
175. Dans le Sud-Kivu, le FDLR a continué à tuer, violer et piller, non seulement en territoire Shabunda mais également en territoires Kalehe et Kabare. Une enquête des Nations Unies a confirmé que dans la nuit du 4 au 5 mai 2012, il avait tué au moins 14 civils, dont 5 femmes et 5 enfants à Lumendje, près de Bunyakiri, en territoire Kalehe. Il aurait également tué au moins 20 civils le 14 mai à Kamanga, près de Bunyakiri également. D’après des sources, ces deux massacres auraient été perpétrés en représailles des massacres de personnes à charge de combattants du FDLR qu’auraient commis les Raïa Mutomboki, y compris près d’Ekingi en territoire Kalehe, en mars 2012. Peu après les massacres de Kamananga, lors d’une manifestation, des soldats de la MONUSCO basés à proximité ont été la cible de tirs peut-être par les Raïa Mutomboki, qui ont fait plusieurs blessés dans leurs rangs.

Massacre qu’auraient perpétré des soldats du 105e régiment à Makama, en territoire Fizi

176. Le Groupe a reçu de diverses sources des informations concernant un massacre commis dans la nuit du 5 février 2012 par les soldats du 105e régiment, commandé par le colonel Nsabimana, à Makama, région de mines d’or située en territoire Fizi. Il a par la suite reçu d’une source des FARDC une liste de 20 personnes, dont 7 femmes, qui auraient été tuées à cette occasion.

C. Déplacements de population

177. En mai 2012, le Bureau des Nations Unies pour la coordination des affaires humanitaires a signalé une très forte augmentation du nombre de personnes déplacées en République démocratique du Congo, qui a pour la première fois depuis juillet 2009 franchi la barre des 2 millions. La plupart de ces déplacements sont intervenus dans l’est de la République démocratique du Congo et ont été déclenchés par les violences perpétrées par des groupes armés dans le Nord et le Sud-Kivu, la province Orientale et la province du Katanga ainsi que par les opérations militaires permanentes contre ces groupes. D’après le Bureau de la coordination des affaires humanitaires, la plus forte augmentation du nombre de déplacés s’est produite dans le Sud-Kivu, où l’on compte aujourd’hui 856 000 déplacés, dont plus d’un tiers dans le seul territoire Kalehe. Au Nord-Kivu, le Haut-Commissariat des Nations Unies pour les réfugiés (HCR) a enregistré 15 000 nouveaux déplacés près de Goma à la fin avril. En mai, il a fait savoir que 8 000 Congolais avaient franchi la frontière avec le Rwanda à Gisenyi et que 30 000 s’étaient réfugiés en Ouganda.

D. Blocage de la distribution de l’assistance humanitaire ou de l’accès des personnels humanitaires

178. Dans son rapport final de 2011, le Groupe a conclu qu’en dépit du nombre croissant d’incidents perturbant les opérations humanitaires, il n’existait aucune preuve que des individus aient volontairement cherché à empêcher

E. Recrutement et utilisation d’enfants dans les conflits armés


180. Les appels lancés afin de mettre fin à l’impunité de ceux qui utilisent et recrutent des enfants soldats ont été partiellement entendus et ont donné lieu à une décision historique de la Cour pénale internationale (CPI) en date du 14 mars 2012 : les juges de la CPI ont condamné Thomas Lubanga Dyilo37 pour crimes de guerre pour avoir recruté et incorporé des enfants de moins de 15 ans dans les rangs des FPLC au cours du conflit armé dans le district de l’Ituri en 2002-2003, et les avoir fait participer aux hostilités. Les juges n’ont pas encore prononcé la peine à laquelle sera condamné Thomas Lubanga, mais le jugement fait mention de plusieurs personnes qui auraient les complices de Lubanga, notamment le général Bosco Ntaganda, qui serait « d’une manière générale » responsable du recrutement et de l’entraînement, notamment de filles et de garçons âgés de moins de 15 ans. La décision des juges a suscité de nouveaux appels pour l’arrestation et le transfert à la CPI du général Ntaganda, inculpé des mêmes crimes de guerre que Thomas Lubanga.

181. Afin d’identifier les recruteurs d’enfants encore actifs de manière flagrante en République démocratique du Congo, le Groupe a mené des entretiens avec d’anciens enfants combattants, leurs parents et des organismes de la société civile et a coopéré avec des unités du Groupe de protection des Nations Unies. Il a commencé d’enquêter sur les cas de recrutement par des milices dans le Sud-Kivu, le Nord-Kivu et la province Orientale et cherche à identifier les individus qui étaient hiérarchiquement responsables au moment de ces recrutements. D’anciens enfants soldats dans le Nord-Kivu et le Sud-Kivu ont expliqué au Groupe qu’elles étaient les deux catégories d’enfants soldats, à savoir ceux qui restent à plein temps avec ces groupes armés et ceux qui passent la matinée avec leur famille ou à l’école et qui ne prennent leurs armes pour rejoindre, avec le consentement de leurs parents ou tuteurs, les groupes armés, que l’après-midi. Les parents avec lesquels le Groupe a

37 Désigné par le Comité des sanctions pour faire l’objet de sanctions ciblées depuis le 1er novembre 2005.
eu des entretiens, en territoire Shabunda, ne voyaient pas ce qu’il y avait de mal à cela, l’un d’entre eux ayant même expliqué que le fait d’offrir son garçon garantissait une meilleure protection des Raï Mutomboki contre les éléments du FDLR qui pillaient le bétail.


