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Letter dated 10 December 2001 from the Permanent Representative of Uganda to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to attach herewith the response of the Government of the Republic of Uganda to the addendum to the 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 (see annex*).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Prof. Semakula **Kiwanuka**, Ph.D
Ambassador Extraordinary and Plenipotentiary
Permanent Representative

* The annex is being circulated in the language of submission only.

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Annex to the letter dated 10 December 2001 from the Permanent Representative of Uganda to the United Nations addressed to the President of the Security Council

THE RESPONSE
BY THE GOVERNMENT OF THE THE REPUBLIC OF UGANDA

TO

THE ADDENDUM 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 (DRC)

MINISTRY OF FOREIGN AFFAIRS
KAMPALA, UGANDA

4th December, 2001

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I: INTRODUCTION

1. On request of the UN Security Council on 2 June 2000, the Secretary General of the UN established a Panel of Experts on the Illegal Exploitation of the Natural Resources and Other Forms of Wealth in the DRC. The mandate of the Panel was to:

(a) Follow-up on reports and collect data on all activities of illegal exploitations; and

(b) Analyse the link between the exploitation of natural resources in the DRC and the continuation of the conflict.

2. The UN Security Council held a meeting, on 3rd May 2001, to discuss the report of the UN Panel of Experts chaired by Mme Ba N'Daw dated 16th April 2001. The Council agreed with Uganda's submission that the allegations in the report lacked corroborated evidence to form a basis for action by the Security Council.[1] In his statement on behalf of the Security Council (S/PRST/2001/13), the Council President requested the UN Secretary General to expend the mandate of the UN Panel for a period of three months, at the end of which the Panel would present an addendum to the report. This mandate would include the following:

(a) An update on the relevant data and analysis of further information, including as pointed out in the action plan submitted by the Panel to the Security Council.

(b) Relevant information on the activities of countries and another actors for which necessary quality and quantity of data were not made available earlier.

(c) **A response, based as far as possible on corroborated evidence, to the comments and reactions of the states and actors cited in the report to the Panel.**

(d) An evaluation of the situation at the end of the extension of the mandate of the Panel, and of its conclusions, assessing whether progress has been made on the issues, which come under the responsibility of the Panel.

3. The UN Security Council also urged member states accused in the Report of the UN Panel to establish their own inquiries into the allegations contained in the report and requested governments to co-operate fully with the reconstituted UN Panel. Likewise, the UN Panel was requested to co-operate with the parties involved in the DRC.

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[1] See UNSC document (S/2001/458) containing the responses of the Uganda Government to the Report of the UN Panel of Experts on Illegal Exploitation of Natural Resources of the DRC, dated 9th May 2001. Also statement in the Security Council on the Report of the UN Panel by Hon. Amama Mbabazi, Minister of State for Regional Co-operation, New York, 3 May 2001.

4. In compliance with the Security Council request, the Government of Uganda established by Legal Notice No. 5/2001 dated 25th May 2001, a Judicial Commission of Inquiry in the Allegations of Illegal Exploitation of Natural Resources of the DRC chaired by Justice David Porter (UK). Other members of the Commission are Justice J.P. Berko (Ghana) and Mr. John Rwambuya, a Ugandan retired senior UN official. The Interim Report of the Justice Porter Commission was released on 7th November 2001 **(S/2001/1080 dated 15th November 2001).** The final Report of the Porter Commission is expected in February 2002.

5. The terms of Reference of the Porter Commission were as follows:

(a) To inquire into the allegations against Uganda concerning illegal exploitation of the natural resources and another forms of wealth of the DRC, to wit minerals, coffee, timber, livestock, wildlife, ivory, money or other property from the DRC contained in the report of the UN Panel of 16th April 2001.

(b) To inquire into the allegations of mass scale looting and systematic exploitation of natural resources and another forms of wealth from the DRC by the government of Uganda made in the Report.

(c) To inquire into allegations co complicity or involvement by H.E. the President of Uganda and his family in the illegal exploitation made in the said Report.

(d) To inquire into allegations of involvement in the illegal exploitation of the natural resources of the DRC by top ranking UPDF officers and other Ugandan individuals named in the Report.

6. The Reconstituted UN Panel, chaired by Ambassador Kassem (Egypt), visited Uganda from 22nd to 25th August 2001, and received maximum co-operation from the Government. The Panel met H.E. President Museveni; Hon. James Wapakhabulo, Third Deputy Prime Minister and Minister of Foreign Affairs, Cabinet Ministers of Finance; Trade and Industry; Agriculture; Environment and Mineral Development; as well as the relevant government technical officials.[2]

7. The Government of Uganda welcomes the release of the Addendum to the Report of the Reconstituted UN Panel in New York on 19th November 2001 as an improvement to the initial document as it recognises:

(a) Uganda's legitimate security concerns in the DRC.

