

MAINTAINING MOMENTUM IN THE CONGO:

THE ITURI PROBLEM

26 August 2004



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MAINTAINING MOMENTUM IN THE CONGO: THE ITURI PROBLEM

EXECUTIVE SUMMARY AND RECOMMENDATIONS

The international community is slowly awakening to the grim realisation that collapse of the Congo peace process and return to war are real prospects in that giant country, several millions of whose citizens died in the conflicts of the past decade. A massacre of Congolese refugees just across the border in Burundi has focused most attention on the Kivus but the situation in the Ituri district is closely related and presents many of the same symptoms and challenges. The Security Council needs to give the UN Mission (MONUC) that is common to Ituri and the Kivus a clearer mandate and more resources to go proactively after armed groups, and encourage it to devise a diplomatic and political strategy that can support the efforts of the fragile Transitional Government in Kinshasa to assert control before it is too late.

MONUC has already failed once, in dramatic circumstances. It was unable -- some observers say unwilling -- to react strongly to an explosion of inter-ethnic violence in Ituri in mid-2003. France led a European Union (EU) force for three months to re-establish order in the district capital, Bunia, where much of the violence was centred, and buy time for the UN to return MONUC with a Chapter VII mandate and more troops.

The Ituri Brigade of the new MONUC is a potentially potent force, though it has military deficiencies -- particularly its intelligence capacities -- and uncertain doctrine. It has managed to re-establish reasonably normal conditions in the towns where it is stationed, but wherever it is absent, including in two thirds of Bunia, Ituri is divided up and controlled by armed groups, who are not committed to the peace process and who continue to prey on civilians. Until the security situation improves, meaningful political and humanitarian progress is not possible. At best, the situation is static, at the mercy of the armed groups, who are largely self-financing because they control much of the district's revenue producing activity,

including gold mines and toll taxes on the movement of goods. Neighbouring Uganda and Rwanda maintain the ability to manipulate powerful proxies for their own interests.

The Transitional Government in Kinshasa has virtually no influence, much less power, in Ituri. It is distracted by recent events in the Kivus, the need to manage sensitive regional relationships and its own internal political machinations. Coupled with resource limitations, this means its involvement in Ituri will be circumscribed for quite some time. The Act of Engagement it signed earlier this year with the Ituri armed groups failed because those groups entered the negotiations knowing that if their largely unreasonable demands for status, jobs and immunity from prosecution were refused, they could continue their activities without fear of sanction. The armed groups have consistently undermined the Ituri Interim Administration (IIA), the local political and administrative authority. The recent replacement of the IIA by a Kinshasa-appointed District Commissioner and Territorial Commissioners will not fundamentally alter this state of affairs.

While it would be a dangerous miscalculation to expect more out of the Transitional Government soon, the resumption of fighting in July 2004 between two of the armed groups that claimed to have committed to the Act of Engagement was a clear warning of the potential risks of this status quo. Only MONUC can make a positive change by confronting the armed groups more resolutely, then working energetically in partnership with the Transitional Government to begin at last the much delayed program of disarmament and resettlement of the groups' fighters.

None of this will happen, however, unless the Security Council takes seriously the important recommendations Secretary General Kofi Annan has made for improving MONUC. The key element, at

least for Ituri, is not many more troops. While MONUC should be at least doubled from its present 10,800, most of the new troops are likely to be needed more urgently in the Kivus. It is vital, however, to clarify when and for what purposes the mission should be prepared to use force, and to improve qualitatively some of the Ituri Brigade's capabilities. The next month provides an opportunity to reassess the entire situation in Ituri, develop an effective plan and commit the necessary resources to make its pacification a success and a model for the entire Congo peace process. The review is time-limited, however. The key date is 1 October, when the MONUC mandate is up for Council renewal.

RECOMMENDATIONS

To the UN Security Council:

1. Consider carefully the recommendations made by Secretary General Annan, then renew and strengthen MONUC's mandate with an emphasis on:
 - (a) a stronger mandate that includes the authorisation to respond robustly to any attack or threat of attack, including, if necessary, in a pre-emptive manner;
 - (b) improved command and control of military operations and better integration of military and civilian objectives;
 - (c) enhanced access to and/or embedded technical capabilities for intelligence and surveillance; and
 - (d) increased levels of better-trained and prepared troops.
2. Consider and act on the recommendations of the UN reports on economic exploitation and arms flow, with a particular emphasis on isolating the armed groups in Ituri and applying pressure on neighbouring governments to cooperate in the elimination of such activities from within their borders in accordance with existing UN Security Council Resolutions.

To the Transitional Government:

3. Ensure that the armed groups in Ituri receive no material or other support from any elements of the Transitional Government and, to the degree possible, from any other Congolese nationals, and develop in partnership with Uganda and Rwanda

appropriate mechanisms to end the support they receive from outside the Democratic Republic of Congo (DRC).

4. Develop in partnership with MONUC a comprehensive strategy to deal with the armed groups in Ituri.
5. Work to improve the implementation of justice and public administration within Ituri.
6. Enhance the "integrated brigade" of the Armed Forces of the Democratic Republic of the Congo (FARDC) so it can make an effective contribution to security in Ituri but do not deploy to the district until it is fully and appropriately trained and equipped.
7. Work with UNDP and MONUC to begin the long delayed Ituri Disarmament and Community Reinsertion (DCR) program and to connect it to the national plan as well as to army integration.
8. Assist the International Criminal Court with its investigations into serious crimes committed in Ituri after 1 July 2002.

To the Ituri Armed Groups:

9. Cease all military action against other armed groups and MONUC and violence against civilians, including rape, and allow MONUC and humanitarian agencies unimpeded access to all areas under their control.
10. Enter into genuine and realistic negotiations with the Transitional Government on achieving a cessation of all hostilities in Ituri.
11. Encourage their fighters to enter the DCR program on its commencement.

To MONUC and other UN entities in Ituri including UNDP:

12. Develop in partnership with the Transitional Government a comprehensive strategy to deal with the armed groups in Ituri.
13. Commence at once the DCR program that was originally to have begun on 1 September 2003.
14. Within force and mandate limitations, re-orientate the Ituri Brigade's mode of operations to one of

greater mobility and use of force against groups threatening the pacification of Ituri.

15. Develop a more comprehensive humanitarian strategy for Ituri in partnership with NGOs.

To the Governments of Uganda and Rwanda:

16. Act to prevent any support for Ituri armed groups that originates from or transits through national territories and help persuade those groups to cease violence and enter the pacification process.

17. Assist the International Criminal Court with its investigations.

To the International Criminal Court

18. Focus its initial investigation in the DRC on Ituri with particular attention to leaders of the armed groups.

Nairobi/Brussels, 26 August 2004

MAINTAINING MOMENTUM IN THE CONGO: THE ITURI PROBLEM

I. INTRODUCTION

The district of Ituri, in the north-east of the Democratic Republic of Congo (DRC), came to international attention in mid-2003 as inter-ethnic conflict, long suppressed under former President Mobutu Sese Seko but inflamed in the anarchy that accompanied his ousting, exploded. Thousands of civilians were killed and many more displaced, and the prestige of the UN Mission (MONUC), which had failed to protect them, suffered. The UN Security Council authorised Operation Artemis, a French-led EU Interim Emergency Multinational Force (IEMF),¹ which undertook a limited intervention to restore order and prevent further massacres by warring Hema and Lendu ethnic militias. It was able to stabilise the capital, Bunia, and win time and space for the UN to return a substantially reinforced MONUC, including the some 3,500-strong Ituri Brigade. Authorised under Chapter VII, meaning it is entitled to take a range of strong measures including the use of force, MONUC now seeks to secure control over the entire district and allow a more durable pacification process to resume.

Since MONUC resumed control on 1 September 2003, there has been some progress, but momentum has stalled. MONUC has nearly reached its limits to influence conditions, especially security, in Ituri. Programs to reconstruct communities and infrastructure, such as the Disarmament and Community Reinsertion (DCR) program for former combatants,² have yet to begin, and the return of internally displaced persons (IDPs) to their homes is almost at a standstill. The interim political institutions are moribund and have failed to deliver on either of their key tasks: political pacification and social services.

The Transitional Government in Kinshasa is not in a position to assume these responsibilities, leaving a political vacuum that MONUC cannot fully fill. Finally, although the ethnic war appears to be largely over and while their nature and actions have changed, the armed groups remain the main obstacle to peace.

Recent events in South Kivu³ and the reactions to them domestically and internationally, as well as an outbreak of fighting in northern Ituri between two of the armed groups, underscore the fragility of the peace process in the entire country. Ituri is a vital test of the Transitional Government's capacity to assert its control in the East and of the likelihood that a stable peace can be established in the DRC and the region.

While Ituri has many problems, they are surmountable, especially compared with the challenges elsewhere in the DRC. Its "separateness" and international efforts to date have created opportunities for substantial progress. But MONUC, complemented by the Transitional Government, needs to realign its priorities. Success in Ituri is critical not only to its people, but also to the entire UN mission in the DRC and the credibility of UN peacemaking efforts throughout Africa.

This report updates earlier ICG papers⁴ and focuses on the role of MONUC and the armed groups, political and regional factors, and the development of the Transitional Government's influence. ICG's views on the wider issues involved in strengthening the political transition and peace process in the DRC were the subject of letters on 24 August 2004 to key members of the international community.⁵

¹ Authorised under UNSCR 1484 (30 May 2003).

² In Ituri the program for disarmament, demobilisation and reintegration (DDR) is referred to as the Disarmament and Community Reinsertion (DCR) program, the logic being that the members of the armed groups have never been mobilised.

³ See ICG Africa Briefing, *Pulling Back from the Brink in the Congo*, 7 July 2004.

⁴ See especially ICG Africa Report N°64, *Congo Crisis: Military Intervention in Ituri*, 13 June 2003.

⁵ See ICG Media Release, "Prevent the Return to Full-scale War in the Congo", 24 August 2004, and the accompanying letter from Gareth Evans to the Foreign Ministers of Belgium, France, South Africa, the UK and the U.S., and the Permanent

II. CRISIS IN ITURI

A. THE HEMA-LENDU CONFLICT

The origins of the Hema-Lendu conflict lie in the effects of colonial exploitation and favouritism and the resulting tensions over land usage between the two main ethnic groups in Ituri. The imbalances inherited from the Belgian era were exploited under the 32-year rule of President Mobutu Sese Seko, usually to the advantage of the Hema. Lendu resentment was occasionally manifested in inter-communal violence. The wars of the post-Mobutu period⁶ created an environment in which the pre-existing tensions could be manipulated to the point of affecting the entire district.

After 1999 Ituri became embroiled in the regional conflict between Uganda, Rwanda and the government in Kinshasa and their respective Congolese allies and proxies, with the Ugandans being the most active. The leaders of the armed groups took advantage of their patrons' support to expand not only the dimensions of the ethnic conflict but also their political influence and self-enrichment. The Ugandan government, and key officers in the Ugandan army, the Peoples' Defence Forces (UPDF), played the various armed groups off against each other. While generally siding with the Hema militias, individual officers occasionally supported Lendu groups, often for their personal economic benefit.⁷ Violence was exacerbated by tensions among and within Congolese groups, particularly the Congolese Rally for Democracy-Liberation Movement (RCD-ML) and the Movement for the Liberation of the Congo (MLC), which abetted by the Ugandans, sought advantage in Ituri.