183. Des organisations humanitaires, des sources au sein des FARDC et des organisations de la société civile en territoire Shabunda ont déclaré au Groupe que le nombre de recrutements d’enfants avait sensiblement augmenté, passant de 312 cas signalés en février 2012 à 746 cas en avril. Le groupe qui recrute le plus d’enfants en territoire Shabunda est le Raï Mutomboki.

184. Les enfants interrogés par le Groupe ont confirmé qu’ils avaient été recrutés de force par les agents de ces groupes maï-maï sur instructions directes de leurs commandants. Un certain nombre d’enfants, qui avaient tenté de s’échapper, se sont rendus aux FARDC. Plusieurs enfants ont déclaré que le colonel Samny Matumo, du 112e régiment des FARDC, les avait incorporés de force après les avoir délivrés de groupes armés. Lorsque le processus de constitution de régiments a commencé début 2011, les enfants ont été démobilisés.


VIII. Recommandations

186. Le Groupe d’experts formule les recommandations ci-après :


a) Le Comité devrait mettre à jour, sur la base des informations fournies par le Groupe d’experts actuel, sa liste d’individus et d’entités désignés pour faire l’objet de sanctions;

b) Le Conseil devrait condamner énergiquement le recrutement d’enfants par tous les groupes armés, y compris le groupe M23, et le Comité devrait envisager des sanctions à l’encontre de tout individu concerné;

Mission de stabilisation des Nations Unies en République démocratique du Congo

c) La MONUSCO devrait agir rapidement et saisir les caches d’armes appartenant à d’anciens groupes armés et officiers des FARDC, et travailler avec le Groupe d’experts afin de retracer l’origine des armes et munitions saisies;
d) La MONUSCO devrait communiquer au Groupe d’experts, sans plus tarder, les documents et informations qu’elle a collectés et produits et qui présentent un intérêt pour le mandat du Groupe;

États Membres

e) Les États Membres qui importent des ressources naturelles de la République démocratique du Congo et d’endroits « suspects »38, telles que or, étain, tantale, tungstène et bois d’œuvre, devraient publier régulièrement des statistiques sur leurs importations et exportations et aider le Groupe à identifier les importateurs et à s’assurer que ces derniers ont bien pris les précautions nécessaires;

f) La Commission des opérations de bourse (Securities and Exchange Commission) des États-Unis devrait publier ses règlements d’application sans plus tarder et incorporer le concept d’atténuation des risques qui figure dans les directives relatives à la diligence raisonnable du Groupe d’experts des Nations Unies et de l’Organisation pour la coopération et le développement économiques (OCDE);

Gouvernement de la République démocratique du Congo

g) Dès que la situation en matière de sécurité le permettra, les autorités minières et de police devraient organiser de nouvelles missions conjointes de validation des sites miniers entourant le centre de négoce de Rubaya et du site minier de Nyabibwe, ainsi que des principales zones minières de Maniema et autour des sites de négoce de Isange/Ndjinga et Itébero;

h) Les missions de validation des sites devraient être répétées tous les trois mois, comme prévu dans le mandat que leur a fixé le Ministère des mines; cette périodicité devrait s’appliquer aux missions de validation à Maniema;

i) Le Ministère des mines devrait transformer sa circulaire en décret ministériel tout en conservant les obligations actuelles en matière de diligence raisonnable et les délais imposés aux exploitants minières;

j) Le Gouvernement devrait publier sa politique concernant le minerais saisi dans des pays voisins et réimporté en République démocratique du Congo, et envisager de verser tout bénéfice provenant de la revente sur un fonds spécial destiné à financer la promotion de chaînes d’approvisionnement traçables et viables;

k) Le Gouvernement devrait s’engager clairement à relancer le programme national de désarmement, démobilisation et réintégration pour les groupes armés congolais, qui offre de véritables alternatives à l’intégration dans les FARDC, et les donateurs devraient appuyer financièrement et techniquement ce programme;

l) Les FARDC devraient redéployer progressivement les anciens groupes armés dans d’autres provinces;

m) Afin de préparer les officiers d’anciens groupes armés désormais intégrés dans les FARDC, le Gouvernement devrait leur assurer des stages de formation et

38 Par endroits « suspects », on entend ici l’est de la République démocratique du Congo et d’autres pays de la région par lesquels le minerais transite, à savoir le Burundi, le Kenya, l’Ouganda, la République-Unie de Tanzanie, le Rwanda et le Soudan.
des cours de rattrapage spécifiques et adaptés avant de déployer leurs unités parmi la population ou dans les zones de combat;

n) Le Bureau du Procureur militaire devrait continuer d’enquêter sur les membres du personnel militaire, quel que soit le groupe armé auquel ils ont précédemment appartenu, soupçonnés d’avoir commis des infractions en vertu de la loi congolaise, d’avoir généré les efforts de réforme ou de soutenir des groupes armés, et les poursuivre;

o) Les FARDC devraient rapidement saisir les caches d’armes appartenant à d’anciens groupes armés et officiers des FARDC et travailler avec le Groupe d’experts afin de retracer l’origine des armes et munitions saisies;

Entreprises

p) Les acheteurs, transformateurs et consommateurs internationaux de minerais devraient appuyer la démilitarisation progressive du secteur minier dans l’est de la République démocratique du Congo et, pour ce faire, rester présents dans le pays comme sur les marchés régionaux tout en appliquant le principe de diligence raisonnable à leur chaîne d’approvisionnement.
Annex 1

Sanctions criteria pursuant to Security Council resolution 1807 (2008)

1. Individuals or entities acting in violation of the arms embargo by supplying, selling or transferring arms or related materiel, military or financial advice, training or assistance to (non-governmental) armed groups operating in the Democratic Republic of the Congo;

