exchange for military or personal favours, contributing to the decline of Gécamines.[20]

39. The once sizeable workforce of Gécamines has become a mass of unemployed who have little choice but to work as artisanal miners on concessions belonging to Gécamines or to private firms that have gained access to former Gécamines concessions. Consultations and interviews conducted in Kamituga showed that the number of these artisanal miners has grown dramatically in recent years, as other unemployed, including ex-army personnel, ex-rebels and government officials without pay have joined, swelling their ranks and turning them into an aggressive social mass quick to defend their ill-gotten ore with arms. The principal source of violence in Katanga is therefore the swelling mass of artisanal miners who, for want

[20] The privatization of the mining sector in Katanga had already begun in 1994 in an effort to stem the decline of the Congolese economy, but it was the vulnerability of the Congolese State in 1998 during the war that gave the impetus to unbalanced contracts; see Eric Kennes, “Le secteur minier au Congo: déconnexion et descente aux enfers” *L’Afrique des Grands Lacs*: *Annuaire 1999-2000* (Paris, L’Harmattan, 2000).

of other means of making a living, occupy the mineral concessions and defend their occupation as if it were their right.[21]

Vulnerability of artisanal miners

40. The growing mass of artisanal miners in Katanga is now estimated at 150,000,[22] and very few of the mining companies in Katanga know how to respond to such large numbers. Some companies finance alternative income-earning schemes, but others ignore the miners, profit from them and would probably deny that there is a connection between the unbalanced contracts that gave them access to the assets of Gécamines and the mushrooming number of artisanal miners.[23] The privatization of State assets has taken a great deal of valuable resources away from Gécamines and pushed all but a fraction (30 per cent) of its workforce and their families into the streets and mining sites.

41. Even though they earn more than they would in government services or in petty commerce, the mean income of the artisans in Katanga is low and inconsistent. The average monthly gross income was nearly $200 for the nine cases surveyed, even though net incomes after expenditures and fees averaged a negative $15. The young and strong among them can make money. But the work is dangerous: deaths and injuries occur often as the handmade shafts and galleries cave in and trap miners. They are economically vulnerable, and, as stated above, they are also volatile. Any United Nations sanctions regime that had a negative impact on the life and income of the artisanal miners would be likely to trigger social unrest.

Structure of the trade

42. Artisanal miners work in teams of 10 to 15 headed by a boss who pays for food and incidentals while the team digs in search of a vein. Once the pit produces, the bags of minerals are divided, half for the boss and half for the miners. After they have paid obligatory fees and bribes, the miners sell to whomever they can. They may sell to the owner of the site, though they are often more inclined to sell to illegal *négociants* or brokers off site. According to several local actors in the mining industry in Katanga, these illegal buyers pay higher prices and export the ore fraudulently without paying fees, royalties or duties to the State. The mining companies may lawfully own the site, but the illegal buyers also have permission to operate, which they reportedly obtain by bribing officials. According to the British non-governmental organization Global Witness, it is also these unscrupulous buyers

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[21] On 28 December 2006, at least three people were killed and about 20 injured in the south-eastern Democratic Republic of the Congo as police broke up a protest by artisanal miners wanting access to a copper mine in Ruashi, near Lubumbashi. Tensions have been high for several months between Chemaf, the mining company that obtained a concession to part of the copper mine from Gécamines, and local diggers because of their being blocked from entering the mines.

[22] *Digging in Corruption: Fraud, abuse and exploitation in Katanga's copper and cobalt mines*, Global Witness, July 2006.