[2] See Annex containing the Summary Report on the visit by the UN Panel to Uganda, 22 – 25 August 2001 dated 1st October 2001.

(b) The importance of the Lusaka Cease-fire Agreement in addressing the crisis and the illegal exploitation of natural resources in the DRC and bringing stability in the Great Lakes Region.

(c) Uganda's commitment to the implementation of the Lusaka Cease-fire Agreement as demonstrated by the withdrawal of most of her troops from the DRC.

8. **The Government of Uganda still notes with very grave concern, however, that:**

(a) Serious allegations and accusations are made against high-ranking UPDF officers and their civilian counterparts in the continued exploitation of natural resources of the DRC without any corroborative evidence.

(b) The misconceived allegation persists that the continuation of the conflict in the DRC is linked to illegal exploitation of natural resources in the DRC in the case of Uganda.

(c) The UN Panel continues to refuse to share the sources of evidence on allegations contained in the report with the Independent Judicial Commission established on the recommendation of the UN Security Council.

9. In spite of these concerns, however, the Government of Uganda will continue to co-operate with the UN Security Council, the UN Secretary-General and the Reconstituted UN Panel in order to establish the truth regarding the allegations against Uganda and the high ranking officers of the UPDF mentioned in the addendum to the UN Panel Report. Uganda encourages the UN Panel to work with the Independent Judicial Commission (the Porter Commission) in order to establish corroborated evidence against the high ranking officers of the UPDF or any Ugandans accused of illegal exploitation of the natural resources of the DRC. The Government of Uganda is committed to implementation of the recommendations of the Porter Commission.

Key elements of the Response to the Addendum to the Report of the UN Panel

10. The response of the Government of the Republic of Uganda to the addendum as contained in this document covers the following points:

- Background to the addendum to the report of the UN Panel.
- Improvements and positive aspects of the addendum and its flaws.
- Response to the specific allegations against Uganda but outside the mandate of the Justice Porter Commission.
- Exploitation of natural resources and the continuation of the conflict.
- Uganda Government comments on the Conclusions and recommendations of the UN Panel.
- Recommendations by Uganda on the way forward.

II: IMPROVEMENTS AND POSITIVE ASPECTS IN THE ADDENDUM TO THE REPORT

11. As pointed out in the preliminary press statement by the Ministry of Foreign Affairs in Kampala on the addendum to the report of the UN Panel on 20th November 2001, the Uganda Government has noted that it contains some updated analyses, improvements and a more balanced coverage of countries and other actors, in spite of the admitted severe time constraints, on the part of the Panel.

12. First, it acknowledges the fundamental issues relating to Uganda's involvement in the DRC. In recognises Uganda's legitimate security concerns regarding the threat from the negative forces based in the DRC, i.e., the ADF, WNBF, UNRF II, and the more recently formed PRA. The addendum also recognises the fact that the intervention by Uganda in pursuit of perpetrators of terrorist activities was allowed under a bilateral protocol, which was signed between Uganda and the DRC in April 1998.

13. Second, after examining the allegations of systemic and systematic exploitation of the natural resources of the DRC by Uganda, it recognises that neither the Uganda Government nor any of its companies are involved in the illegal exploitation.

14. Third, it agrees with a great deal of Uganda's presentation to the UN Security Council on 3rd May 2001 that the report by the UN Panel of Experts suffered from poor quality of evidence and that many allegations against Uganda were based on hearsay and falsehoods. For example, it exposed the old UN Panel's grave error in building a fictitious case-study based on DARA-Forest' company to demonstrate Uganda Government's systemic and systemic illegal exploitation and export of timber from the DRC. The case study had alleged that DARA-Forest was a 'Uganda-Thai' company involved in a scheme to make false certification of timber from the DRC as of Ugandan origin; in collusion with the Ministry of Water, Lands and Environment (Forestry Department) in Kampala. The case study also connected President Museveni's family as shareholders in the DARA company. However, the addendum, in paragraph 72 reveals the truth that **DARA-Forest is a Congolese-Thai logging company registered in Kinshasa in March 1998 with a 35,000 hectare logging concession from the North Kivu Provincial Authority. It found out that DARA-Forest certificate of registration was renewed on 12 September 2001 by the Ministry of Justice in Kinshasa.**

15. Fourth, the addendum recognises the significance of the Lusaka Cease-fire Agreement and the establishment of a new and stable political dispensation as the only guarantee to: (I) guarding against illegal exploitation of natural resources of the DRC; and (ii) ensuring security of the neighbouring countries.