2. Political and military leaders of foreign armed groups operating in the Democratic Republic of the Congo who impede the disarmament and voluntary repatriation or resettlement of combatants belonging to those groups;

3. Political and military leaders of Congolese militias receiving support from outside the Democratic Republic of the Congo who impede the participation of their combatants in disarmament, demobilization and reintegration processes;

4. Political and military leaders operating in the Democratic Republic of the Congo and recruiting or using children in armed conflicts in violation of applicable international law;

5. Individuals operating in the Democratic Republic of the Congo and committing serious violations of international law involving the targeting of children or women in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement;

6. Individuals obstructing access to or distribution of humanitarian assistance in the eastern part of the Democratic Republic of the Congo;

7. Individuals or entities supporting illegal armed groups in the eastern part of the Democratic Republic of the Congo through illicit trade of natural resources.
Annex 2

Current list of individuals and entities designated for targeted sanctions by the Security Council Committee established pursuant to resolution 1533 (2004)*

Individuals

1. BWAMBALE, Frank Kakolele (alias: Kakorere)
2. DYILO, Thomas Lubanga
3. IYAMUREMYE, Gaston (alias: Rumuli, BYIRINGIRO, Michel)
4. KAKAVU BUKWANDE, Jérôme
5. KATANGA, Germain
6. MANDRO, Khawa Panga (alias: Kawa, Yves Andoul Karim)
7. MBARUSHIMANA, Callixte
8. MPAMO, Iruta Douglas
9. MUDACUMURA, Sylvestre
10. MUGARAGU, Leodomir (alias: Manzi Leon)
11. MUJYAMBERE, Leon (alias: Musenyeri, Achille, Frère Petrus Ibrahim)
12. MURWANSHYAKA, Dr. Ignace
13. MUSONI, Stratton
14. MUTEBUTSI, Jules
15. NGUDJOLO, Chui
16. NJABU, Floribert
17. NKUNDA, Laurent (alias: Mihigo, Batware)
18. NTABERI, Sheka Ntabo
19. NSANZUKUKIRE, Félicien (alias: Fred Irakeza)
20. NTAWUNGUKA, Pacifique (alias: Omega, Nzeri, Israel, Ntwangulu)
21. NYAKUNI, James
22. NZEYIMANA, Stanislas (alias: Deogratius Bigaruka Izabayo, Jules Mateso Mlamba)
23. OZIA MAZIO, Dieudonné
24. TAGANDA, Bosco
25. ZIMURINDA, Innocent

* The complete list, with identifying information and justifications for designation, is available from www.un.org/sc/committees/1533/pdf/1533_list.pdf.
Entities
1. Butembo Airlines
2. Congocom Trading House
3. Compagnie Aérienne des Grands Lacs (CAGL) — Great Lakes Business Company (GLBC)
4. Machanga Ltd
5. Tous pour la paix et le développement (TPD)
6. Uganda Commerical Impex (UCI) Ltd
Annex 3

Updates on selected sanctioned individuals and entities

Individuals

Frank Kakolele Bwambale

Frank Kakolele Bwambale campaigned for President Kabila in Beni and Butembo territories in November 2011.

Thomas Lubanga Dyilo

On 14 March 2012, the International Criminal Court in The Hague convicted Thomas Lubanga Dyilo for the war crimes of conscripting and enlisting children under the age of 15 into the Forces patriotiques pour la libération du Congo (FPLC) during the 2002-2003 armed conflict in Ituri district and using them to participate in hostilities. Sentencing has yet to be completed.

“General” Gaston “Rumuli” Iyamuremye

“General” Iyamuremye was replaced as the interim President of the Forces démocratiques de libération du Rwanda (FDLR) and will return to his previous position as Vice-President.

Callixte Mbarushimana

The International Criminal Court dropped charges against Callixte Mbarushimana, the former Executive Secretary of FDLR, in December 2011 and he subsequently returned to France. He claims he no longer maintains ties to FDLR.

“General” Sylvestre Mudacumura

“General” Mudacumura became the President of FDLR, permanently replacing Ignace Murwanashyaka and giving up the military command of the rebel movement.

“General” Leodomir Mugaragu

“General” Mugaragu was killed in an attack in which the Congolese armed group, Front pour la défense du Congo (FDC), participated on 12 January 2012.

“Colonel” Léon Mujyambere

“Colonel” Mujyambere was appointed FDLR-FOCA (Forces combattantes Abacunguzi) Chief of Staff in order to replace the deceased General Mugaragu.

Jamil Mukulu

Jamil Mukulu’s residence in Nairobi was raided in August 2011. Several reports claimed he had returned to Beni territory and had recently been with the Allied Democratic Forces (ADF) rebels on the ground.

Ignace Murwanashyaka

Court proceedings for the former FDLR president are ongoing in Germany.
Straton Musoni

Court proceedings for the former FDLR vice-president are ongoing in Germany.

"General" Sheka Ntabo Ntaheri

"General" Ntaheri was an official candidate for National Deputy, but was not elected in November 2011. He ruptured his close alliance with FDLR by killing Montana battalion Commander Evariste Karenguhera on 20 November 2011. Since mid-2011, he has become a close ally of General Bosco Ntaganda and has supported the ex-CNDP mutiny in coordinated attacks on FARDC in Walikale, including the killing of Colonels Chuma and PiliPili on 17 April 2012.