[23] The link between the unbalanced contracts and the worsening of socio-economic conditions has been described in *The State vs. the People*: *governance, mining and the transitional regime in the Democratic Republic of the Congo* (Amsterdam, Fatal Transactions, 2006).

whose practices defy national and international law, who turn a blind eye to hiring children and who engage in corrupt payments and extensive tax evasion.[24]

Formal sector

43. The mining economy in Katanga, unlike that in Ituri and the Kivus, has a significant formal sector, including foreign mining corporations, a few local companies and the once powerful State company Gécamines. However in recent years, many of the valuable resources of Gécamines have been transferred into the holdings of private companies. The Lutundula Commission, an inquiry body of the Democratic Republic of the Congo National Assembly,[25] has examined a total of 40 such contracts that were signed with Gécamines, in addition to 10 with the Congolese State, and has raised a number of concerns, recommending that some of those contracts be cancelled or renegotiated. From more than 35,000 workers 30 years ago, Gécamines now employs fewer than 12,000, and according to mining experts who are familiar with the company's current situation, there is the risk that this number will diminish even further over the next few years as the company dwindles to a fraction of its former size and public enterprises are progressively replaced by private ones.

44. Diverse industrial mining corporations are growing rapidly in Katanga, and, though they will never absorb all the workers left over from Gécamines, some will go into industrial production, hire workers and initiate much-needed social programmes. There are some mining companies in Katanga that try to set reasonable standards for corporate social responsibility. However, there are also other companies that flout the law and undermine such attempts

Potential impact of proposed sanctions

45. The most logical targets for sanctions would be the three large mineral-buying houses[26] that do not extract copper or cobalt ore themselves but make arrangements with artisanal miners to get the ore from their own or others' concessions. They engage a few hundred salaried workers and purchase ore from large numbers of artisanal miners. Sanctioning these companies might discourage fraudulent practices, but it would also jeopardize the livelihood of their salaried workers and oblige the artisanal miners to sell their ore and labour elsewhere. A further consequence of such sanctions would be that artisanal miners would find fewer buyers and therefore be forced to accept lower prices. Hence, they would experience a reduction in earnings. Such an impact might be less in Katanga than elsewhere, but negative consequences would be unavoidable. A further concern is the social unrest that is likely to follow such consequences. Even if United Nations sanctions did not threaten their livelihoods directly, the measures would pose a risk for the image and acceptance of the United Nations in the region.

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[24] Two Global Witness reports have documented these fraudulent practices in detail: *Rush and Ruin: the devastating mineral trade in southern Katanga, DRC,* September 2004, and *Digging in Corruption,* op. cit.

[25] The Lutundula Commission is formally known as the Commission spéciale chargée de l'examen de la validité des conventions à caractère économique et financier conclues pendant les guerres de 1996-1997 et de 1998.

[26] Chemaf, Somika and Groupe Bazano.

IX. Diamonds in Kasai Oriental

Extent of armed conflict

46. Kasai Oriental was spared the direct effects of the war, but the indirect effects are still felt, especially in the city of Mbuji-Mayi, with its State diamond company, MIBA. Substantial resources were requisitioned from MIBA to finance the war, including cash and large pieces of its concession that were given to Zimbabwean businessmen in recognition of Zimbabwe's military support.[27] The surrounding population flooded into the city of Mbuji-Mayi to escape the plundering gangs of combatants. The city had already experienced rapid growth following the expulsion of Kasaian workers from Katanga some years before, and now the number of inhabitants has risen to over 2 million, most of whom are unemployed[28] and a large number of whom resort to clandestine digging for diamonds on MIBA territory.

47. The State company MIBA is unable to protect its concession against invading artisanal miners who remove substantial amounts of its diamond resources on a daily basis. The miners work even at night, frequently forced by armed gangs, known as *suicidaires*, who coerce them to share portions of their booty. There are regular armed clashes for access to particularly valuable veins. According to sources on the ground, deaths and injuries in the MIBA concession are routine. Last year the MONUC Human Rights Section registered 38 deaths in the MIBA concession, and these were only the officially reported ones. An undetermined number of additional deaths go unreported. This small-scale war between artisanal miners, the MIBA administration and armed groups for control over their booty perpetuates a pattern of conflict over access to natural resources.