These manoeuvres ended in August 2002 with the takeover of Bunia by Thomas Lubanga's Hema militia,

the Union des Patriotes Congolais (UPC), backed by the Ugandan army. This resulted in the ethnic cleansing of the Nande, Bira and Lendu. The response from the Lendus and their Ngiti allies of the Armée Populaire Congolaise (APC) was to massacre Hema in areas they controlled, most notoriously approximately 1,000 civilians in Nyankunde on 5 September 2002. Unaligned communities like the Bira and Alur were targeted by both Hema and Lendu militias. The violence degenerated into a cycle of fear and retaliation that fed a genocidal inter-ethnic conflict, manipulated by militia leaders and abetted by Uganda and Rwanda as well as Congolese military and political leaders.

Uganda relinquished its support for Lubanga in the September 2002 Luanda Agreement, an attempt to gain international favour while retaining security and economic interests in the district. In response, Lubanga turned to Rwanda⁸ and its Congolese allies, RCD-Goma (RCD-G). His efforts to maintain power led to splits within the Hema, most notably between the UPC and Chief Khawa's Parti pour l'Unité et la Sauvegarde de l'Intégrité du Congo (PUSIC). Against this background, the Ituri Pacification Commission (IPC), established under the Luanda Agreement, was unable to function properly since it had itself become the focus of political manoeuvring by the Iturian parties and their supporters. By early 2003 the dissolution of alliances led to a proliferation of new armed groups determined by ethnicity and political ties outside Ituri and of varying military effectiveness. Lubanga's UPC was the strongest, due mainly to Rwandan help.

In March 2003 the Ugandans, still in Bunia, took direct action against Lubanga, then allied to RCD-Goma (and so Rwanda), and the Ugandan rebel group, the People's Redemption Army (PRA). Lubanga fled to Kigali, and the Ugandans allowed PUSIC and the Lendu Front for National Integration (FNI) to take over Bunia under the control of their army and Brigadier Kale Kayihura. This period was one of relative calm, although groups opposed to Ugandan influence ensured there was still enough violence to discredit Kampala's attempts to restore stability. The 177-member Ituri Pacification Commission (IPC) finally met under MONUC auspices and proposed a mechanism for the pacification and rebuilding of Ituri. However, the main product of its deliberations, the Ituri Interim Administration (IIA), failed because

Representatives to the United Nations of Security Council member states, at www.icg.org.

⁶ Mobutu was overthrown by Laurent-Désiré Kabila, the father of the current president, in May 1997, ending the first war that began in October 1996. The second war began in August 1998 and ended with the signing of the Lusaka Agreement in 1999, which provided for the disengagement of foreign forces in the DRC. Major internal conflict between Congolese groups, often abetted by foreign governments, continued until the signing of the Global and Inclusive Accords in 2002. However, even then fighting continued in a number of regions, especially Ituri.

⁷ ICG Report, *Congo Crisis*, op. cit., p. 4.

⁸ Rwanda felt it was being unfairly judged especially vis-à-vis Uganda, which it considered to have acted recklessly in Ituri without having any of Kigali's justified concerns about DRC events.

of the deteriorating security environment precipitated by the Ugandan army's withdrawal in April-May 2003, at international insistence, and MONUC's failure to fill the resulting vacuum. Similarly an attempt by the government in Kinshasa to assert its authority by sending 700 rapid intervention police (PIR) failed when the men sold their weapons and tried to desert.

B. MONUC I AND OPERATION ARTEMIS

On 3 May 2003 the Lendu militias launched a campaign of violence against the Hema in Bunia. Some attacks were carried out in the vicinity of or even in clear view of MONUC personnel, some of whom came under fire. MONUC concentrated on self protection largely abandoned its mandate to "protect civilians under imminent threat of physical violence".⁹ On 12 May the UPC began retaking the town and commenced a round of retaliatory ethnic killings. In the subsequent two weeks approximately 400 people were killed by the militias. Attempts at mediation failed and eventually the UPC gained control of all Bunia. Lubanga then resumed his campaign for political and military control of all Ituri, in defiance of previous agreements and disregard of the IPC and MONUC.

The failure of the UN force lay in part in the inadequacy of its limited, Chapter VI mandate, which was exacerbated by its inability or unwillingness to act decisively even within those apparent constraints.¹⁰ This greatly undermined MONUC's credibility, with effects that persist today in the minds of many in Ituri.¹¹

In response, the UN Secretary General appealed for an international force (referred to as the IEMF) to stabilise the situation, at least in the capital. France agreed to provide one under the auspices of the EU. The UN Security Council mandated Operation Artemis under Chapter VII of the Charter to:

contribute to the stabilisation of the security conditions and the improvement of the

humanitarian situation in Bunia, to ensure protection of the airport, the internally displaced persons in the camps in Bunia; and, if the situation requires it, to contribute to the safety of the civilian population, United Nations personnel and the humanitarian presence in town.¹²

Operation Artemis, while limited to Bunia for three months ending 1 September 2003, largely achieved its stated mandate. The key element in its success was the clear determination of the French commander, General Jean-Paul Thonier, to use force against those who interfered with the operation. He declared that Bunia would be "*sans armes*", and his troops acted quickly -- sometimes with deadly force -- against those who refused to comply. Some preventive raids were also undertaken outside of Bunia against threatening elements. Operation Artemis was able to extend its influence beyond Bunia and disrupt the flow of arms into Ituri through the use of helicopter, fixed wing and other surveillance assets. While there has been some criticism¹³ that it could have done more, for example, actively search for weapons¹⁴ or operate more outside Bunia, it had only 1,500 personnel total and a mere battalion -- 700 men -- of combat troops. It was also operating on a fairly short leash determined by its mandate and EU supervisors.¹⁵ The key point is that it created a humanitarian space within Ituri and gave the UN time to attain the necessary authorisation and forces to re-establish its presence. Most importantly, it clearly defined to the armed groups the limits of their presence and influence. Its accomplishments set a benchmark against which MONUC would be measured. Unfortunately, the UN force has been unable to keep up the momentum.

⁹ UN S/RES 1417, 14 June 2002.

¹⁰ As detailed in ICG Report, *Congo Crisis*, op. cit. and elsewhere, there were a number of incidents where intervention by Uruguayan personnel of MONUC would have been consistent with its Chapter VI mandate. The failure to intervene created a perception that MONUC was weak and so contributed to the general anarchy that resulted until the IEMF arrived.

¹¹ Confirmed in a number of ICG interviews in Bunia, August-September 2003.

¹² UNSCR 1484 (30 May 2003).

¹³ Briefings to ICG from NGOs and international bodies.

¹⁴ The general view is that Bunia "*sans armes*" was more a case of Bunia without visible arms.

¹⁵ Some, such as Amnesty International, called for the EU force to stay longer. However, this would have required significant reinforcement, which was not on offer. The UN Ituri Brigade replacing Artemis was planned at a total strength of 3,500-4,000 (around four infantry battalions) with a similar mandate to Artemis but for the whole of Ituri.

III. MONUC II

UN Security Council Resolution 1493 (28 July 2003) defined the tasks of the reconstituted MONUC's 10,800 troops. It was required to:

- ❑ protect United Nations personnel, facilities, installations and equipment;
- ❑ ensure the security and freedom of movement of its personnel, including in particular those engaged in missions of observation, verification or disarmament related tasks;
- ❑ protect civilians and humanitarian workers under imminent threat of physical violence; and
- ❑ contribute to the improvement of the security conditions in which humanitarian assistance is provided.

The mission is explicitly protective, with the application of force limited to the achievement of these tasks.

The resolution also identified five core MONUC programs for the wider DRC.¹⁶ These are predicated on the various agreements that had been made by both regional powers and the main Congolese factions to conclude the long Congolese war and produce a political transition. MONUC's mission is to assist and facilitate the transition process based on those undertakings. Nothing was said in the resolution, however, about how or if it should respond to the dangers posed by parties that are not signatories to the agreements. For example, in the Kivus, the continued presence of the FDLR and rogue elements of RCD-Goma, responsible for the fighting in June 2004, is a clear danger not only to local peace and security but also to the transition itself and regional relations.¹⁷ MONUC was ill-prepared to deal with

such threats since the premise underlying its mission has been that it will receive the cooperation of all parties. Secretary General Kofi Annan identified this problem in his recent report to the Security Council:

The establishment of MONUC's peacekeeping mandate under Chapter VII of the United Nations charter has raised expectations that the Mission will "enforce" the peace throughout the country. However, there is a wide gap between such expectations and MONUC's capacity to deliver on them. At the same time, the lack of specificity as to MONUC's tasks under resolution 1493 (2003) does not lend itself to the most effective use of the resources provided to the Mission¹⁸

In Ituri, more than in the DRC generally, the cooperative preconditions are largely non-existent. The armed groups there have continuously used violence against civilians, other armed groups, international organisations and MONUC itself.¹⁹ The political and administrative body -- the IIA has just been replaced by the appointed representatives of the Transitional Government -- has been ineffective, to a large degree because it has been undermined and threatened by the armed groups. Unlike those in the Kivus, the armed groups in Ituri are not parties to the transitional process, nor do they represent in any substantive way the political or security concerns of either Uganda or Rwanda. Their peripheral nature makes them more prone to violence, which is their primary means of getting attention, and attempting to blackmail the Transitional Government and MONUC into acceding to their often unreasonable demands. Dealing firmly with these armed groups, using force if necessary, carries far less risk to the wider political settlement in the DRC than elsewhere. However, these factors were not recognised in either the development or implementation of MONUC's mandate.

¹⁶ These were: Peace and Security, Facilitating the Transition, Establishing the Rule of Law and Human Rights, Improving Human Conditions for Sustainable Peace, and Support and Management.

¹⁷ The UN Secretary General's spokesperson, reacting to criticism that MONUC should have done more in response to fighting in the Kivus, said: "The mandate was not to make war. The mandate was based on a peace agreement. Here, the peace agreement has been violently breached. It's for the parties to sort out. Once they can sort out their differences and reaffirm their peace agreement, then there's a role for the UN. When war breaks out, the role of peacekeepers ends". BBC News Online, 3 June 2004, at news.bbc.co.uk/2/hi/africa/3774013.stm.

apart from overstating the nature of the fighting in Bukavu and understating whether it was a threat to the agreements that underwrite peace and security in the DRC, the statement illustrates not only the specific limitations of the mandate itself but the UN's philosophical limits on use of force.

¹⁸ Third Special Report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo S/2004/650, 16 August 2004

¹⁹ According to a report published by the respected Pretoria-based Institute of Social Studies, July 2004, there have been twenty attacks on MONUC since December 2003. None has caused MONUC to undertake more than limited retaliation directly against those responsible.

At issue is whether, even with a Chapter VII mandate, the mission of the Ituri Brigade was intended to be one of peace enforcement. When the Brigade Commander Isberg²⁰ took over from Operation Artemis on 1 September 2003, he insisted that he could use the means at his disposal for "enforcing the peace, as opposed to keeping-peace",²¹ but he was equally unequivocal that the "forced pacification" of some or all of Ituri was not an explicit purpose of the mission.