General Bosco Ntaganda

General Ntaganda has defected from the Forces armées de la République démocratique du Congo (FARDC) since mid-April 2012 and has orchestrated a mutiny against the army leadership. Owing to his flight from Masisi to Rutshuru territories, he has lost some revenue from previous rackets, such as wood and charcoal production. However, he still has 345 cows in Ngungu, southern Masisi, and at least 200 in Kagundu and 300 in Bunyoli, central Masisi. Based on estimates from local cattle herders, General Ntaganda’s cows produce $1,690 worth of milk per day, calculated on the lowest price on local markets in Masisi. Based on this calculation, the Group estimates that General Ntaganda earns at least $50,700 per month from his cattle.

"General" Stanislas "Bigaruka" Nzeyimana

"General" Nzeyimana has been promoted from Deputy FDLR Commander, to replace "General" Mudacumura as the Commander of the FDLR military forces.

Colonel Innocent Zimirinda

Colonel Zimirinda also defected from FARDC and joined the ex-CNDP mutiny, first in Masisi and currently in Rutshuru, under the command of Colonel Makenga. Although he too has lost revenue from charcoal and wood production, Colonel Zimirinda still has 80 cows in Mokoto, 45 in Rujebeshe and 35 in Kasake. The Group estimates that he earns at least $6,000 per month from milk produced by his cows.

Entities

Machanga Ltd

The owner of Machanga Ltd, Rajendra Kumar, continues to be one of the most prominent gold buyers in the Great Lakes region, sourcing largely from areas affected by the presence of armed groups and criminal networks, without conducting due diligence.
Tous pour la paix et le développement

The leaders of Tous pour la paix et le développement continue to be very involved politically in North Kivu province, many belonging to Eugene Serefulu’s recently established party Union des Congolais pour le progrès (UCP). However, they have not supported the ex-CNDP (Congrès national pour la défense du peuple) mutiny.

Uganda Commercial Impex (UCI) Ltd

The owners of UCI, Lodhia, continue to purchase gold from the Beni and Butembo territories as well as Ituri district.
Annex 4

Additional information concerning the methodology of the Group of Experts

While the Group wishes to be as transparent as possible in the descriptions of its sources, in situations where specific details would expose individuals or lead to potential safety and security risks, it withholds identifying information and places the relevant evidence in United Nations archives, together with other relevant documents.

The Group also benefits from cooperation from local civil society actors and international non-governmental organizations that have provided it with leads for further investigation and facilitated access to credible sources of information. For the purposes of confidential support to its investigations, or for inquiries about the Group’s mandate and methodology, the Group retains the following e-mail address: goedrc@un.org.

In its interim and final reports the Group does not include any claims unsubstantiated by the above-mentioned standards, other than to present official positions, statements and/or responses from concerned individuals. Where applicable and possible, however, the Group seeks to address unfounded allegations regarding the provision of military, financial or political support to armed groups.

The Group is equally committed to impartiality and fairness, and will endeavour to make available to all relevant parties, if appropriate and possible, any information about actions for which those parties may be cited, for their review and response within a specified deadline. To further uphold the right of reply, the Group is committed to annexing to its reports brief rebuttals, with a summary and assessment of their credibility, and to make any appropriate amendments regarding assertions published in earlier reports, in consultation with previous Groups of Experts, where possible.

Nevertheless, the Group is not a judicial mechanism or an intelligence service and does not dispense of the financial resources, technical assets, or legal power to subpoena information which, in a number of Member States, is protected by privacy laws. The Group relies upon the cooperation from Member States to support its investigations by providing the Group, pursuant to paragraph 16 of Security Council resolution 2021 (2011), with “unhindered and immediate access to persons, documents and sites the Group of Experts deems relevant to the execution of its mandate”. Though the Group does not benefit from a favourable response rate to its written inquiries for concrete evidence from Member States, it remains grateful to those Member States which have conducted thorough inquiries into individuals and issues raised by the Group, including such cooperation recently extended by Norway. The Group encourages Member States to provide information on international and regional networks with potential links to armed groups in the Democratic Republic of the Congo, unprompted by the Group’s inquiries, and to consider taking action bilaterally or regionally on the recommendations contained in the Group’s reports.

To this end, the Group has already met representatives of the United States of America, China, France, the United Kingdom of Great Britain and Northern Ireland,
South Africa, Germany, Belgium, Colombia, Portugal, Azerbaijan, India, Pakistan, Norway, the Netherlands, Togo, Uganda, Rwanda, Burundi, the United Republic of Tanzania and Kenya. The Group is also in close contact with representatives of European Union and the International Conference on the Great Lakes Region. The Group’s cooperation with the International Criminal Police Organization (Interpol) has been solidified in the agreement of the Committee, in cooperation with Interpol, to publish joint United Nations-Interpol special notices for individuals and entities currently included in the sanctions list.

Pursuant to paragraph 17 of resolution 2021 (2011), the Group has exchanged communication and cooperation with the members of the Group of Experts on Côte d’Ivoire and the Panel of Experts on Liberia, with particular attention to the illicit trade in gold via common trafficking networks and the Group’s due diligence guidelines. It has also established cooperation with the Monitoring Group on Somalia and Eritrea, re-established by Security Council resolution 2002 (2011) regarding the illicit gold trade and in relation to recruitment networks in East Africa, which may include cooperation between Al-Shabaab in Somalia and the Allied Democratic Forces present in North Kivu territory of the Democratic Republic of the Congo.

With regard to the above-mentioned comprehensive assessment of social and economic development in relevant mining zones, following extensive consultations with Security Council members, the Group has adopted a qualitative methodology based upon economic indicators from principal mining zones.