Vulnerability of artisanal miners

48. According to estimates, the number of artisanal miners working in the two Kasais may be as high as 1 million.[29] There is little else to do in the region. Mbuji-Mayi is cut off from the rest of the country because of a dysfunctional railway and impassable roads. Even petrol arrives by plane. Artisanal miners earn very little for their efforts and the risks they take. Those who venture into areas not controlled by MIBA and who work the hillsides or riverbeds as divers can make somewhat more, and there are even a few lucky ones who find large gems. But most of the miners, including many women and children, are working in adverse and highly risky conditions.[30] The gross monthly incomes of the seven cases surveyed working outside the MIBA concession averaged $179, which is higher than in Province Orientale and South Kivu, but their net income after fees and expenses was the lowest of all, a negative $45. Households are large, expenses are high, and most of the miners are in debt.

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[27] S/2002/1146 provides a number of instances. One of the most notorious is the transfer of Sengamines, an 800-km^2 concession, to Oryx, a front company for ranking members of the Zimbabwe Defence Forces.

[28] MONUC briefing kit for the Security Council delegation, November 2005.

[29] Estimates have been compiled by Pact Congo in Lubumbashi drawing on a multitude of sources. The same figure of 1 million has also been given in "Reforming the DRC diamond sector", a briefing document by Global Witness, June 2006.

[30] "Le travail des enfants dans les mines de diamants au Kasaï Occidental", report on research carried out during the nineteenth session of the Observatoire de changement urbain, June 2006.

Structure of the trade

49. There are scores of *négociants* even in small mining towns outside the main cities, and according to the Centre d'évaluation, d'expertise et de certification (CEEC), in Mbuji-Mayi there are hundreds of them. Officially, they can sell their diamonds only to the 25 or so registered *comptoirs* with licences, who pay export taxes and record the exported diamonds with CEEC as part of the Kimberley Process. MIBA diamonds are similarly processed through CEEC in Kinshasa. But there are also a number of fraudulent export channels. An estimated 20 per cent of all diamonds bought and sold by the *comptoirs* in Mbuji-Mayi are sold illegally, without the obligatory presence of CEEC agents. Another large portion of all diamond exports bypass the *comptoirs* altogether and are sold by large-volume *négociants*, who pay no duties or fees and thus have more capital at their disposal to trade in larger amounts.[31] CEEC keeps relatively close track of registered *comptoirs* as part of its participation in the Kimberley Process, but it keeps no track of the *négociants* since that is not part of its mandate. This makes it easier for *négociants* to avoid taxes and smuggle diamonds to locations outside the country, from where they are shipped abroad to markets where Kimberley Process certificates are not always required. CEEC estimates that a minimum of 40 per cent of all diamond exports exit the Democratic Republic of the Congo illegally.

Formal sector

50. MIBA continues to function, but according to the Managing Director and experts familiar with the mining situation in Kasai Oriental, the company has been severely weakened by the war, mismanagement, continuing looting of its concessions and joint-venture partnerships, which have either performed poorly or given partners overly favourable terms. During the war, MIBA was subject to requisitions, but even before, the company had ceased to operate at a profit. The company has operated at a loss for all but 2 of the past 20 years. The majority of its production is low-quality diamonds: only 6 per cent are gem quality. Therefore, MIBA has to rely on high volume, which is a difficult challenge when capital is modest, requisitions are frequent, debt interest is high and resources for investment are nil.

51. The flood of artisanal miners and *suicidaires* skim off much of the MIBA concessions valuable reserves, reducing year by year the company's long-term viability. According to its own officials, MIBA has neither the resources to keep the looters away nor the support of the Government to respond appropriately to this threat. Like other State companies, MIBA appears to be in decline. Four prominent joint ventures have recently taken significant portions of MIBA holdings, some in the area of Mbuji-Mayi.[32] It remains to be seen whether these become viable partners with the capacity to provide employment and contribute to the well-being of the communities in which they operate. In any case, it is unlikely that they will absorb many of the MIBA employees who have lost their jobs.