Some civilians and military in the mission realised that security needed to be established in Ituri and that this would not just happen by virtue of a larger force with a Chapter VII mandate.²² Nevertheless, the Ituri Brigade, at least on paper, appeared a strong force that could, with determination and planning, deal with any of the armed groups that threatened its mission or peace in Ituri generally. However, while UNSCR 1493 authorised it to use "all necessary means" to achieve its mission, it did not explicitly require it to undertake proactive operations to deal with the root cause of Ituri's insecurity, the armed groups.²³ In other words, if the armed groups did not interfere with MONUC's tasks or directly threaten UN staff, humanitarian personnel or civilians, there was no obligation to confront them. In this respect

the mission was significantly less robust than anticipated by many Congolese, especially those around Bunia who had been impressed by Operation Artemis's show of strength and use of force.

A. THE ITURI BRIGADE

At full strength, the Ituri Brigade is a capable force consisting of four infantry battalions²⁴ and including armoured personnel carriers, attack helicopters²⁵ and sufficient transport helicopters to airlift a company (approximately 100 troops). This is considerable firepower and mobility. While it "cannot have a soldier at every house",²⁶ the brigade has sufficient assets to move around Ituri largely at will and project meaningful combat power. Many of the officers and soldiers from Bangladesh, Pakistan and Nepal came to it with operational experience,²⁷ including of other UN missions or counter-insurgency operations in their home countries. Much effort seems to have been put into establishing a functioning Brigade headquarters able to conduct combat operations beyond the UN's normal range of protective tasks.²⁸

²⁰ Brigadier Jan G. Isberg (Sweden), the MONUC Deputy Force Commander, was appointed interim Brigade Commander until Brigadier Rashad of Pakistan replaced him in December 2003.

²¹ IRIN interview, 3 September 2003 and ICG interview, Brigadier Isberg, Bunia, September 2003.

²² ICG interviews with UN staff, Bunia, August-September 2003. A general assumption and expectation exists that a change from Chapter VI to Chapter VII should serve as more than just an enhanced mechanism for self-defence and enable the force to undertake proactive combat operations to defeat threats to the civilian population, the mission and its personnel, before they occur. The shift that may be required is not just an issue for the Ituri Brigade and MONUC but one of organisational culture and history within the UN and in particular the peacekeeping element of its Secretariat, the DPKO. It is not clear from interviews whether this distinction is acknowledged within MONUC, particularly by its civilian staff.

²³ The resolution distinguished the tasks in Ituri from those to be carried out by the UN force in the Kivus, which was to operate "as it deems within its capabilities". This differentiation suggests a greater expectation that the Ituri Brigade would apply force when needed. However, the ambiguity allows for interpretation, which has largely favoured caution. This ambiguity has also been the source of friction between military and civilians within MONUC, who have different understandings of what can or should be achieved with military force. ICG interviews, Bunia, April 2003.

²⁴ The Uruguayan Battalion (URBATT), which had been in Bunia since April 2003, was replaced by a battalion from Morocco, except for one company, which stayed to perform the guard function that had originally been foreseen for it.

²⁵ They potentially represent a significant psychological deterrent as well as combat multiplier. Their arrival in Bunia was followed by a number of sorties around the city to display their presence. However, they have been used in Ituri and recently in the Kivus largely as a psychological deterrent or for retaliation, seldom in a coordinated manner as part of a combined ground-air effort.

²⁶ ICG interview, member of UN military staff, Bunia, September 2003.

²⁷ Troop quality is a perennial issue in UN operations. While certainly some aspects such as equipment and training are not ideal, many of the troops can conduct the types of task required in Ituri. Among the current contingents, the Nepalese have been acknowledged in Bunia and in Kinshasa as doing a good job. The performance of the others has been mixed; the key variable is leadership, within the contingents themselves, and within the mission. Operations are not determined by the contingents, and if they are not tasked to undertake certain operations, they will not take the initiative, although it has been said that certain contingents are more reluctant than others to expose themselves to risk, often on advice from their government. Such problems need to be addressed by the mission leadership in Kinshasa and Bunia.

²⁸ Such an undertaking is difficult in a national force and all the more so in a multinational force. It will need continual monitoring and improvement as it is critical to the success of the mission. The most common comment about MONUC's

There are a number of problem areas, however.

Intelligence. The Ituri Brigade's main deficiencies, as for MONUC overall, are in intelligence, surveillance and interdiction (such as air patrol fighters), types of assets that Operation Artemis could call upon. The ability to monitor movements and communications within Ituri gave the EU/French force a significant advantage, particularly for impeding the flow of arms, which is critical to undermining the armed groups and so reducing violence. Such assets, especially those for gathering intelligence, are typically closely controlled by national governments, and it is unlikely they would be made directly available to a UN force.²⁹ However, MONUC and the UN would do well to make high level approaches to member states to make available the kind of intelligence that would enable the Ituri Brigade to conduct appropriate planning and interdiction.

While the lack of strategic intelligence is a perennial deficiency in UN operations, deficiency at the tactical level also impedes the Ituri Brigade. For many within the UN, the notion of intelligence is anathema,³⁰ yet no military operation can be effective, whatever its tasks, without it. While there are notional intelligence cells at battalion and brigade level, their effectiveness is limited. A greater effort within the mission is necessary to seek, fuse, analyse and disseminate information/intelligence. The responsibility for this lies not just with the military component but with all MONUC staff.³¹

Language. Much has been made of the language gap within the brigade³². The ideal -- in this instance that all troops come from French- or Swahili-speaking

countries -- is not always possible in a UN mission. The Force Commander and Bangladeshi Contingent Commander are both aware of the problem and have undertaken remedies.³³ There is a common language (English) among the three ground contingents from South Asia as well as the Indian air element.³⁴

Logistics. The Ituri Brigade relies on air transport for its logistical needs including fuel, of which the mechanised element needs large amounts. This reliance decreases the availability of items such as defence stores that are needed for operations outside Bunia. Opening up roads would enable MONUC to bring in some supplies over land. This would make it feasible to sustain longer operations as well as reduce demands on the brigade's helicopters.

Night Operations. The ability to patrol and conduct operations at night is vital for limiting the freedom of movement and action of the armed groups. Unfortunately, the brigade's ground troops and air assets both generally lack night vision equipment.

Military Observers (MILOBS). The utility of unarmed observers in precarious security situations needs to be constantly reassessed.³⁵ MILOBS who speak French and/or Swahili can be of great assistance to the Ituri Brigade as liaison officers and interpreters as well as a source of much local information and knowledge.

The immediate need for observation and liaison, however, can be met from within armed Ituri Brigade elements. Any combat engaged in by the UN forces would leave unarmed MILOBS open to retaliation. The death of further UN personnel, as at Mongbwalu in 2003, would harm MONUC's credibility as well as its morale. MILOBS will have a more important role

force and brigade headquarters is the need for staff officers, especially from Western armies, who have experience in contemporary staff procedures and integrated command functions.

²⁹ This deficiency is typical of most UN operations and is a major impediment to conducting robust peacemaking operations.

³⁰ For instance the intelligence cell in the force headquarters in Kinshasa is referred to as the "Military Information" cell.

³¹ An amateurish attempt by UN security staff in MONUC to foster relations with criminals in Bunia, including buying information, failed and resulted in a backlash that threatened the lives of some international NGO staff. ICG interview, Bunia, April 2004.

³² It was often commented on in reports by NGOs and in ICG interviews. It is not necessary that every soldier be able to speak French or Swahili, particularly when conducting offensive operations. Comments to this effect misunderstand what the tasks, at least initially, of the brigade should be.

³³ This includes acquiring interpreters from Kinshasa (30 initially) and issuing all soldiers with phrase cards. Some officers in the Bangladesh battalion speak French. The higher incidence of French-speakers within the Moroccan battalion has not necessarily correlated with performance.

³⁴ Having troops from countries far removed from the DRC and without immediate national interests in its problems or those of Africa generally, of course, also has some advantage in terms of perceived neutrality. Given that the brigade unfortunately does minimal foot patrolling, the scope for communication with the population and thus the need for knowledge of local languages is less than it might otherwise be.

³⁵ While MILOBS are an important element of traditional UN peacekeeping, they are not necessarily appropriate for all situations.

to play once sustainable peace agreements have been made.³⁶

B. SECURING ITURI

When MONUC resumed control of Ituri from Artemis on 1 September 2003, reasonable security had been established in Bunia but much of the rest of Ituri remained either wide open or under the control of various armed groups. The Interim Brigade Commander indicated that he would concentrate on Bunia until the brigade reached full strength in December, after which three of its four battalions would be deployed outside the city.

While security by day had generally been adequate, on 5 September 2003 approximately 500 youths (likely UPC-led) rampaged through Bunia and threatened UN staff. It was probably a deliberate (and predictable) test, which MONUC failed. The UN spokesperson's response to criticism of the lack of response was that "the UN are not the police, they are military. The looters were not armed and imminently dangerous, so we could not open fire".³⁷ Unsurprisingly, a second incident occurred on 15 September. This time, when a crowd confronted MONUC troops and some fired on them, the troops returned fire.³⁸ However, MONUC was clearly unprepared to deal with such incidents, and this damaged local confidence in the UN almost from the time it first took over from Artemis.³⁹

A more proactive approach is needed to deal with the presence of the armed groups in Bunia.⁴⁰ The Ituri

Brigade has weakened them but still does not control the entire city. The Union of Congolese Patriots (UPC) controls the northern districts of Mudzipela, Saïo and Lembabo, the FNI the southern Yambi Yaya district. The city is effectively divided into three parts, of which MONUC dominates only the centre, where UN and NGO personnel and IDPs live. In areas controlled by the armed groups, civilians are preyed upon and there are high-levels of crime and violence. The cordon and search operations that have been conducted have had limited effect.⁴¹ No attempt was made, as it should have been, to produce total disarmament by a coordinated cordon and search program.⁴² The removal of arms that the Interim Emergency Multinational Force (IEMF) had allowed guards at UPC locations to keep was likely the catalyst for the 15 September protest. The backlash from the armed groups should have been anticipated, and confrontations should have been met resolutely with proportionate force, but they were not.

The deployment of the Ituri Brigade proceeded largely as planned. The Bangladeshi battalion took up position south of Bunia, with the Pakistan battalion in the centre sector and the Nepalese battalion in the north, centred on Mahagi. A Moroccan battalion replaced the Uruguayans in the capital. Locations were chosen consistent with identifiable humanitarian and disarmament tasks. Operations have been largely defined by political and humanitarian imperatives.⁴³ Where there are MONUC troops, there is a degree of

³⁶ An additional important element of internal reform that MONUC itself should deal with is to draw on the internal resources of its Office of Gender Affairs to address and prevent sexual abuse of Ituri civilians by MONUC personnel. Some 30 cases are presently under investigation. See MONUC's website. <http://www.monuc.org/news.aspx?NewsID=2591>. MONUC should ensure that its troops receive gender-sensitive training designed to combat sexual abuse of the local population.

³⁷ "UN Congo force criticised after looters run wild", Reuters, 6 September 2003. This incident indicated an early willingness to accept lawlessness not directly threatening the lives of UN staff.

³⁸ MONUC has stated that no one was killed; the UPC says between two to six were killed.

³⁹ Until there is a viable police force, consideration should be given to equipping troops in Bunia with riot equipment and non-lethal tools such as tear gas, which should be familiar to troops from all the contingents in the brigade.

⁴⁰ An estimated 400-plus UPC personnel are in Bunia, and it can be expected that many have arms hidden.