The Group is committed to building strong cooperation with the Government of the Democratic Republic of the Congo and has not only met with senior Government officials, including from the military, intelligence services and presidential security advisers in Kinshasa, but also with numerous provincial and local authorities in North Kivu, South Kivu, Katanga and Orientale province. In light of the recent formation of the Government’s new cabinet on 29 April 2012, the Group intends to swiftly establish communications and lines of cooperation with relevant ministries.

With regard to its mandate on violations of international humanitarian law, the Group has established cooperative links with the Offices of the Special Representatives of the Secretary-General for Children and Armed Conflict and on Sexual Violence in Conflict. The Group is committed to exchanging information with both Offices, through the Committee, in the identification of military and armed group commanders who fulfil sanctions criteria.
Annex 5

ADF combatants killed in an attempted jailbreak of rebel leaders in Beni territory
Annex 6

ADF letter threatening MONUSCO and FARDC during joint operations against the rebels

The ADF
22 MARCH 2012

Attention Monusco/fardc

ALLAAHU a-alaa wa ajallu

Stop provocation

Oh you emissaries of evil. Oh you infidels! This is what is going to happen: You continue flying your spy missions over our villages again with your farde colleagues, taking photos, etc., we shoot you down, you attack our villages from air, we immediately respond by attacking your ground encampments, convoys and personnel. That is not a threat, neither is it rattling sabres, it’s just the way things are going to be. No matter what claims and nonsenses you say.

Can’t you think for a moment? Why haven’t we been shooting at you before? How can you decide to kill ADF people only because they are Muslims who worship the only true GOD, your creator as well as theirs!! In 2010 we warned you, the inheritors of hell, that there was no wisdom in a violent campaign against the ADF, and that it would fail. But you persisted on violence and consequently you paid dearly.

We are now in a third year running [an operation you had given three months], calculate how much you have lost both human resource and material. Imagine how much time it took ALLAAHU the Almighty to shamefully and disgracefully drive you out of our villages, it was a few hours! Remember HE is IMMORTAL. HE is waiting for your return and then unleash his wrath upon you the legion of Satan. This time it will have far reaching consequences.

Read the Quran chapter 8 verse 38-40: Say to those disbelievers, if now they desist from acts of disbelief, their past evil deeds will be forgiven them. But if they persist, the punishment given to those before them [those of 15 Nov 2010 and those of 1 April 2011] is an example [to what is going to befall them], 39: And fight them on until there is no more tumult and oppression, and there prevails justice and faith in ALLAAHU altogether and everywhere. But if they cease, verily ALLAAHU does see all that they do. 40: If they refuse, be sure that ALLAAHU is your PROTECTOR – the best to protect and the best to HELP.

HERE IS THE CHEAP SOLUTION

Earth solely belongs to ALLAAHU subhanahu wa ta-ala. Not to monusco or any other creature. Read the Holy Quran chapter 7 verse 128: Said Prophet Moses to his people: Pray for help from ALLAAHU and wait in patience and constancy. For the earth is ALLAAHU’s to give as heritage to such of his servants as HE pleases. And the end is best for the righteous. So leave us alone in peace to worship our creator the true LORD of the universe. If you persist, then prepare for HIS anger wherever you will be.
Annex 7

Letter from Alexis Sinduhije addressed to the Secretary-General of the United Nations

A l'attention de M. Ban Ki-moon
Secrétaire Général
Organisation des Nations-Unies
One UN Plaza
New York, NY 10017
USA

Monsieur le Secrétaire Général,

Mon activité politique s'est bâtie autour d'un ensemble d'idéaux et de principes. Parmi ces principes, la conviction du rôle crucial que le multilatéralisme doit occuper dans un monde en plein doute. Je suis donc un fervent défenseur de l'ONU et de ses principes fondamentaux. Pendant toute ma carrière journalistique qui a précédé mon engagement politique, les travaux d'ailleurs souvent reporté à des rapports de l'ONU, pour appuyer mes argumentaires d'enquête, tout le monde a reconnu mon engagement et mon expertise indiscutables.

Il s'agit d'un récent rapport d'experts commandé par le Conseil de sécurité de l'ONU qui est parvenu en France, et nous avons bien reçu la lettre d'une mission au Burundi. Il me faut d'abord vous dire que ces allégations sont totalement fausses et infondées. À une certaine étrangeté, elles que de prétendues vagues dans des pays où le Burundi et les termes politiques, ou d'improbables témoignages de soldats certifiant avoir identifié ma venue au Burundi, se superpose une douleur politique, tendant inimaginablement, comme vous l'avez dit, l'armée du Burundi, pour que le président du Burundi est exclu de la société et la démocratie. Cet amalgame révèle une effraction nauséeuse de certains aspects des réalités politiques du Burundi.

Je conserve un immense respect dans votre organisation, mais je connais également la part politique que peut avoir une affirmation, c'est pourquoi je vous avais été reconnaissant d'offrir un supplément d'investigation à ce sujet afin de rétablir une vérité salutaire pour la vie politique burundaise. En effet, comme vous le savez, je suis un délégué armé de l'Aide à la paix et je n'ai aucunement l'intention de rencontrer la violence avec les forces armées du Burundi. Heureusement, je comprends que le Burundi, et en point d'édification, un réel danger à
mâlecoeur ainsi en ôtant l'alternative démocratique dont je suis l'un des rares défenseurs burundais.