16. Fifth, the addendum recognises that Uganda is complying with the Lusaka Cease-fire Agreement and the relevant Security Council resolutions and decisions. Specifically, it notes that Uganda has made the significant withdrawal of her armed forces from the

DRC. It also appreciates that Uganda has complied with the statement of the President of the Security Council (S/PRST/2001/13) by establishing a Judicial Commission of Inquiry into the illegal exploitation of natural resources of the DRC.

17. Seventh, the addendum remedies the earlier anomaly of focusing on Uganda, Rwanda, Burundi and the rebel groups; and gives coverage of all the parties involved in the DRC as well as the transit and destination countries of the natural resources of the DRC.

III: FLAWS IN THE ADDENDUM TO THE REPORT OF THE UN PANEL

Definition of Illegality

18. The issue of 'illegality' in exploitation of natural resources of the DRC was not tackled in the addendum yet it was a contentious issue and was raised in the response by the Government of the Republic of Uganda to the initial UN report. Although the addendum is silent on the definitional aspects of 'illegality', it contains elements that clearly demonstrate agreement with Uganda's submission that, in the context of the conflict in the DRC – where there is total collapse of the state institutions and structures – exploitation of resources for survival of the people such as cross-border trade is legitimate. Some aspects of trade carried out by the rebel groups who are in the de-facto control of the territory cannot be classified as illegal.

Methodology

19. The methodology used in data collection and analysis in the addendum is not stipulated. Uganda has argued that the UN Panel, for some unexplained reasons, failed to properly analyse most of the solid data provided by the technical officials in Kampala and that no rigorous econometric and statistical analysis was contained in the Panel's report to prove causality. Uganda has demonstrated, for example, that its high GDP growth figures, which started in early 1990s had nothing to do with the start of the conflict in the DRC in 1998. Rather, the economic performance has been due to sound macro-economic policies and increased foreign investment since 1990/91. The new UN Panel, therefore, fell short of its mandate by not directly responding to Uganda's concerns in this respect. Hence the erroneous linkage of Uganda's economic performance to the illegal exploitation of the natural resources of the DRC.

Corroboration of Evidence

20. Uganda's response in May 2001 pointed out that the Panel's serious allegations against the Uganda Government and H.E. President Y. Museveni were based on **hearsay, falsehoods and distortion of data.** The mandate for the UN Panel from the UN Security Council on the need for corroborated evidence to back up allegations is very clear. However, the problem of uncorroborated or ignored evidence persists in the addendum on a number of allegations against Uganda.

21. While acknowledging that UPDF have withdrawn from the DRC, the Panel makes a very serious allegation – without any corroborated evidence – that there are continuing commercial networks and structures put in place by Ugandan commanders and their civilian counterparts in Oriental Province and Kampala. Examples given are Trinity and Victoria companies, which are not Ugandan-owned. **Unnamed 'reliable sources'** are quoted without supporting documents on a scheme between Mr. Mbusa Nyamwisi and senior UPDF officers to 'skim' US$400,000= off tax revenues at Beni customs post at the Uganda border. The period is not specified of when and how the money is shared.

22. While acknowledging that Uganda is committed to the implementation of the Lusaka Agreement and the relevant UN Security Council resolutions, and has substantially withdrawn her troops from the DRC, the UN Panel – without any logical evidence – concludes that a link between the continuation of the conflict and exploitation of the natural resources of the DRC exists 'in the case of Uganda'. The Panel should have a corroborated case study to demonstrate the linkage.

23. The UN Panel alleges that Uganda denied that timber from the DRC does not transit through Uganda. This is false. Uganda has always stated that transit cargo to and from the DRC has taken place since time immemorial. Detailed facts and data regarding transit cargo from the DRC were given to the UN Panel in November and August 2001.

24. The Uganda Government is concerned that the addendum is silent on allegations based on hearsay and falsehoods raised in the initial report which they have not corroborated. The reconstituted UN Panel refuses to acknowledge the mistakes where the image and integrity of people or institutions have been unjustifiably damaged. Examples of the mistakes that should have been acknowledged in the addendum include:

(a) **DARA-Forest Case-study against the Government of Uganda:** The Addendum clearly shows that the DARA-Forest case study, which was central to the old UN Panel's demonstration of Uganda's systemic and systematic illegal exploitation of the natural resources of the DRC, was not consistent with the evidence. It establishes that DARA-Forest is not a Uganda-Thai company, H.E. President Museveni and his family are not shareholders in the company and that the Department of Forestry, the Ministry of Water, Lands and Environment in Kampala was never involved in the false certification of timber from the DRC as of Ugandan origin.