⁴¹ These were mainly conducted by the Pakistani contingent. While many applauded the "heavy" manner in which they were carried out, others thought them counterproductive in alienating many civilians while failing to reduce substantially arms in the city. Such operations are inherently difficult and sensitive, and it appears that after early criticism, they were scaled back as MONUC was unwilling either to accept or mitigate the negative effects. The result is that armed groups control most of Bunia.

⁴² Most confiscations seem to have resulted from information supplied from within the community and to have been small. Armed groups are likely to provide as much information as possible about other groups' caches or even offer up some of their own to give MONUC the impression of progress while protecting their major caches.

⁴³ During the period leading up to and after MONUC's takeover from Artemis, there was much criticism of it by NGOs (and also within MONUC itself) from those impatient for the Ituri Brigade to take control of areas deemed to need humanitarian assistance. While the plan developed by MONUC was largely consistent with its political and humanitarian aims and those of others, this pressure impeded any attempt to make a priority of dealing with the armed groups before securing territory.

pacification. Some IDPs have returned home, and some members of armed groups await disarmament. Where MONUC is absent, such as the territory of Aru, the armed groups are in complete control, in this case the FAPC. They are virtual "no-go areas" to which neither MONUC, the Interim Administration nor international humanitarian organisations have access.

The operational plan for Ituri was flawed.⁴⁴ As noted, there is ambiguity about the degree to which the brigade is intended to use force. The deployment into defined locations intended to maximise humanitarian and political activity was sensible if the main objective was peacekeeping. However, the plan failed to reflect the need for "robust action" that the Ituri Brigade staff and many others in MONUC acknowledged. The control of towns, while bringing some relief to those in the immediate vicinity, has had only limited effect on the armed groups, who continue their activities and occasionally attack MONUC personnel.

Regardless of initial intent, the scope of the current deployments means that without reinforcements and added capabilities, it is not likely the Ituri Brigade can do much more than it is doing now.⁴⁵ Redeployment from one area to another would likely result in a decline in security in the vacated area and an out flow of IDPs. Without a reaction force or a reserve, there is limited ability to deal with contingencies beyond the capacities of the deployed battalions. To make matters worse, the need to strengthen MONUC's Kivu Brigade after the recent fighting in South Kivu has caused some elements of the Ituri Brigade to be shifted to that region, where there are fewer UN troops than in Ituri. This makes sense given the importance of the Kivus to peace in the DRC and the region as a whole but it illustrates the inadequacy of force levels for the entire mission.

⁴⁴ The operations could best be typified as protective and intended to secure locations and their immediate vicinities when what was needed, at least initially, was a more mobile, counter-insurgency mode that did not tie forces to fixed locations and maintained greater visibility across Ituri and more pressure on the armed groups.

⁴⁵ The brigade is currently deployed to Djugu, Nizi, Fataki, Bule, Tchomia, Irumu, Marabo-Kasenyi, Mambasa and Mahagi. The Brigade Commander stated clearly that he has no margin for discretionary movement. An attack by FNI on Bangladeshi troops on 8 May 2004 was responded to with an uncoordinated effort by a platoon (approximately 30 troops) and an attack helicopter. Although ten FNI were reported killed, such losses do not constitute effective deterrence. More importantly, there were no follow-up operations to neutralise the FNI in the area.

IV. THE ARMED GROUPS

A. THE END OF THE ETHNIC WAR?

Since MONUC took over from Artemis, the dynamics of the armed groups have changed. The Hema-Lendu conflict is largely over, and violence is mainly within groups and alliances. There has even been a degree of cooperation between the UPC of Thomas Lubanga⁴⁶ and Floribert Ndjabu's FNI and others, mostly driven by economic and political considerations.

The permeability of the DRC's border with Sudan allows the FAPC led by Jérôme Kakwavu to buy weapons from the Sudan People's Liberation Army (SPLA) or from Ugandan sources across the land and lake border with Uganda,⁴⁷ using tax revenues obtained in the territories of Aru and Mahagi. The FAPC in turn sells many of these weapons to the FNI, which finances its purchases through control of gold mining at Mongbwalu. Other groups such as PUSIC and FRPI receive support from Ugandan sources, mostly across Lake Albert. Lubanga's UPC receives its weapons from Rwandan sources or proxies.

While customs and tax revenue, the traffic on the lake and the artisanal exploitation of gold in locations such as Ngeti and Mongbwalu finance the access of all seven of the armed groups in Ituri to fresh supplies of weapons and munitions, MONUC has taken little military action against these economic activities. Establishment of the Transitional Government's authority, as MONUC maintains, is key to bringing security to the area, but its lack of capacity to do so has created a stalemate. MONUC's expansion outside Bunia has not greatly affected the armed groups, particularly the FNI and FAPC.

The armed groups are seeking to form a united front in order to present a range of political and economic demands to the Transitional Government.⁴⁸ Their capacities complement each other: some such as the FAPC are economically strong but militarily weak,

⁴⁶ The UPC split between Lubanga (UPC-L) and Floribert Kisembo (UPC-K), formerly Lubanga's chief of staff.

⁴⁷ The UN Panel of Experts report of 9 July 2004 on compliance with UNSCR 1533 cites a number of examples of economic activity and arms flows across the borders with Ituri.

⁴⁸ One consequence of this Hema-Lendu alliance is that it has focussed violence against those considered outsiders such as the Nande, who conduct much of the business in Ituri.

while the FNI has economic and military strength but lacks the kind of political and military strategy that the UPC brings.⁴⁹ However, it is questionable how long such cooperation can last since the more immediate priorities of the armed groups involve maintaining their individual viability, often at the expense of the others.

Meanwhile, MONUC's approach has been ambiguous and contradictory. At times it has sought to arrest the group leaders.⁵⁰ At other times, it has encouraged Kinshasa to seek dialogue with them.

B. THE ACT OF ENGAGEMENT

The latest attempt to engage the armed groups, on the Transitional Government's invitation and with MONUC's facilitation, produced a meeting in Kinshasa from 10-14 May 2004.⁵¹ The purpose was to negotiate on peace and security in Ituri, restore state authority, gain acceptance for appointment of District and Territory Commissioners, and clear the way for the June 2005 elections. It ended with the armed group leaders signing an "Act of Engagement" with the Transitional Government and submitting their political demands to it.

Broadly these included equal recognition of their movements to that accorded to those that signed the earlier major agreements (the "global and inclusive accords") of the DRC peace process;⁵² inclusion of

their combatants in the new, integrated and restructured army and police with recognition of their ranks; incorporation of their political and civil leaders into transitional institutions and their appointment to territorial, diplomatic, public corporations, and security and intelligence service posts; and recognition of the movements by the ministry of internal affairs as political parties.

The FAPC, PUSIC, UPC-K, and FPRI, anticipating that the earlier agreements would not be revised in order to integrate them into the transitional institutions, and knowing that the Transitional Government had already appointed governors and deputy governors of provinces, limited their demands to:

- ❑ integration into the national armed forces of those of their combatants who want to continue military service, with recognition of their ranks;
- ❑ appointment of political leaders as district commissioners and territorial commissioners, as well as to positions in public corporations and the diplomatic, security and intelligence services;
- ❑ acceptance of their movements as political parties like those of other former combatant groups.

In addition to the common demands, Lubanga's UPC and Ndjabu's FNI -- the strongest and most uncompromising groups -- demanded that the Transitional Government appoint their members to three positions each in the government (two ministers and one deputy minister); three positions each at the provincial level (two governors and one deputy governor); five positions each in diplomacy, public corporations and the security and intelligence services and ten members each in the National Assembly and Senate.⁵³

Apart from these additional demands by UPC-L and FNI, the main difference among the armed groups was on the number of positions they wanted.⁵⁴ FAPC also demanded that the Transitional Government pay its debts to businessmen in Aru and Mahagi for the financing of its military forces by exempting goods

⁴⁹ Lubanga's UPC was the only armed group in Ituri that was recently recognised by the Transitional Government as a political party. This was most likely done to placate him, at least temporarily.

⁵⁰ MONUC recently arrested Floribert Kisembo of UPC-K because he had been recruiting, against the undertakings of the Act of Engagement. Pitsou Iribi of FNI was also arrested. Kisembo was subsequently released, despite the fact that he is the leader of an armed group and as the former Chief of Staff of UPC-L likely shares responsibility for many of its criminal acts.

⁵¹ The estimated strengths of the groups, according to the Institute of Security Studies, are: UPC-L, 3,000; FNI, 27,000; PUSIC, 2,000; UPC-K, 500; FAPC, 6,000; FPDC, 300; and FPRI, 9,000. These figures are difficult to confirm as the structures of the armed groups, especially the Lendu FNI, are fluid. Nor are they a force that could be concentrated and utilised in a cohesive manner against MONUC or FARDC.

⁵² The present situation in the DRC results from a series of agreements concluded over the past five years, including: the Lusaka ceasefire agreement 1999, Luanda agreements 2002, and the Sun City/Pretoria agreement April 2003 (Inter-Congolese Dialogue).

⁵³ They also demanded that the Transitional Government formally recognise their movements under the earlier global and inclusive accords and revise those agreements to admit them into the transitional institutions.

⁵⁴ For example, the FAPC asked for five positions in public corporations, six district commissioners, five positions in diplomacy and five in the security and intelligence services.

they imported from taxes and duties. FAPC also asked the Transitional Government to finance the social and development projects it claims to have undertaken in the territories of Aru and Mahagi. Finally, all armed groups demanded that they manage the territories they control⁵⁵ as commissioners.

In an effort to display strength to the armed groups and the Congolese generally, the Transitional Government had Lubanga, often the most intransigent of the leaders, read out publicly the Act of Engagement. The armed groups all declared they had signed the document in order to advance the peace process in Ituri, even though not all their demands had been met. The vice president in charge of political, defence and security matters, Azarias Ruberwa, in his closing speech, clearly affirmed that "the Transitional Government will not reopen the Agreements of Sun City or Pretoria to appease their political ambitions".⁵⁶ Despite this refusal, the Transitional Government agreed to consider the demands relating to military issues, and it accepted in principle the integration of combatants into the new national army and police.⁵⁷ No promise was made on recognising their ranks or incorporating the political and civic leaders into state administrative structures. On the sensitive issue of crimes and human rights violations, the Transitional Government stated that "there will not be a peace without justice, but the government will firstly privilege the restoration of peace and security before justice starts".⁵⁸

By signing the Act of Engagement, the chiefs of the seven armed groups committed themselves to "not undertaking any activities that may compromise the peace and security process in Ituri and any action that undermines national sovereignty".⁵⁹ They also agreed to support the program of Disarmament and Community Reinsertion (DCR) led by the UNDP and supported by MONUC with the agreement of the Transitional Government. Only the FNI's Ndjabu

did not attend the meeting and was represented by deputies.⁶⁰

To show the Transitional Government's intention to take over administration of Ituri, Minister of Internal Affairs Théophile Mbemba announced the appointment of the Ituri district commissioner, his deputies and five territorial commissioners. The minister of defence announced the intention to send a team of liaison officers from the new army (FARDC)⁶¹ to collaborate with the Ituri Brigade in the sites chosen for cantonment of the militias that are to be disarmed and demobilised. According to the minister, the government's intention was that once the integrated FARDC brigade and integrated police unit finished their training in Kisangani in June, they would follow these officers.