Monsieur le Secrétaire Général, comme vous le savez, les libertés fondamentales sont broyées quotidiennement dans mon pays, le Burundi. L'exercice de l'opposition y est impossible, ce pourquoi je me refuse, contrairement à l'œil. Toutefois, un mince espoir de solution démocratique demeure si une partie du débat reste prête par des partis comme le mien, résolument opposée à tout recours à la violence. C'est donc un vrai enjeu national que de neutraliser la veste à main enoffense et de mettre un terme à toutes sortes de menaces après à me démasquer.

Je suis parfaitement convaincu de votre sens de la loyauté et de justice, et des grands enjeux qui peuvent en découler. C'est pourquoi j'ai confiance en votre compréhension, et ne doutant pas un instant que vous saurez diriger les malheureuses erreurs de ce rapport et me restituer dans mon intégrité.

Avec mes respects,

Alexis Sinduza
Président du Mouvement pour la Solidarité et la Démocratie (MSD)

C.P.

Conseil de Sécurité (tous)
Membres du panel d'experts sur la R.D. Congo (tous)
Ambassadeurs accrédités à Bujumbura.
Annex 8

Letter from Raoul Boulakia, the lawyer for Alexis Sinduhije

Raoul Boulakia
Lawyer
Avocat

31 Prince Arthur Avenue, Toronto, Ontario, M5R 1B2
Tel: (416) 963-4488 ext. 133
Fax: (416) 960-5450

April 3, 2012

Agshin Mehdiyev
Chairman
United Nations Security Council Committee
Established Pursuant to Resolution 1533
Concerning the Democratic Republic of the Congo
Sanctions Branch
United Nations Headquarters
3 United Nations Plaza
New York, New York, 10017
United States

Your Excellency:

On behalf of Mr. Alexis Sinduhije, a citizen of Burundi, I am writing to demand an investigation into the methodology followed by the Group of Experts on the Democratic Republic of the Congo, with respect to false allegations they published against Mr. Alexis Sinduhije, and a retraction of those allegations. I ask the Sanctions Committee to take the necessary measures to restore Mr. Sinduhije’s reputation and assume responsibility for the grievous harm done to him as outlined below.

The false allegations the Group of Experts on the Situation in the Democratic Republic of Congo have made against Mr. Sinduhije are extremely serious. Mr. Sinduhije was a respected journalist, prior to his entry into electoral politics. His political advocacy promoted democratic values, and the party he founded is a civilian political party that has never had any armed faction.

The Group of Experts states, in outlining its “methodology” that it adhered to the following principles:

“The Group is committed to ensuring the accuracy of its findings, and to adhering to the evidentiary standards recommended by the Informal Working Group of the Security Council on General Issues of Sanctions in its report of 2006 (S/2006/597), by relying on verified, authentic documents and, wherever possible, first-hand, on-site observations by the experts themselves, including photographs. When this was not possible, the Group corroborated information using at least three
sources assessed to be independent of one another, credible and reliable, placing a higher value on statements by principal actors and first-hand witnesses to events.

While the Group wishes to be as transparent as possible, in situations in which the identification of sources would expose them or others to unacceptable safety risks, it has withheld identifying information and placed the relevant evidence in United Nations archives, along with other relevant documents.

In the interest of impartiality and fairness, the Group has endeavoured to make available to relevant parties, where appropriate and possible, any information about actions for which those parties could be cited, for their review, comment and response within a specified deadline. In order to further uphold the principle of the right of reply, and in the interest of accuracy, the Group stated in its interim report of June 2011 (S/2011/345) its readiness to annex to its reports brief rebuttals, with a summary and assessment of their credibility, and to make any necessary amendments regarding assertions already published in earlier reports.”

However it is clear the Group of Experts did not adhere to these standards. The two sources relied on against Mr. Sinduhije were certainly not “credible and reliable” and both hold a self-evident political hostility to Mr. Sinduhije. Reliance on some number of individual FNL agents does not amount to verification with sources “independent” of one another, as the FNL is a hierarchical political-military group. Likewise reliance on more than one individual in the CNDD-FDD regime does not convert the government into more than one source.

Contrary to their stated methodology the Group of Experts relied on inherently suspect sources, without critically discussing the extent to which those sources could be unreliable. Both the FNL and CNDD-FDD were armed movements that took part in ethnically motivated killings in Burundi. While the CNDD-FDD later became the government of Burundi, it has engaged in continuing human rights abuses and repression of political dissent. The director of its intelligence service (the Service de National de Renseignement) has repeatedly been accused of severe abuses. It is misleading to treat its intelligence agency as a reliable source, without any acknowledgment of its role in political repression or of the CNDD-FDD’s history.

The FNL for its part has a long history of armed conflict with the government, which has recently resumed. Neither faction can be treated as a reliable source of information about a civilian journalist and politician they are in disagreement with. It is incredible that these sources were relied on uncritically, with no other corroboration, by the authors of the report. The authors of the report do not even mention the possibility of deliberate misinformation.

The experts on the Congo nevertheless have published false allegations that Mr. Sinduhije had become a “key leader” of the FNL (an armed political movement). The experts allege that the FNL ended this when he insisted he was their “supreme commander”, and that
democracy in Burundi. In turn, playing into the propaganda of groups with a real history of violent conflict does nothing to promote peace and stability in the D.R. Congo, which is the mission of your committee.

The Group of Experts has published false allegations against Mr. Sinduhije without due consideration to the damage to his professional reputation, and without consideration of the risk of physical harm they caused to this individual civilian.

We request that you correct this calumny as soon as possible.