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[31] CEEC, "Rapport d'activités", September 2006.

[32] First African Diamonds has access to the 800-km^2 Sengamines concession; BHP Billiton and Southern Era Diamonds have access to a 16,000-km^2 concession; De Beers, along with 12 local companies, has access to concessions covering an area of 60,000 km^2; and Emaxon Diamonds and Dan Gertler have a contract to market 88 per cent of MIBA production in exchange for a $15 million loan.

Potential impacts of proposed sanctions

52. It is difficult to envisage how targeted sanctions imposed on the ailing MIBA would reduce violence or diminish illegal activities taking place inside the company or on its concessions. A United Nations sanctions regime targeting MIBA would only further diminish the company's capacity to limit the looting on its concessions, which already compromises its viability. Sanctioning one or two of the 20 to 30 registered *comptoirs* identified by the CEEC/Kimberley agents as fraudulent operators is conceivable, but such measures are not likely to do more than the Kimberley Process already does. CEEC/Kimberley agents are already mandated to call attention to diamond sales that take place outside of the Kimberley Process. Although the Kimberley Process is currently not meeting expectations in the Democratic Republic of the Congo,[33] a targeted sanctions regime is not likely to help.

53. Another possibility would be to impose sanctions on one or two of the hundreds of *négociants* who do not have the required licences but who nevertheless export at a larger volume than official *comptoirs* because their capital is not reduced by duties or fees. However, this is unlikely to diminish the fraudulent diamond exports, because, again, the elimination of one or two of these would only make room for others. Thus, it is difficult to imagine that such sanctions would have any noticeable influence on the level of conflict associated with natural-resource exploitation or on the level of fraudulent and illegal activities.

X. Summary and conclusions

54. Pursuant to the request in Security Council resolution 1698 (2006), the present report assesses the potential impact of measures proposed by the Group of Experts. The investigations for this report have been carried out in five separate areas and have focused on four key issues deemed relevant to gauging the feasibility of the proposed measures and the potential impact on the economic actors participating in the mining and marketing of natural-resource commodities. The following paragraphs summarize the findings.

Extent of armed conflict

55. In most of the areas where rebel or foreign forces previously controlled mining sites, the level of violence has diminished. However, field observations and the numerous consultations carried out for the present assessment report revealed that the population and the artisanal miners are still exposed to tension and hostilities. In particular, the poor conduct and discipline of FARDC troops, who occupy many mining sites, collecting taxes and preying on the artisanal miners, is a matter of concern. The Government's integration process with FARDC is proceeding slowly in the eastern Democratic Republic of the Congo. Approximately 63 per cent of the armed forces ordered to be integrated remain unintegrated in Katanga and South

[33] "Reforming the DRC diamond sector", op. cit., summarizes the achievements and the inadequacies of the Government's participation in the Kimberley Process and calls on the Democratic Republic of the Congo Government to "Increase controls from mine to export, including controls at production sites, and ensure that the origin of rough diamonds presented for sale to comptoirs can be identified".

Kivu, and over 90 per cent are yet to be integrated in North Kivu.[34] Informed observers link this slow progress to the desire among non-integrated brigades to maintain their access to mining sites where they can extract irregular payments or can themselves mine, or where private firms may use them as mercenaries to secure their control over valuable sites. Coercive measures against these irregular armed groups or firms employing or buying from them are unlikely to contribute to a more regulated trade in natural resources.