The Act of Engagement appears significant at first sight. It potentially gives the Transitional Government an opportunity to use the DCR program to reassert state authority in Ituri and, in so doing, establish the preconditions for free and democratic elections. Peace and security in Ituri would allow the Transitional Government and MONUC to focus on other problem areas such as the Kivus and North Katanga, and NGOs and UN agencies to extend humanitarian activities to territories still under the control of armed groups. However, the demands of the armed groups are difficult to satisfy. A revision of the global and inclusive accords would delay the peace process. Many other actors not currently involved in that process would likely take the opportunity to demand an even larger revision, thereby endangering the whole exercise.

The Transitional Government has made it clear that it will not revise the earlier agreements. It will be impossible to accommodate many of the demands for government jobs. The number of positions to which appointments can be made is limited, and there are many candidates within the current process as well as many other national actors seeking incorporation.⁶²

⁵⁵ FAPC: Aru and Mahagi; UPC-L: Bunia; UPC-K: Bunia; FNI: Djugu; PUSIC: Irumu and FRPI: Djugu.

⁵⁶ *La Référence Plus*, Kinshasa, 15 May 2004.

⁵⁷ This integration will be conditional first on those applying meeting the entry criteria, which will be difficult since most of the armed group fighters lack any military training. Additionally, there will be much competition: an army of approximately 100,000 is to be formed from an estimated 330,000 ex-combatants in the DRC.

⁵⁸ *La Référence Plus*, op. cit.

⁵⁹ "The Act of Engagement between The Transitional Government and Armed Groups of Ituri", Kinshasa, 14 May 2004.

⁶⁰ They arrived late in Kinshasa, on 12 May 2004, along with Jérôme Kakwavu of FAPC, on a plane provided by MONUC.

⁶¹ The FARDC is the army of the DRC, currently unreformed and awaiting the national DCR program.

⁶² The former include the PPRD, MLC, RCD-G, RCD-ML, RCD-N, Mai-Mai, and members of the political opposition and civil society. The latter include the *Union pour la Démocratie et le Progrès Social* (UDPS), the *Parti des Lumumbistes Unifiés* (PALU), the ex-*Forces Armées Zairoises* (FAZ), and other former Mobutu allies. The UDPS is not in the Transitional Government because it considers that its leader,

However, consideration is being given to making some appointments, including possibly to public administration positions outside Ituri. Likewise, the Transitional Government is considering accepting the movements of the armed groups as political parties though to date it has only so acted on Lubanga's UPC. All leaders of armed groups are liable to be prosecuted by the DRC or the International Criminal Court (ICC) for various war crimes. To incorporate them in the transitional institutions would imply acceptance of impunity.⁶³

Overall, the armed groups are unlikely to be pleased by the response, especially UPC-L and FNI. Even if the leaders are satisfied, ambitious lieutenants or the rank and file who do not get the positions they want in the FARDC or are impatient for the DCR program to begin probably will not be. The armed groups or at least elements within them, thus, will likely continue to resort to violence and may even escalate to a more general conflict in an effort to force concessions from the Transitional Government. The risk is particularly serious with Lubanga's UPC and Ndjabu's FNI, the two strongest groups, especially if the DCR program or FARDC integration does not commence soon or MONUC fails to deploy in areas under their control.⁶⁴

C. RESUMPTION OF FIGHTING

In early July 2004, the first major fighting between armed groups since the Act of Engagement broke out near Mahagi, allegedly caused by an FNI attack on the FAPC.⁶⁵ There are a number of possible explanations. The government's rejection of many of their demands left the armed groups feeling they were not taken seriously.⁶⁶ They know that if their demands

are not met, they risk little by resuming hostilities. MONUC's response was rhetorical: "we will use all the possible means, including military ones, if the security of the local population is threatened".⁶⁷ As long as the armed groups maintain cohesion, however, they are the main threat to Ituri's stability. Violence is unlikely to reach the May-June 2003 level, mainly due to a far greater MONUC presence, but it will certainly increase IDP movement into MONUC-controlled areas and Uganda, and there is a real possibility of many civilian deaths, especially if fighting regains an inter-ethnic character.⁶⁸

More importantly, the incident is symptomatic of two fundamental weaknesses in the peace process that were also exposed in the South Kivus: the inability of the Transitional Government to directly challenge the armed groups not parties to the peace process, and likewise the inability and/or unwillingness of MONUC. The other factor revealed in the Kivus was the fragility of regional relationships, particularly between the DRC and Rwanda. While this is not as central in Ituri, Rwanda and its Congolese allies retain the ability to cause trouble, whether for local or national advantage.⁶⁹ Uganda has played a substantial role in Ituri. Although its interest has generally declined since April 2003, greater instability may cause it to increase its involvement.⁷⁰

Etienne Tshisekedi, deserved the vice presidency representing the non-armed political opposition rather than Arthur Z'ahindi Ngoma. PALU is led by Antoine Gizenga, one of the oldest opposition leaders in DRC and a former close associate of Patrice Lumumba. The FAZ is Mobutu's former army.

⁶³ Impunity is a contentious issue as a number of members of the Transitional Government are likely to be the subject of an investigation by the International Criminal Court or some other judicial body; the current principle seems to be impunity (at least temporarily) for those within the Transitional Government and none for those outside it.

⁶⁴ The FAPC, UPC-K, PUSIC and FPRI have indicated that they are ready to engage in the peace process.

⁶⁵ The FNI rejected this and claimed that the FAPC was attempting to move on the FNI-controlled gold mining areas at Mongbwalu. ICG interview, Floribert Ndjabu, Kampala, July 2004.

⁶⁶ ICG interview, FAPC representative, July 2004.

⁶⁷ MONUC spokesperson, AP Newswire, 9 July 2004, at www.monuc.org/news.aspx?newsID=3265.

⁶⁸ In response to recent fighting, hundreds of Congolese fled across the Ugandan border into the Nebbi District, Radio Uganda, Kampala, in English 0400 GMT 8 July 2004, at www.monuc.org/News.aspx?newsID=3266. UN officials in Bunia, commenting on the resumption of fighting, have indicated that rape of women -- which frequently has been used as a tool of inter-ethnic conflict -- also remains a major issue. "Thousands of IDPs stranded at Bunia airport camp", IRIN, 16 August 2004.

⁶⁹ An example would be an attempt by RCD-G to take control of RCD-ML controlled areas, adjacent to southern Ituri.

⁷⁰ ICG interviews conducted in Kampala indicate that the FNI/FAPC fighting may have been a response, supported by Uganda, to reports that the FAPC leader, Jérôme Kakwavu, had attempted to establish relationships with dissident Congolese General Laurent Nkunda and the Banyamulenge. Given the shifting nature of alliances within Ituri and across regional borders, this is not improbable.

V. FILLING THE POLITICAL VACUUM

A. POLITICAL INERTIA AND THE INTERIM INSTITUTIONS

In April 2003, the Ituri Pacification Commission established the Ituri Interim Administration (IIA),⁷¹ to serve until the Congolese state could reassert control. From the outset the IIA has lacked political and material support⁷² and suffered from internal contradictions, especially regarding its pacification role.⁷³ The security vacuum created by the Ugandan army's withdrawal in late April 2003 and the reassertion of UPC control over Bunia led to a collapse from which the interim institutions have hardly recovered. In March 2004, UN Secretary General Annan reported:

Sustainable peace in Ituri can only be established when a credible local governance structure, strongly backed by the central government, is in place. Unfortunately the Ituri Interim Administration has not developed into such a structure, and the current involvement of the Transitional Government in Ituri is only at a very symbolic stage. MONUC cannot be expected to fill this vacuum. Yet it finds itself responsible for managing an extremely volatile

region in the absence of substantial political process.⁷⁴

As this recognised, restoration of Kinshasa's authority is the goal but there needs to be a functioning authority to meet current needs. Both immediate needs and long term goals are jeopardised by the present political vacuum. MONUC will not assert political authority and is unable to create the security conditions that would enable another body to do so.

Part of MONUC's dilemma is that its role oscillates between negotiator and protector but not enforcer.⁷⁵ In an effort to find the elusive "substantial political process" to which the Secretary General referred, it sometimes seeks to negotiate with the armed groups to bring them into a dialogue and peace process. MONUC's mission in Ituri, however, lacks a clear political and military policy toward the armed groups. It has always been uncertain whether their leaders should be considered potential partners or the main threats to peace. Until the Transitional Government recently attempted to deal with the armed groups politically, this had largely been left to the divided and moribund Ituri Pacification Commission and the IIA. MONUC responded in an ineffectual, if not token, manner when informed by some of the latter in September 2003 that the presence of armed groups within Bunia represented a direct threat.⁷⁶ MONUC's assertion that it was not the "executive power" and that it was in Ituri to support the legitimate authority was technically correct but somewhat out of touch with the realities of the political and security environment. Kinshasa had no control and little influence over Ituri, and the authority vested in the IIA was largely illusory.⁷⁷

⁷¹ The interim administration was elected, with a local assembly of 32 members, representing all delegations, a five-member interim executive to implement assembly decisions, an eighteen-member commission for conflict prevention and verification, a nine-member committee for dialogue between the armed groups, and a seventeen-member interim observer group on human rights violations. The interim assembly, with Petronille Vaweka presiding, was established as the decision-making organ of the interim administration to supervise and control the interim executive's work, ensure appropriate functioning of the three commissions, and determine sanctions in the event of grave violations of IPC decisions. The executive administration, coordinated by Emmanuel Leku, was organised into four departments, for administration, infrastructure and reconstruction, economy and finances, and human rights and social work.

⁷² See ICG Report, *Congo Crisis*, op. cit., pp. 10-13.

⁷³ Primarily the IIA's role in pacification was political, physically backed by MONUC. In many respects it entrenched the political differences within Ituri and was largely held captive by extremist views and the armed groups. Security guarantees from MONUC to support the pacification process never materialised. A senior MONUC staff member claimed that the IIA failed to express any "solidarity" with MONUC and to condemn publicly attacks upon the UN and international staff, ICG interview Bunia, April 2004.

⁷⁴ "Fifteenth Report of the Secretary General on the United Nations Organisation Mission in the Democratic Republic of the Congo", S/2004/251, 25 March 2004.

⁷⁵ Its attempts to respond effectively in Bukavu in June 2004 exposed it to criticism from all parties and compromised its ability to act decisively. It should have acted unequivocally in support of the Transitional Government and its political representatives on the ground instead of attempting to negotiate with illegitimate parties and then, on the collapse of those efforts, concentrating on protecting itself and a limited number of civilians. See ICG Briefing, *Pulling Back from the Brink in Congo*, op. cit. The same pattern has occurred in Ituri.

⁷⁶ ICG interview, Bunia, September 2003. Members of the IIA had asked MONUC for 24-hour protection, but this was not supplied.

⁷⁷ ICG interviews, Bunia, August 2003 and April 2004

The result was that political authority rested on a weak institution but one with sufficient legitimacy for MONUC to defer to it on direct political or military action. This situation largely continues. The IIA has been replaced by the Transitional Government, but at this stage it has even less influence than its predecessor.

B. THE TRANSITIONAL GOVERNMENT

1. Justice, governance and public administration in Ituri

What little influence the Transitional Government has in Ituri depends on MONUC's direct support. Its only noticeable effort has been the appointment of judicial officers to allow the court system to function.⁷⁸ This initiative is well regarded both in MONUC and among the local population, though it has not been without problems. Where possible the court has initiated investigations and conducted prosecutions; however, many elements of the system, such as police⁷⁹ and correction facilities,⁸⁰ are weak and require the help of MONUC and other international bodies. Still, it is a promising effort, partly because the appointees come from outside the district and have been able to work relatively free from the intricacies of local politics and conflicts.