Yours truly,

[Signature]

Raoul Bonalakia

cc


David Bigg, Secretary, Security Council Committees established pursuant to resolution 1521 (2003) concerning Liberia, resolution 1533 (2004) concerning the Democratic Republic of the Congo, and resolution 1572 (2004) concerning Côte d’Ivoire; Secretary, Security Council Working Group on Children and Armed Conflict; Senior Political Affairs Officer Security Council Subsidiary Organs Branch SC/SOR/SCAD/DPA; United Nations; 1 UN Plaza; TB 08041A; New York, NY 10017; by fax: 1 212 963 1300
Annex 9

Response of the Group of Experts to the letters above concerning its findings on the involvement of Alexis Sinduhije in armed rebellion

13 June 2012

Dear Mr. Boulakia,

Thank you for your correspondence dated 3 April 2012 concerning the Group’s findings included in its 2011 final report (S/2011/738). As stated in its interim report of June 2011 (S/2011/345), the Group is committed to annexing to subsequent reports any rebuttals to its findings. Consequently, you will find your letter included as annex 8 of the Group’s 2012 interim report, which to my understanding will be issued as S/2012/348.

The Group’s present response fulfills its commitment to thoroughly address your stated concerns and “make any necessary amendments regarding assertions already published in earlier reports.”

1) The right of reply of Mr. Sinduhije to the Group’s findings:

In your letter, you stated that Mr. Sinduhije was given no indication “that allegations against him were being considered” and that “He would have no reason to suspect that a person serving a committee related to the Congo, making such a generic enquiry, would be holding secret that his motivation was that he was considering publishing defamatory allegations about a civilian Burundian citizen.”

In relation to this assertions, the Group wishes to clarify the following:

In light of its previous experience, when seeking to engage with an individual who is the subject of its investigations, the Group often does not include in e-mail correspondence details of its findings, preferring rather to share them in person. The Group has found that including such information in an e-mail correspondence or by telephone can often incite caution and hesitation and thereby decreases the chances of obtaining such a meeting.

In addition to its 15 August 2011 communication, the Group sent two other e-mails to Mr. Sinduhije over the course of its mandate. However, on the previous two occasions, Mr. Sinduhije said he was too busy to meet with members of the Group, while claiming to be in Toulouse. However, according to several sources close to Mr. Sinduhije, during those times, he was traveling throughout Africa.

Mr. Raoul Boulakia
31 Prince Arthur Avenue,
Toronto, Ontario M5R 1 B2
Canada
Furthermore, the Group requested that several individuals in consistent communication with Mr. Sinduhije arrange a meeting between him and the Group. These individuals were aware of the findings of the Group’s investigations and corroborated many details regarding Sinduhije’s activities in relation to armed groups. When informed that this information would be made public, one source was in fact in favour of this, as he said it would force Sinduhije to declare openly his armed rebellion against the Government of Burundi. This source subsequently confirmed that he spoke personally with Sinduhije about the possibility of meeting with Group at the end of August 2011 and explained to him what would likely be contained in the Group’s 2011 final report. The source proposed Kampala as a potential location for this meeting, but was unable to follow-up for any confirmation. Another source close to Sinduhije stated that when informed personally of the Group’s request to meet with him, Mr. Sinduhije refused.

Concerning Mr. Sinduhije alleged lack of understanding for the mandate of the Group of Experts on the DRC and its relation to Burundi and its citizens, the Group does not find this convincing. Mr. Sinduhije’s radio, Radio Publique Africaine-RPA, extensively covered the findings of the Group’s 2009 final report regarding the support networks for armed groups based in the eastern DRC originating from Burundi, notably links between the FDLR rebels and certain members of Burundian intelligence services. As such, when contacted by a member of the Group, Mr. Sinduhije was aware of the direct linkages to the DRC, particularly in light of his multiple visits to the DRC during 2011. UN officials sighted him on several occasions in the city of Goma.

Finally, in its methodology, which you cite in your letter, the Group states that “The Group has endeavoured to make available to relevant parties, where appropriate and possible, any information about actions for which those parties could be cited.” In light of the failure of its multiple attempts to meet with Mr. Sinduhije, the Group concluded that presenting information personally to him regarding his eventual citation was not possible.

2) The credibility of the sources of the Group’s findings:

In your letter, you stated that “Contrary to their stated methodology, the Group of Experts relied on inherently suspect sources, without critically discussing the extent to which those sources could be unreliable.”

The Group gathered testimony from over a dozen separate and independent sources which attested to Mr. Sinduhije’s involvement in preparing a rebellion against the Burundian Government. These sources were completely separate from intelligence services which also provided the Group with information corroborating its independent findings. The Group reached its conclusions first and foremost through interviews with five current FNL officers and combatants both in Bujumbura and Uvira territory (DRC), four arrested rebel collaborators currently in the Bujumbura prison, and with four completely independent Burundian as well as international interlocutors in consistent communication with Sinduhije.

The Group’s conclusions are consistent with public and private statements made by members of the ADC-Ikibiri, who have repeatedly alluded to the threat of an armed rebellion as a reason to justify political dialogue with the Government of Burundi following their contestation of the 2010 elections.

You have also stated that “Reliance on some number of individual FNL agents does not amount to verification of ‘Independent’ sources of one another, as the FNL is a hierarchical political-military group.” To the contrary of this statement, we found within the FNL significant divergence regarding their rebellion as well as their links to the Burundian political opposition.
While FNL commanders in the DRC and in Burundi openly acknowledged that they had returned to war against the government, FNL senior political officials categorically denied that the FNL was re-mobilizing its military capacity.

Furthermore, the Group received equally contradictory opinions from representatives of the Burundian government. The Group consulted various echelons of the Burundian intelligence services including low-level information gathers, who openly acknowledged the rebel activity in Burundi and the DRC. However, senior intelligence leadership consistently opposed the Group’s references to an “armed rebellion” out of fear of undermining international perceptions of post-conflict Burundi.