Vulnerability of artisanal miners

56. The number of families supported by artisanal mining continues to grow. As State companies decline, previously salaried workers swell the ranks of artisanal miners. In areas once held by rebel forces, their dissolution has also brought ex-rebels into the pits, where they are joined by badly paid or unpaid soldiers, policemen, teachers and health workers. Nationwide estimates place the number of artisanal miners in the Democratic Republic of the Congo at 2 million. With each miner supporting a household of six to seven, the number of persons directly dependent on artisanal mining rises to between a fifth and a quarter of the national population.[35]

57. The livelihood of the vast majority of the artisanal miners is precarious, often in the extreme. Out of the 39 cases surveyed, 75 per cent were unable to cover minimal family expenses with their earnings. The average monthly net income for all cases was a negative $18.[36] The frequency of negative net incomes was attributed to the rainy season, but this should not obscure the fact that indebtedness is high and annual average net incomes are barely above the survival level. Thirty-six per cent of the cases surveyed had access to farm plots of various sizes, and an additional 30 per cent had at one time engaged in commerce. The remaining 34 per cent had no farmland or any previous occupation. This shows the considerable dependence on artisanal mining, which exposes these miners to potentially severe consequences should measures be taken that could threaten an already vulnerable livelihood.

Structure of the trade

58. The number of private economic operators in the Democratic Republic of the Congo's mining sector that operate in conformity with the relevant laws and regulations may be increasing slowly. However, there remain a large number of shady operators who purchase ore from sites that do not belong to them and who either smuggle the mined minerals to neighbouring countries or fraudulently undervalue the material's worth or quantity at the borders.

59. In Ituri district and the Kivus, there are rarely more than one or two *comptoirs* exporting through official channels, and those who choose to do so exclusively cannot compete. Primary and secondary sources everywhere report increasingly large amounts of fraudulent exports, estimated between 50 per cent and 90 per cent of all exports. Both non-registered and registered *comptoirs* export fraudulently,

[34] "Memo regarding the situation report of the third wave of the 'Plan de relance'", Centre de coordination des operations conjoints, 9 December 2006.

[35] These figures are based on a recent review of NGO, government and private-sector literature informally compiled by Pact Congo in Lubumbashi.

[36] See footnote 5 for an explanation of these findings.

some by outright smuggling and others by undervaluing the quantity and quality of exports. In areas bordering Uganda, Rwanda and Burundi this is often done with the complicity of public- and private-sector actors from those neighbouring countries. Given the large number of illegal actors and the quasi-criminal commerce at all levels, a targeted sanctions regime against one or two selected operators is unlikely to have much of an effect.

Formal sector

60. State companies such as OKIMO, Sominki, Gécamines and MIBA provided previously salaried work as well as social services in their respective areas. Those companies are in various stages of decline, and the social services they once provided have largely disappeared. Many of the private firms that have taken the State companies' place have done so through dubious joint ventures that have contributed in various ways to the removal of the assets of the State companies, hastening their demise.

61. In Katanga, a few private mining firms that respect the relevant laws and regulations moved quickly into production, engaged labourers and supported unions while putting in place social programmes for populations in the vicinity of their mining sites. However, there are also other companies that are slow to go into production, preferring to use their stake for speculative purposes. Still others show little interest in social investments or corporate responsibility and do not hesitate to strip assets from public companies, circumvent social commitments and/or benefit from opportunities to engage in illegal business activities. A considerable portion of economic transactions are informal, unreported and unofficial. As a consequence, those economic actors that ought to be sanctioned are also those that are most likely to avoid the restrictions that such measures would impose.

Potential impact of proposed sanctions

62. While sanctions may inconvenience their targets, the general effect will be to diminish only marginally the general practices they are designed to curtail. In most of the eastern Democratic Republic of the Congo, they will do little to reduce the use of force in extracting minerals, diminish fraud and encourage responsible corporate behaviour, since the regulatory environment where such measures would be imposed is too weak and lacking in effective enforcement mechanisms for the actors to care much about international pressure. And where the mechanisms of international control would make a difference or would tarnish an operator's reputation severely, other equally unscrupulous actors would readily fill the void. In rare cases, internationally imposed sanctions may block the activities of a significant operator and, in doing so, diminish the commerce overall. When this happens, artisanal miners, labourers and small sellers will have less of an outlet for what they market, harming those whom the sanctions regime is largely meant to protect.