Because there is a desire in Ituri -- often supported by the armed groups -- to maintain its special status and perhaps become a province, the Transitional Government's appointment of the district commissioner (DC) was particularly sensitive. A key issue was whether the DC would be an Ituri native or an outsider. On 28 June 2004 the appointment of Petronille Vaweka was announced.⁸¹ The choice needs to be considered from several angles. First, there is the question of continuity, given her role as the head of the IIA's Provisional Assembly. While IIA failures were by no means wholly her fault, the

legacy may hamper her relationships with MONUC, NGOs and local civilians. Secondly, there is the issue of whether she retains independence from the armed groups, which generally welcomed her appointment.⁸² Their presence in the interim institutions has not had the expected pacifying effect, and their activities generally threaten normal politics and public administration. Finally her appointment may raise some concerns as to her priorities leading up to the national elections scheduled for 2005. She previously entered the National Assembly as a representative of President Kabila's PPRD and is said to be close to the vice governor of Oriental Province in charge of economic and financial matters, Médard Autai, who is from that party.

To be effective, she needs to break with the past and remove people who have been associated with the IIA's failure, especially in delivery of services and financial mismanagement.⁸³ Given that security, the greatest concern, is outside her capacity, basic public services like education will be the criterion on which she will be judged locally. She will also have to display a high degree of independence from both local and national actors and work closely with MONUC and the international organisations that provide much of the support to the population.

The appointment of the DC and also the territorial commissioners (TCs) is not the reassertion of Congolese political authority in any substantive way. It is only a first step, and these officials will likely face the same problems as the IIA, which was not able to project its influence effectively outside Bunia. The commissioners remain threatened by the armed groups and will have difficulty delivering tangible public administration benefits unless they are given outside financial support to supplement the small amounts that may come from Kinshasa. There is a danger that the DC and TCs will have fewer resources if weary donors provide less direct support than they did to the IIA.

2. Enhancing security

Belgium recently completed training of an integrated FARDC brigade in Kisangani.⁸⁴ The Transitional

⁷⁸ This is financed by the European Union.

⁷⁹ According to the Secretary General's report of March 2004, MONUC has trained 81 police officers but they have had a limited effect due to inadequate salaries, lack of equipment and the threat of armed groups within the communities. MONUC's civilian police unit (CIVPOL) is training and planning the deployment to Bunia of 350 police.

⁸⁰ MONUC has agreed to hold those convicted in facilities outside Ituri, presumably for later transfer to the Transitional Government.

⁸¹ Vaweka, an Alur, was head of the IIA's Provisional Assembly and a member of the National Assembly. Her deputies are to be Mbiso Ngenzo and Rwabwona from the Lendu and Hema communities respectively.

⁸² ICG interviews, Kinshasa and Bunia, June/July 2004.

⁸³ In a number of ICG interviews in Bunia with MONUC, international staff and local people, accusations were made of corruption and misappropriated funds.

⁸⁴ The brigade is made up of former members of RCD, MLC, Mai-Mai and the old Congolese Army.

Government proposed that this force be sent to Ituri to assist and eventually relieve MONUC. This would be welcomed by MONUC, which could shift forces to the Kivus. However, there are a number of limitations to the proposal. The brigade was trained to conduct Chapter VI peace support operations, which at the moment is insufficient for Ituri outside of Bunia. It would need further individual and collective training in basic infantry operations to make an effective contribution.⁸⁵ More significantly, it lacks the necessary arms and equipment, and the Transitional Government is unable to deploy, sustain and pay it. Kinshasa needs to consider the implications of a decision to deploy this force prematurely. The political risks should it fail would be significant.⁸⁶

C. HUMANITARIAN SITUATION

In many respects, the humanitarian situation is stalemated like the political and security situations. More than 15,000 IDPs remain in a camp in Bunia. In areas in Ituri where MONUC has a military presence, there is a degree of normalcy for inhabitants, including those who have abandoned the countryside to seek safety there. However, where MONUC exerts little or no control, including parts of Bunia, especially at night, the civilian population is at the mercy of the armed groups and by the same token has become reliant upon members of armed groups drawn from specific ethnic groups for protection from robbery, extortion and rape.⁸⁷

While a number of NGOs are doing good work in Ituri (largely confined to Bunia), relationships between international NGOs and MONUC are not as

sound as they should be. Many NGOs feel frustrated that they are restricted (partly by their own rules) to areas where MONUC has a military presence. The lack of safety on roads, many of which are in poor condition, necessitates movement by convoys with armed escorts, whose frequency -- another source of frustration -- is determined by MONUC. There is also criticism from MONUC that many international NGOs do not do enough to assist with the humanitarian crisis in Ituri.⁸⁸

⁸⁵ The solutions to this range from a donor undertaking to conduct further training on a bilateral basis, to the brigade's being deployed to Ituri and undertaking on-the-job training with MONUC forces for a period before being given their own area of operations somewhere in Ituri. Both these ideas were seen as generally workable by military personnel in MONUC and a number of international military staff in Kinshasa. ICG interviews, Bunia and Kinshasa, April/May 2004.

⁸⁶ Such as happened with the disintegration of the 700 rapid intervention police (PIR) sent to Ituri in April/May 2003; worse still would be a defeat by one or a number of the armed groups.

⁸⁷ One of the most troubling aspects of the humanitarian situation more widely in eastern Congo has been the systematic rape of women and young girls by both armed militiamen and civilians. The physical and psychological trauma for the victims, many of whom have been gang raped, is compounded by a lack of access to health care.

⁸⁸ ICG interviews, Bunia, April 2004 and Kinshasa, May 2004.

VI. CHALLENGES AND THREATS

A. AN APPROPRIATE SECURITY RESPONSE

As the Transitional Government's ability to influence the security environment in Ituri will remain minimal for at least a year, MONUC will retain responsibility. It needs to offer a mix of incentives and disincentives aimed at discouraging the armed groups from using violence, reducing their capacity to do so and providing motivation to begin disarming and returning to the community. Direct action should be undertaken against the leaders who are responsible for continuing the insecurity and abuses,⁸⁹ and clear instructions given to the armed groups on what they need to do to enter the peace process and what actions will invite sanctions, including the use of force.

MONUC has not confronted the armed groups nor threatened the economic activities that allow them to buy arms and supplies for their own use or for sale to other groups in Ituri.⁹⁰ It has made no attempt to capture and control areas of mineral exploitation

⁸⁹ A number of times MONUC has arrested or threatened to arrest the leaders of various armed groups, most recently Florient Kisembo. In that case, he was subsequently released when he should have been kept in custody, preferably outside Ituri, if only as a preventive measure. Arrest warrants, and if necessary a bounty, should be placed on all leaders of armed groups who refuse to comply with their undertakings or who continue armed action.

⁹⁰ The issue of demand -- the role of those outside Ituri involved in economic exploitation -- has not been specifically addressed in this report but is a key factor that must be examined by the international community. It has been covered by numerous NGOs in addition to the November 2003 report of the UN Panel on Exploitation of Resources in the DRC, which, however, excised direct references from its published final text, such as "the main actors that pose a threat to the TG are the elite networks sponsored by Rwanda and Uganda and the previous Kinshasa administration. It should be noted that the threats uncovered by the Panel differ between networks. In particular the threat posed by the Rwandan and Kinshasa networks can be characterised as governments in waiting, or parallel/shadow structures that could be installed if the TG were to fail or collapse. Such structures have several dimensions including political, economic and military proxies. In the case of [the] Uganda network the threat posed...is primarily an economic one. Accordingly, this network has developed strategies to maintain its control over natural resources in north-eastern DRC, especially Ituri. Also linked to the Ugandan network is the MLC that sees its interests at risk. Its agenda is mainly defensive in that the object is to keep [the] MLC as a major political party and actor". From the draft report of the UN Panel on Exploitation of Resources in the DRC, November 2003.

such as the FNI goldmines at Mongbwalu. MONUC staff indicate that it is their intention to extend their control to these areas,⁹¹ but unless the armed groups cooperate, it is difficult to conceive MONUC in its present posture having the will and capability to mount the necessary operation.⁹²

Similarly MONUC intends to have the Ituri Brigade deploy an element to Aru, which would help limit the flow of arms from Uganda and Sudan to Jérôme Kwakavu's FAPC. While MONUC is empowered to take such action, it has limited capacity to do so because its troops are virtually fully deployed. Lake Albert is an obvious arms conduit but there are no boats to patrol it. The brigade also lacks surveillance/reconnaissance assets, particularly for night operations, that could be used to observe likely infiltration points or seek and monitor armed groups. Unless such assets are made available,⁹³ the flow of arms into Ituri is unlikely to be greatly affected without the active cooperation of Uganda and Rwanda.

The creation of a secure environment for humanitarian work and political progress requires a higher degree of proactive engagement with the armed groups, militarily and politically, than has been shown to date. In essence, MONUC needs to "use all necessary means" to the fullest extent. This must be given careful consideration when its mandate comes up for Security Council renewal.

1. Enhancing MONUC

Recent events in the Kivus have disproved a number of assumptions about the strength of the political transition, the peace process and the effect of MONUC's activities. At the end of July 2004, the Security Council rolled over MONUC's mandate for two months until 1 October. Changes to its mission in Ituri will need to be considered with regard to events across the DRC as a whole, particularly in the Kivus.

⁹¹ ICG interviews Bunia April 2003 and Kinshasa May 2003. The UN Secretary General's Report on the DRC, March 2004, op. cit., indicated that deployments to Mongbwalu and Aru would occur by the end of March. At the time of writing this had not yet happened.

⁹² For example, the presence of 100 armed fighters determined to retain control of the mines would necessitate at least a battalion-sized operation, which would require re-deployment from elsewhere within Ituri. A sizable force would then be required to retain control.

⁹³ This is an issue that must be addressed by the Security Council and specifically those members that have such capabilities.

The intervening period allows time for thorough consideration of how MONUC's contribution can be improved.⁹⁴ Since the capture of Bukavu by RCD-G dissidents in June 2004 and the outbreak of fighting in northern Ituri, much discussion on mission enhancement has focused on the issue of more troops. But more troops would make little improvement unless some further basic issues are also addressed. Enhancing MONUC's contribution to security should focus, in order of priority, on:

- ❑ a stronger mandate that includes the authorisation to respond robustly to any attack or threat of attack, including, if necessary, in a pre-emptive manner;⁹⁵
- ❑ improved command and control of military operations and better integration of military and civilian objectives;
- ❑ enhanced access to and/or embedded technical capabilities for intelligence and surveillance; and
- ❑ increased troop levels, in particular to allow the creation of a strong mission reserve.⁹⁶

⁹⁴ There may be pressure, including from within the UN, for MONUC to downsize its mission. While it may appear attractive to some for the UN and international community to cut its losses, the situation in the DRC is not beyond redemption, and MONUC can continue to play a stabilising role, particularly if its mission is enhanced.