3) The title of Annex 26:

With regards to annex 26 of its 2011 final report (S/2011/738), the Group wishes to provide several important clarifications. First, all annexes included in Group of Experts report serve to compliment specific text of the report where they are explicitly cited in parentheses. Annex 26 is cited in, and provides additional evidence in relation to, paragraph 140 of the Group’s final report, which describes the arrest of an MSD political cadre, by the name of Oneshore, in the Burundian port city of Rumonge in September 2011. In interviews with the Group, Oneshore acknowledged that he had accumulated significant stocks of logistical equipment which was to be provided to Burundian combatants arriving from the DRC. The Group included a photo of this equipment in annex 25. However, as per the text of the report, annex 26 refers explicitly to “voice recordings obtained by the Group” in which Sinduhije instructed a second collaborator “to flee and offered to send 500,000 Burundian francs to assist with Oneshore’s release.” The photograph in annex 26 is of this second collaborator surrounded by Burundian police during this recorded phone conversation with Sinduhije. The original title of annex 26 was:

“Photograph of Alexis Sinduhije making a telephone call, allegedly to an FNL collaborator in Rumonge, Burundi, concerning operations to prepare for the arrival of combatants from South Kivu”

However, upon understanding that this individual title remained unclear for some audiences, the Group requested the UN Secretariat to alter it slightly. These changes went into effect for the current on-line version of the report on 2 February 2012 (http://www.un.org/ga/search/view_doc.asp?symbol=S/2011/738)

The title of annex 26 now reads as follows:

“Photograph of a phone call by Alexis Sinduhije to an FNL collaborator (pictured below) in Rumonge, Burundi, concerning operations to prepare for the arrival of combatants from South Kivu”

During this telephone conversation, Mr. Sinduhije was not aware of the fact that this second collaborate had also been apprehended and was surrounded by police officers who were recording the conversation as demonstrated in the photo. As the Group was not able to even speak with Sinduhije during its mandate, it is illogical for anyone to assume the Group was of the belief that it possessed a photograph of him surrounded by the Burundian police.

The Group also interviewed this second collaborate who acknowledged that the individual on the phone was indeed Alexis Sinduhije. The content of the phone conversation demonstrated clearly that the collaborator was familiar with Sinduhije and that it was not the first time that they had spoken by phone. The fact that the call was initiated by a Kenyan phone number is
consistent with Sinduhije’s travels throughout East Africa, as stated to the Group by several sources and confirmed by his eventual arrest in Dar es Salaam upon arrival from Kampala.

In order to avoid any doubts about the identity of the caller, or any manipulation by the Burundian authorities, the Group asked several individuals familiar with Sinduhije’s voice if they could recognize it. One individual who had worked with Sinduhije during for over ten years told the Group that indeed it was Sinduhije on the recording. Moreover, one diplomatic source and two individuals very close to Sinduhije confirmed for the Group that both Onesphore and this second collaborator were indeed working for Sinduhije, and that the Burundian police had thwarted their operation to facilitate the arrival of Burundian combatants from South Kivu.

This voice recording was played on Burundian radio and to date, the Group is not aware of one single civil society organization or MSD official which has claimed that it was falsified or was not in fact Sinduhije’s voice. Furthermore, to the Group’s knowledge, Sinduhije himself has never denied that this was his voice, even in his letter to the Secretary General of the United Nations of 27 January 2012. In your letter, you do not either make any claims that the voice recording was not of a call that Sinduhije personally made or was in any way fabricated by the Burundian police or intelligence services. The Group has placed the voice recording in the UN’s archives for future reference of interested parties.

4) **Links between Sinduhije’s activities and the mandate of the GoE**

You assert in your letter that “The authors of the report, while touching upon their mandate as they assert that they are investigating the movement of arms in the DR Congo, are substantively taking part in discourse about Burundi – which would require greater understanding of the Burundian context. They should not have allowed their work on the DR Congo to become subsumed in the propagandists goals of the FNL and CNDD-FDD, against a respected civilian figure.”

However, in a strict interpretation of the Group’s mandate regarding the financing of armed groups active in the eastern DRC, the Group referred to the Burundian rebels present on Congolese soil as the FNL, but acknowledged in footnote 46 of its 2011 final report that “Negotiations among Burundian opposition leaders about a name for their combatants are ongoing. Until a decision has been taken, the Group will continue to refer to this foreign armed group as the **Forces nationales de libération**.” While it appeared from several sources very close to the Burundian political opposition leaders spearheading the negotiations that an agreement was imminent, attempts to establish a unified command under a single name failed for several reasons, including Agathon Rwasa’s reticence to lose control over his loyal FNL combatants.

During its current mandate in 2012, the Group has found evidence that the FNL, while remaining independent, has established operational alliances with the FRD and FRONABU-TABARA as cemented in a meeting between representatives of the three movements which took place near Kamanyola in early March 2012. Four FNL officers near Uvira confirmed that they were working with both FRONABU and FRD combatants already present in the DRC. The Group has received several independent reports of a group of 40 Burundian Tutsi combatants based in the hills above Uvira town. According to Banyamulenge leaders and FDLR intelligence officers, these Burundians, who claim to be a prayer group, are in fact FRONABU combatants. Civil society sources have reported them as “les gens de Sinduhije.”

During the course of its previous mandate, the Group obtained over a dozen testimonies attributing FRONABU to Sinduhije, including from three individuals in direct and constant communication with him. One intelligence source from a European country has also