(b) **Allegations against H.E. President Museveni and his family:** The addendum is silent regarding the fictitious shareholding by H.E. the President's family in the private companies involved in the illegal exploitation of natural resources of the DRC, e.g., Victoria, DARA-Forest, Great Lakes Industries and Trinity Company.

(c) **Alleged complicity of the IMF, World Bank and other Donor Agencies in a cover up on data** linking Uganda's economic performance to the illegal exploitation of the natural resources of the DRC.

IV: SPECIFIC ALLEGATIONS MADE AGAINST THE UGANDA GOVERNMENT AND INDIVIDUALS

Allegations Against Individuals

25. The Uganda Government reiterates its position on the allegations against individuals and private Ugandan companies accused of illegal exploitation of natural resources of the DRC. An independent Judicial Commission of Inquiry was established in May 2001, as already stated, to investigate the allegations. The Government of Uganda is committed to the implementation of the recommendations of the Judicial Commission.

Allegations Against the UPDF

26.

Specific Allegations in the Addendum

Para 28 on Gold: ".... the Panel has evidence that artisanal gold mining activities in the North East DRC in Kilo-Moto area by UPDF... gold produced at Malaka site is still being sold through the Victoria Comptoir in Kampala".

Para 44 on diamonds: "....Artisanal mining in the North Kisangani area has provided sources of revenue for UPDF.... for the continuation of the conflict".

Para 57: ".... there are indications that clashes between the Mai Mai warriors, who are better armed than before, and the UPDF and MLC groups in the past seven months in Oriental and Kivu regions have been directly related to the control of Coltan and Gold".

Para 97: ".... the commercial networks put in place by Uganda Army commanders and their civilian counterparts that were described in the report are still functioning".

Response:

27. The Government of Uganda has established an independent Judicial Commission to investigate such allegations. Without prejudice to the work of the Porter Commission, the Government is obliged to respond to the various allegations against UPDF.

28. **Response on Gold mining by UPDF:**

(a) It exhibits outright anti-Uganda bias to allege that UPDF is continuing to mine in the Kilo-Moto area in October/November 2001, when it is a fact that UPDF

withdrew 12 out of 14 battalions from the DRC including the Kilo-Moto area in Isiro in May/June 2001 where the artisanal mining is alleged to be 'still continuing under UPDF'.

(b) Uganda has established and pointed out in her response that Victoria company is neither registered in Uganda nor does it operate in Kampala. A request for evidence on the existence of Victoria Comptoir company in Uganda was made to the UN Panel. But no evidence has hitherto been provided.

29. **Response on diamonds:**

(a) It is gross prejudice for the addendum to allege that UPDF continues to be engaged in mining in Northern Kisangani area. Evidence has been given to the UN Panel, which can be verified by MONUC, that UPDF withdrew from the same area months ago.

(b) Uganda has demonstrated commitment to the reform of the legal framework to regulate the diamonds sector. A draft Mining Bill (2001) is expected to be discussed in Parliament to amend the Mining Act (1964). The Draft Bill aims at, inter-alia, regulating the imports, exports and transit of diamonds unless such diamonds are certified by GURN or under agreed measures on standardisation of certification of production.

(c) As pointed out in the Government response of May 2001, the UN Panel recognises 'loose regulations' at free zones that allow repackaging to falsify documents of provenance. For example, the UN Monitoring Mechanism on Sanctions Against UNITA requested Uganda to explain the 9,387.51 carats valued at $1.26m. which were alleged to have entered Antwerp reportedly as of Uganda provenance during January-June 2000. The Uganda Revenue Authority investigated the matter and found no record of 9,387.51 carats being exported from or transferred through Uganda during the period. In order to co-operate with the UN Monitoring Mechanism, Uganda requested, April 2001, for information on copies of customs and transit documentary indicating Ugandan provenance, and copies of passport movements of the diamond carriers. No response has been received from the UN Monitoring Mechanism on Sanctions Against UNITA in New York.

(d) Although Uganda is currently not officially a diamond producing country, there exists diamonds in Uganda, and have been recovered as a result of artisan gold-mining operations. A number of private companies have made applications for diamond exploration since 2000. East Africa Gold Mining (U) Ltd., a USA-registered company was license in 2001 to explore diamonds in Uganda.

30. **Response on the Mai-Mai/UPDF Clash on Coltan:** The UPDF role in the North East DRC is strictly in accordance with the Lusaka Cease-fire Agreement. UPDF positions were attacked by Mai Mai militias in Mambasa, Bunia sector in June 2001. The

Mai Mai were dislodged in July 2001. These incidents had nothing to do with the control of Coltan.