⁹⁵ A main flaw in MONUC's military strategy as outlined in the Secretary General's recent report is the value placed on deterrence. The implication is that the mere presence of UN forces is sufficient to deter aggressors. Deterrence is only valid if credible. While credibility is partly contingent on force strength, which would be greatly enhanced under the Secretary General's proposal, it also relies on an adversary's belief that force will be used, often beyond the level of "minimum necessary force" that is fundamental to UN peacekeeping operations. ICG interviews with militia leaders in Ituri indicate their lack of respect for MONUC troops, largely stemming from the reluctance of MONUC to use force effectively when confronted. Perhaps the most relevant recent example of what can and should occur is the initial failure and subsequent restoration of the UN Mission in Sierra Leone (UNAMSIL), which after an intervention by British troops (analogous to the MONUC/Artemis situation), applied force far more robustly than previously against a rebel group that had continuously failed to meet its undertakings and had continued to attack the UN mission directly. In the UN Secretary General's "Ninth Report on Sierra Leone", 14 March 2001, the mission's rules of engagement were stated as allowing it to "respond robustly to any attack or threat of attack, including, if necessary, in a pre-emptive manner". ICG proposes to incorporate this language explicitly in the MONUC mandate.

⁹⁶ Over a somewhat longer time period, it would also be useful

On troop numbers, ICG has argued that:

a doubling of the current force level would be needed to undertake all the necessary and likely tasks concurrently, including continuance of current protection, establishment of units with the requisite mobility and surveillance assets to undertake border control operations, and creation of a strong operational reserve (rapid reaction force) for offensive operations in the various sectors. Some special/reconnaissance ground forces (a key element of the Artemis mission in Ituri in 2003) would help fill many gaps.⁹⁷

The UN Secretary General's Third Special Report⁹⁸ on the DRC made a strong case for increasing the total force level to 23,900, which would be a substantial and appropriate increase. It also detailed other much needed enhancements consistent with the points above, including establishment of a divisional headquarters in eastern DRC, capacity for mission and brigade level reserves, and increased air mobility assets.

With respect to Ituri, all that was identified was the need for an additional company to constitute a brigade reserve. Given the growing priorities in the Kivus and elsewhere, this may be the only reinforcement that can be expected but it would not contribute greatly to extending MONUC's influence beyond the areas it currently controls. However, even within the current force levels in Ituri, a change in the operational mode is needed, away from one that is largely static to one that is more mobile and dynamic. Much more can be done even within the existing limitations in the availability of transport assets, especially airborne. The contingents themselves have a high degree of mobility with their armoured personnel carriers. Security operations need to be as frequent at night as during the day because most incidents occur after dark. Consideration should be given to measures such as curfews. UN forces mainly rely on vehicular patrols, which are easily avoided in the countryside and at night; foot patrolling should become more common.

to seek establishment of a strategic reserve that could reinforce MONUC in a crisis. Such a reserve might come from a lead UN member state or member states, or perhaps from an entity such as the African Union, NATO or the European Union.

⁹⁷ ICG Briefing, *Pulling Back from the Brink in the Congo*, op. cit.

⁹⁸ "Third Special Report of the Secretary General on the United Nations Organisation Mission in the Democratic Republic of the Congo", S/2004/650, 16 August 2004.

The most important issue is how MONUC reacts to the constant provocations of the armed groups.⁹⁹ The report's recognition of the dangers that "spoilers" to the peace process represent is encouraging, although it is not clear how it is proposed to operationalise a response to those dangers. The mandate must move beyond the present limitations of protective operations to allow -- and expect -- MONUC to carry out enforcement and peacemaking tasks, when doing so would reduce threats and enhance the political transition process in Ituri.

2. Dealing with the armed groups

The fighting that began in July 2004 between FNI and FAPC can be attributed to the usual struggles for economic and military power, but it must also be seen in light of the failure of the Act of Engagement. While the armed groups entered that negotiation in various degrees of good faith, it was clear that the Transitional Government could not accept most of their demands, and the purpose of the discussions was as much to be seen taking place as a true attempt to reach a sustainable deal so pacification could begin. This was always known to members of the Transitional Government.¹⁰⁰ MONUC, which facilitated this process, should not have been surprised at its outcome. The Transitional Government is playing a dangerous game that it may lose unless it can either convince the armed groups to genuinely enter a peace process,¹⁰¹ or conclude that they are not viable partners and, with MONUC's aid, apply direct pressure. The assumption that MONUC's presence in the district alone is sufficient to produce political progress has proven

false. MONUC has two choices: either maintain its current posture and hope for gradual improvement in the political situation in Ituri and the DRC generally, or advance that progress by dealing more forcefully with the armed groups in a way that complements the efforts of the Transitional Government and its representatives in Ituri.

3. Starting DCR

Ituri's Disarmament and Community Reinsertion program was established separately from national efforts to take advantage of the relative improvement in the situation in the district and reduce the number of fighters at the disposal of the armed groups. It was recently announced that it will commence on 1 September 2004, a full eleven months behind schedule, even though in April 2004 at least 2,000-3,000 fighters were reported to be waiting in designated transit sites.¹⁰² This was partly due to the effectiveness of the sensitisation campaign that had raised expectations among those prepared to leave the armed groups. While security was less than ideal, there were opportunities to begin the program and create momentum away from the armed groups. Unilateral disarmament by armed groups fearing an attack when weakened was always going to be a delicate problem. The recent fighting may mean that the opportunity has been lost because all the armed groups will now be seeking to strengthen their positions against each other, especially in light of the failed Act of Engagement. Still, UN personnel repeatedly say that it is imperative to get the program underway. It is up to UNDP as the lead agency to try before it is overtaken completely by events and becomes irrelevant.

It is likely that the DCR program will need to be integrated into the national disarmament, demobilisation and reintegration plan at some point, especially as this will pave the way for those who wish to apply for integration into the FARDC, which DCR does not provide. Until then, there will remain a suspicion among many members of the armed groups that DCR is solely aimed at taking away their arms.

⁹⁹ Representatives of two of the armed groups (UPC-K and FAPC) stated in ICG interviews that armed groups sometimes opened fire on MONUC simply because they knew that it would not shoot back due to its "weak mandate". This was in response to a question on the difference between MONUC and Artemis. They also said that Artemis soldiers were prompt, that is, they reacted without waiting for instructions from their officers, which was not the case with MONUC.

¹⁰⁰ ICG interviews, Kinshasa, May 2004.

¹⁰¹ The actions of armed groups on the ground with respect to the cantonment of fighters in preparation for DCR, the level of collaboration with MONUC and with the new administrative and judicial authorities of the district, and the nature of the cohabitation between different communities in the Ituri conflict should be the determinants of whether armed groups are committed to peace. As has been the case many times in the past, the present commitments by leaders to cooperate are largely meaningless. The latest example was the resumption of fighting between FNI and FAPC despite a MONUC brokered ceasefire agreement. "Militia groups break ceasefire pact", IRIN, 9 July 2004.

¹⁰² ICG interviews, Bunia and Kinshasa. Financial and management issues caused the delay but political will to overcome the problems was also lacking. Failure to start DCR was one of the complaints ICG heard most frequently in Bunia and Kinshasa from UN personnel, NGOs, Congolese and diplomats. These first transit sites had been established at Mahagi, Kpandroma, Ika Barrier, Tschomia-Kasanya, Bogoro, Aveba and Bogu.

B. THE INTERNATIONAL CRIMINAL COURT

After initially indicating in July 2003 that it might investigate the situation in Ituri,¹⁰³ the International Criminal Court (ICC) formally announced on 23 June 2004 that it would commence its first investigation into crimes committed in the DRC since 1 July 2002.¹⁰⁴ This was preceded by a letter of referral from President Kabila in March 2004. ICG welcomes this development. Ituri is the proper locale for the court's debut for a number of reasons. There are a number of individuals there who have been directly involved in the deaths of approximately 5,000 people since July 2002 (and another 55,000 since 1999). The main perpetrators are the leaders of the still active armed groups. Their prosecution would not only advance justice but would also be a significant deterrent. The ICC can isolate this initial investigation so that it does no political damage to the fragile transitional process, without excluding the possibility that future investigations might examine the roles of those in or associated with the Transitional Government. The fact that the potential targets in Ituri are outside the wider political process minimises the likelihood of outside interference. Successful prosecutions in Ituri would serve as a clear demonstration to all in the DRC, including those currently destabilising the Kivus, that the time of impunity is over.

C. REGIONAL INFLUENCES

Both the UN report on economic exploitation in the DRC¹⁰⁵ and the more recent one on arms flows¹⁰⁶ highlighted the direct and indirect support Uganda and Rwanda continue to give, whether through government agencies or private individuals, for the armed groups.¹⁰⁷

1. Uganda

In the past Uganda and, to a lesser degree, Rwanda have helped sustain the level of violence in Ituri, mainly through support for the various armed groups. Over the last six to nine months, this support has lessened, though not ended. It is often difficult to assess in Ituri, however, who is being supported by whom and to what degree. For instance, it has been reported that FNI has been backed by the Ugandans against FAPC, which had always been thought to be Kampala's closest ally.¹⁰⁸ Although it is not inconceivable that different groups are getting help from different elements in the Ugandan government, military or business communities,¹⁰⁹ Kampala's key concern is the influence in Ituri of Rwanda or its allies, and it will promote politically and materially the interests of groups that are likely to oppose this influence.

While Uganda is not likely to risk the international furore to be expected if it re-occupied Ituri, refugee flows and instability on its border would encourage it to take a greater interest in influencing events than it has of late. Indeed, it recently complained to Kinshasa and the UN about the fighting on its border and warned of the risks if it is not brought under control.¹¹⁰ Uganda also remains concerned about Ugandan rebel groups like the Allied Democratic Forces (ADF) and the People's Redemption Army (PRA) operating from southern Ituri and northern North Kivu.¹¹¹ A worsening security environment might encourage it to send the army across the border to deal with this.

2. Rwanda and North Kivu

Rwanda's presence in Ituri has been more diffuse and its influence exercised mainly through the RCD-G and Lubanga's UPC. There have been accusations

¹⁰³ ICC, Office of the Prosecutor Press Release, 16 July 2003.

¹⁰⁴ ICC Press release L/3071, 23 June 2004. The 1 July 2002 date corresponds with the Rome Treaty, which established the court and limited its jurisdiction to certain serious crimes committed after that date.

¹⁰⁵ "Final report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo", S/2002/1146, 16 October 2003.

¹⁰⁶ "Report by the Group of Experts on the Democratic Republic of the Congo", established pursuant to UNSC Resolution 1533 (2004), S/2004/551, 9 July 2004

¹⁰⁷ A tripartite meeting of DRC, Rwanda and Uganda ministers was held on 14-15 July 2004 in Washington, DC. A key proposal arising from the meeting is to set up a Joint Military

Commission to carry out monitoring and verification of threats and report to a political committee composed of leaders appointed by the presidents of the three countries. These mechanisms should be extended to issues related to Ituri.

¹⁰⁸ ICG interviews, Kampala, July 2004.

¹⁰⁹ An alternative explanation put forward was that the fighting is not between the FNI and FAPC but between FAPC factions, one of which (led by a "Commander Remo") objected to Kwakavu's alleged links with RCD-G dissidents Nkunda and Col. Jules Mutebutsi. Either account could explain Ugandan support for groups opposing Kwakavu.

¹¹⁰ *New Vision*, 12 July 2004.