63. At this time, there is also a more general concern about possible United Nations sanctions against the Democratic Republic of the Congo: on 6 December 2006 the country's first democratically elected President was sworn into power following a lengthy election process that, according to the majority of observers, was generally free of irregularities. The international community is inclined to reinforce the hard-won legitimacy of the new Government with collaboration and

support, not threats and conditions. Imposing United Nations sanctions now may be perceived as punitive, whether they target State actors or not and whether they are intended to reflect on the capacity of the State to manage its affairs or not. This might be another reason why United Nations sanctions may not be advisable at the present time.

XI. Alternative measures

64. The question remains: what is likely to bring more order to the production and marketing of the Democratic Republic of the Congo's natural resources in a way that will allow greater security for the artisanal miners, less exposure to extortion by armed groups and the assurance of more revenues for the State and its public services?

65. Alternative measures need (a) to reduce the level of conflict in the eastern provinces by diminishing the influence of economic operators that use proceeds from natural-resource exploitation to buy and import arms, and (b) to promote a business climate that discourages extortion, fraud and other illegal practices that compromise the Government's capacity to raise public revenues. Meeting these objectives means acknowledging and acting on two critical areas of responsibility: the responsibility of the Government of the Democratic Republic of the Congo and the responsibility of the private sector.

66. In the first area of responsibility, I recommend that the Government of the Democratic Republic of the Congo initiate good-governance reform in two high-priority domains: (a) security sector reform, with specific attention to implementing reforms in the police and the military, and (b) improving trust and transparency in the Government by monitoring and fighting corrupt practices and taking effective action against violators. With the conclusion of elections and the end of the transition, the stakes for meeting these responsibilities are high.

67. Based on security and trust, a good-governance programme should create an economic climate in which reputable private-sector actors can function. Here it is important that two additional domains receive focused attention. Since natural-resource exploitation constitutes the Government's most promising source of public revenues, I suggest that the Government make sure (a) that natural-resource investors and other economic actors meet specific conditions and adhere to regulations in contracting, exploring for and exploiting natural resources, and that the revenues from these activities are closely monitored, and (b) that government budgets prioritize expenditures in ways that discourage corruption and provide basic services to address poverty.

68. For these reasons, I strongly support the collaboration between the Government and its stakeholders in acting on the principles of the document "Towards a governance compact in the Democratic Republic of the Congo, from elections to governance",[37] which states that the first four priorities are (a) security sector reform, (b) transparency, (c) natural resource management and (d) public finance management. That proposed compact has been developed by the World Bank, the European Commission, the United Nations and major bilateral partners. It recognizes the urgent need to control revenue flows in the Democratic Republic of

[37] Informal background paper prepared on the basis of an informal donor meeting held on 6 July 2006 in Brussels.

the Congo, to reform the country's mining sector, including a review of all mining contracts signed during the transition and oversight over new contracts, to reduce the level of illegal exploitation and to ensure compliance with Congolese law, government codes and regulations. The United Nations is ready to play a significant role in supporting and promoting the reforms outlined in the proposed compact.

69. Obviously, the Government of the Democratic Republic of the Congo is responsible for regulating business conduct in the country and, together with its international partners, will have to take the lead in the implementation of the proposed governance compact. However, the private sector will also have to play a role in this regard. Therefore, I recommend that the second area of responsibility must be assumed by the private-sector actors, with the objective of improving business practices and raising the level of corporate social responsibility among the growing numbers of economic actors in the Democratic Republic of the Congo's extractive industry.