¹¹¹ Little is known about the composition, strength and agenda of these groups other than what is provided by the Ugandan government and army.

of Rwandan personnel providing military expertise. Kigali's main concern in the DRC is the Kivus, mostly North Kivu, which lies directly below Ituri. A particular worry is possible conflict between the RCD-ML based in Beni and the RCD-G based in Goma and close to Kigali. Both groups have encouraged and supported allied Ituri militias, and it is likely that any conflict between them would also quickly involve armed groups in Ituri.

VII. CONCLUSION

Over the past twelve to eighteen months, Ituri has been the focus of many efforts to produce a degree of pacification and contribute to the wider transitional peace process in the DRC. The EU's Operation Artemis rescued the UN mission in the district from collapse and allowed the world body to regroup and greatly increase its contribution. However, even with the commitment of more troops and resources, only modest progress has been made, and this could quickly be reversed.

The difficulties are caused by the limitations of MONUC, especially with respect to its mandate; by the lack of political authority enjoyed by the interim institutions and the Transitional Government; by the continued activities of the armed groups, which are largely unimpeded by either MONUC or Kinshasa; and finally, by the negative influences from across Ituri's borders.

The Transitional Government is unlikely to be able to contribute substantially to Ituri either politically or militarily for at least a year and is, understandably, focused on the Kivus, which threaten the political process directly, more than events in Ituri. The task of regaining momentum in Ituri thus necessarily falls on MONUC and the broader international community. If there is to be progress, the UN Security Council needs to enhance the mission's mandate and capabilities, and undertake the necessary diplomacy to encourage regional cooperation so that Ituri does not again descend into open warfare as it did in mid-2003.

Nairobi/Brussels, 26 August 2004

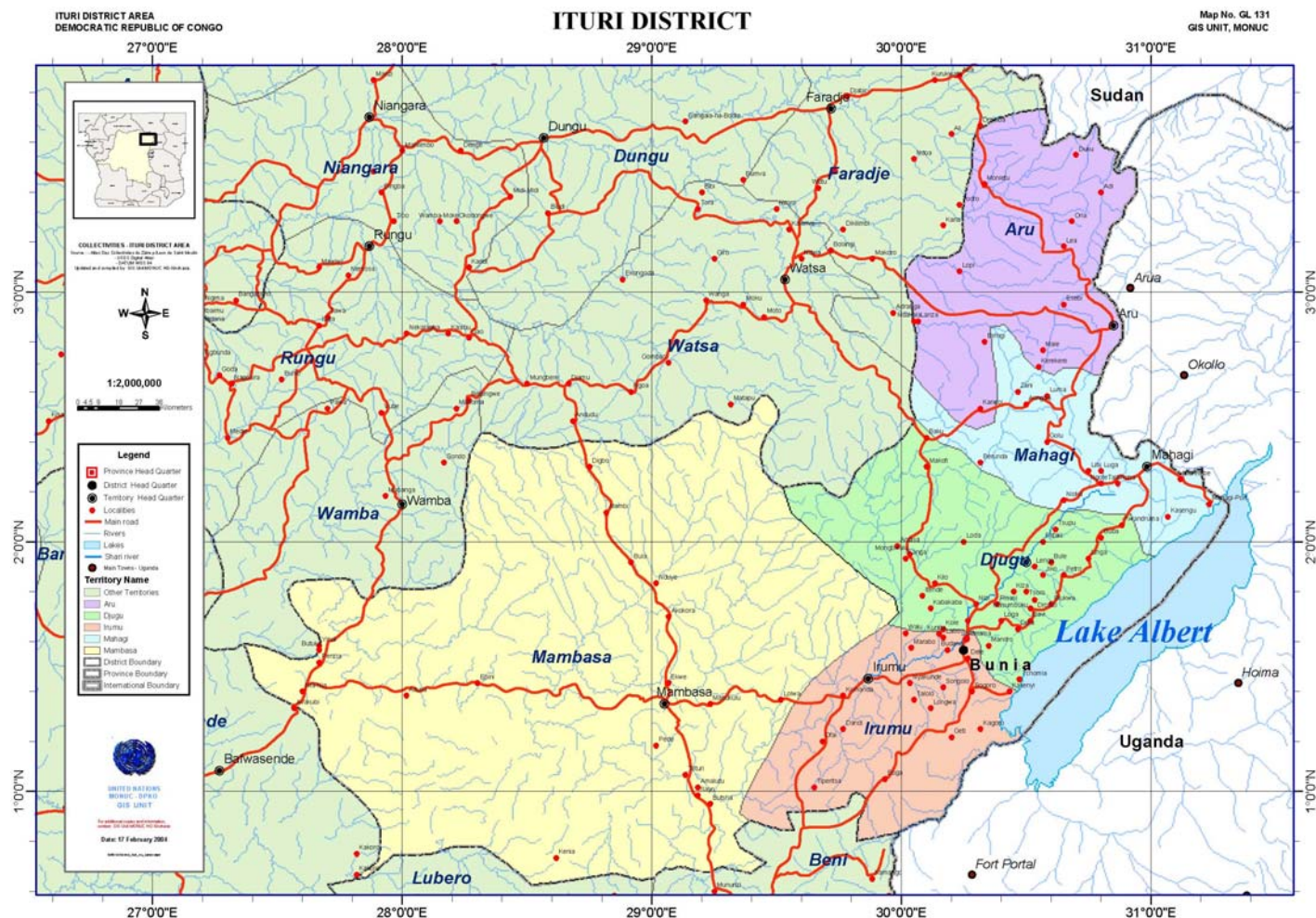
APPENDIX A

MAP OF THE DEMOCRATIC REPUBLIC OF CONGO

Map No. 4007 Rev. 7 UNITED NATIONS
March 2002Department of Public Information
Cartographic Section

APPENDIX B

MAP OF ITURI



APPENDIX C

GLOSSARY OF ACRONYMS

APC:	Congolese Popular Army, armed wing of the RCD-ML (Armée Populaire Congolaise)
DCR:	Disarmament and Community Reinsertion
FAC:	Congolese Armed Forces (Forces Armées Congolaises), the post-Mobutu era DRC army
FAPC:	People's Armed Forces of Congo (Forces Armées Populaires du Congo), an Ituri armed group
FARDC:	Armed Forces of the Democratic Republic of the Congo (Forces Armées de la République Démocratique du Congo), the Transitional Government's army
FIPI:	Front for Integration and Peace in Ituri (Front pour L'Intégration et Paix en Ituri), an Ituri armed group
FNI:	Front for National Integration (Front Nationaliste et Intégrationniste), an Ituri armed group
FPDC:	Popular Force for Democracy in Congo (Force Populaire pour la Démocratie du Congo), an Ituri armed group
FRPI:	Patriotic Force of Resistance in Ituri (Force des Résistance Patriotique d'Ituri), an Ituri armed group
ICC:	International Criminal Court
IEMF:	Interim Emergency Multinational Force
IIA:	Ituri Interim Administration
IPC:	Ituri Pacification Commission
MLC:	Movement for the Liberation of Congo (Mouvement Pour la Libération du Congo), a former armed group in the DRC, now part of the Transitional Government, led by (Vice President) Jean Pierre Bemba.
MONUC:	United Nations Organisation Mission in the Democratic Republic of Congo
OCHA:	Office for the Coordination of Humanitarian Affairs.
PRA:	People's Redemption Army, a Ugandan rebel group operating from the eastern DRC
PUSIC:	Party for Unity and Safeguarding of the Integrity of Congo, an Ituri armed group
RCD-G:	Congolese Rally for Democracy-Goma (Rassemblement Congolais pour la Démocratie Goma), a former armed group in the DRC, now part of the Transitional Government, led by (Vice President) Azarias Ruberwa
RCD-ML:	Congolese Rally for Democracy-Liberation Movement (Rassemblement Congolais pour la Démocratie-Mouvement de Libération), a former Beni based armed group in the DRC, now part of the Transitional Government
RPA:	Rwandan Patriotic Army
UPC:	Union of Congolese Patriots (Union des Patriots Congolais), an Ituri armed group
UPC-K:	UPC- Kisembo, an Ituri armed group, led by Floribert Kisembo, which broke off from the UPC
UPC-L:	UPC- Lubanga, an Ituri armed group led by Thomas Lubanga, the remainder of the original UPC
UPDF:	Ugandan People's Defence Forces, the Ugandan army

APPENDIX D

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (ICG) is an independent, non-profit, multinational organisation, with over 100 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

ICG's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, ICG produces regular analytical reports containing practical recommendations targeted at key international decision-takers. ICG also publishes *CrisisWatch*, a 12-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

ICG's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made generally available at the same time via the organisation's Internet site, www.icg.org. ICG works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The ICG Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring ICG reports and recommendations to the attention of senior policy-makers around the world. ICG is chaired by former Finnish President Martti Ahtisaari; and its President and Chief Executive since January 2000 has been former Australian Foreign Minister Gareth Evans.

ICG's international headquarters are in Brussels, with advocacy offices in Washington DC, New York, London and Moscow. The organisation currently operates nineteen field offices (in Amman, Belgrade, Bogotá, Cairo, Dakar, Dushanbe, Islamabad, Jakarta, Kabul, Nairobi, Osh, Port-au-Prince, Pretoria, Pristina, Quito, Sarajevo, Seoul, Skopje and Tbilisi) with analysts working in over 40 crisis-affected countries and territories across four continents. In Africa, those countries include Angola, Burundi, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Liberia, Rwanda,

Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Kashmir, Kazakhstan, Kyrgyzstan, Indonesia, Myanmar/Burma, Nepal, Pakistan, Tajikistan, Turkmenistan and Uzbekistan; in Europe, Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Kosovo, Macedonia, Moldova, Montenegro and Serbia; in the Middle East, the whole region from North Africa to Iran; and in Latin America, Colombia and the Andean region.

ICG raises funds from governments, charitable foundations, companies and individual donors. The following governmental departments and agencies currently provide funding: the Australian Agency for International Development, the Austrian Federal Ministry of Foreign Affairs, the Canadian Department of Foreign Affairs and International Trade, the Canadian International Development Agency, the Dutch Ministry of Foreign Affairs, the Finnish Ministry of Foreign Affairs, the French Ministry of Foreign Affairs, the German Foreign Office, the Irish Department of Foreign Affairs, the Japanese International Cooperation Agency, the Luxembourgian Ministry of Foreign Affairs, the New Zealand Agency for International Development, the Republic of China Ministry of Foreign Affairs (Taiwan), the Royal Danish Ministry of Foreign Affairs, the Royal Norwegian Ministry of Foreign Affairs, the Swedish Ministry for Foreign Affairs, the Swiss Federal Department of Foreign Affairs, the Turkish Ministry of Foreign Affairs, the United Kingdom Foreign and Commonwealth Office, the United Kingdom Department for International Development, the U.S. Agency for International Development.

Foundation and private sector donors include Atlantic Philanthropies, Carnegie Corporation of New York, Ford Foundation, Bill & Melinda Gates Foundation, William & Flora Hewlett Foundation, Henry Luce Foundation Inc., John D. & Catherine T. MacArthur Foundation, John Merck Fund, Charles Stewart Mott Foundation, Open Society Institute, Ploughshares Fund, Sigrid Rausing Trust, Sasakawa Peace Foundation, Sarlo Foundation of the Jewish Community Endowment Fund, the United States Institute of Peace and the Fundação Oriente.

August 2004

APPENDIX E

ICG REPORTS AND BRIEFING PAPERS ON AFRICA SINCE 2001

AFRICA

ALGERIA*

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