70. Private-sector actors must help to set standards for business practices and corporate social responsibility in the Democratic Republic of the Congo and develop mechanisms to ensure that such standards are adopted and implemented. Initially, some among them might be reluctant to do so, but this might change as greater numbers of private actors realize the benefits not only of having international financial and moral support, but also of collectively addressing critical corporate problems that they encounter in the high-risk environment for investment that exists in the Democratic Republic of the Congo. A few private companies already do this, and they should be supported. They honour the provisions of the Congolese Mining Code, along with other national laws and internationally recognized guidelines and norms.

71. Yet private actors should have an interest in confronting the problem that enterprises of good standing in the Democratic Republic of the Congo operate at a disadvantage. At present there is not a level playing field in the country. Fraud at the borders of the Democratic Republic of the Congo is a common practice. Those who do not practise it pay substantially higher fees for marketing and exporting their products. Hence, they are unable to compete with fraudulent actors. Also, corruption and the frequent use of force to secure concessions and/or to extort levies favour those who support illegal activities over those who do not. As long as these practices continue unchecked, business in the Democratic Republic of the Congo will bias the market against those committed to improving the business climate in favour of those who seek to perpetuate a quasi-criminal environment. As a consequence, Government revenues will continue to be compromised.

72. Therefore, efforts to regulate the market and reduce the use of force in the extractive industry need also to ensure that business practices and standards that are in compliance with the relevant laws and regulations prevail. Three initial steps in this direction may have such results.

73. As the first initiative in this regard, I propose to promote the drafting of a code of conduct uniquely designed for private actors in the Democratic Republic of the Congo. Such a code would include recognized standards and practices, notably the Extractive Industries Transparency Initiative (EITI),[38] the voluntary principles on

[38] The Democratic Republic of the Congo Ministry of Planning currently supports a technical committee to investigate how EITI could be implemented for the country's natural-resource sector.

security and human rights and other international instruments appropriate to regulating business activities in the Democratic Republic of the Congo. A report detailing compliance with such a code of conduct would be prepared annually and publicized.

74. The second proposal would be to spearhead the formation of a cross-border commission for the purpose of stemming fraudulent exports. The cross-border commission would engage government and private-sector actors in encouraging the alignment of Democratic Republic of the Congo export taxes with those of neighbouring countries and in promoting trade pacts among the countries in the region in order to establish ground rules among trading partners. The improvement of border surveillance would also have to be addressed by the commission. In the long term, this will require security-sector reforms to provide the appropriate training and management of national customs and police officers at key crossing points. However, to address the problems at the borders in the short term, collaboration between the new Government and key private actors could be envisaged to establish a presence of private security personnel at selected border posts to track commodity flows, verify traders' credentials, collect revenues and ensure that revenues reached the proper government authorities.[39]

75. The third proposal would address the important issue of the Democratic Republic of the Congo's artisanal miners. To get a better understanding of this widespread phenomenon, the United Nations would promote and support the undertaking of a survey of artisanal miners in key areas of the country.[40] Such a survey would be conducted in collaboration with Democratic Republic of the Congo authorities, private actors and other international organizations and would be aimed at developing strategies that promote secure artisanal mining in selected areas, apply the relevant provisions of the Democratic Republic of the Congo Mining Code to regulate the work and working conditions of artisanal mining and identify viable alternatives for miners willing to accept alternative employment.

76. The United Nations stands ready to take action in each instance. In consultation with all parties involved, the United Nations could encourage and support the proposed initiatives by drawing on its expertise, human resources and experience in bringing private-sector influence to bear on security and development.

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[39] Two initiatives currently provide research and diplomatic support for such a commission: (a) INICA has recently concluded an in-depth study of cross-border dynamics for the Great Lakes region in "Les dynamiques transfrontalières dans la région des Grands Lacs", op. cit., and (b) as part of the Pact on Security, Stability and Development in the Great Lakes Region, the second Summit of the International Conference on the Great Lakes Region has established a regional Subprogramme of Action on the Joint Security Management of Common Borders.

[40] Other international organizations have already shown interest in such a survey, though no action has yet been taken.