31. **The allegation of commercial networks put in place by UPDF:** After the withdrawal from the DRC, is a very serious accusation which should be made with corroborated evidence. The resources alleged to be looted by UPDF are tangible and should be traceable to their specific origins and destinations. The networks of exploitation cannot be imagined or assumed to exist. Indeed the UN Panel is, therefore, challenged to provide corroborated evidence of these commercial networks for verification.

Allegations Against the Government of Uganda

32.

Specific Allegations in the Addendum

Para 48: "... Although the Panel has evidence to show timber from DRC is exported ... through Kampala ... the Government of Uganda denied that any transited through the country."

Para 71: ".... In fact, civil servants appointed by government are still performing such duties as customs control and tax collection in rebel areas. The taxes are .... diverted for use of rebels, and Uganda..."

Para 98: "While the Government of Uganda does not participate directly in exploitation activities, the culture in which its military personnel functions tolerates and condones their activities..."

Response:

33. As indicated before, the accusation that the Uganda Government denied transit of timber from the DRC through Uganda is a false and malicious allegation. The Government never denied that timber and other cargo from and to Eastern DRC transit through Uganda. Detailed facts and data by the Uganda Revenue Authority were provided to the UN Panels in November 2000 and August 2001. It is possible that the UN Panel never studied the data provided by Uganda based on their Questionnaire. According to the record of the meeting in Kampala on 23rd August 2001, Hon. G. Ssendaula, the Minister of Finance to the UN Panel[3]:

> **"... As Uganda's neighbour, Eastern DRC relies on Uganda for transiting their goods given the geography of the DRC. Therefore, traditionally, Uganda has been a transit point for all goods to and from Eastern DRC and there are laws governing goods in transit".**

[3] See summary reports of the visits to Uganda by the UN Panel, November 2000 & august 2001.

34. Evidence was given to the UN Panel to demonstrate that the military expenditure in the DRC was provided by the Uganda Treasury within the agreed budget limits. At not time has the UPDF in the DRC got involved in customs control, and tax collection to sustain its operations. Civil administration in rebel held areas where UPDF has a presence is handled by the rebel leadership.

Response on the culture of UPDF:

35. The Government response to the first report of the UN Panel, May 2001, (S/2001/485) had clearly showed how such statements as 'culture' of UPDF supporting illegal exploitation of natural resources of the DRC were based on hearsay and falsehoods. Unfortunately, the addendum maintains that impression without corroborative evidence.

36. Evidence was given to the UN Panel to demonstrate that UPDF is a very disciplined force based both on its track record and administrative codes including:

(a) The UPDF is governed by a Code of Conduct and is subject to the law and other relevant international conventions. NRA Statute No. 3 of 1992 and the attached regulations and Standing Orders constitute the military code under which the UPDF operates and is disciplined.

(b) UPDF is subject to Parliamentary oversight functions.

(c) H.E. the President sent a strict radio message DTG/500010 C in December 1998 instructing the UPDF in the DRC not to engage in business. The President also instructed the UPDF to assist if necessary Ugandan private businessmen to do business in the DRC in order to alleviate the acute needs of the population, e.g., medicine, basic essentials, etc.

(d) Army officers are subject to Commissions of Inquiry and are tried under the law if they commit offences. For example, the UPDF officers in the DRC who deviated from the directive prohibiting involvement in business and were punished include, Lt. Okumu, Lt. Kisima and Capt. Kyakabale.

37. Uganda, therefore, challenges the UN Panel to substantiate the allegation claim that the culture in which UPDF operates condones illegal activities.

V: CONCLUSIONS OF THE RECONSTITUTED UN PANEL

38. The Uganda Government agrees with the following conclusions of the reconstituted UN Panel:

(a) Exploitation of the natural resources of the DRC continues and it is done by many states, companies and opportunistic individuals from both the region and other countries outside Africa. (Para 143)

(b) The fundamental reason for the continued illegal exploitation is the effective collapse of all the state institutions and structures of the DRC, (para 144). It should be added that this collapse explains why the DRC has served as a base for the various perpetrators of terrorist activities against her regional neighbours such as Uganda. In other words, exploitation of the natural resources is not the main cause of the conflict in the DRC.

39. Uganda does not share the **sweeping conclusion** in the addendum that exploitation of natural resources in the DRC is the main occupation of **all** foreign troops and armed groups (146) as they try to justify their continued military presence. And that, therefore, in the case of Uganda, there is a link between the continuation of the conflict and the exploitation of natural resources in the DRC, (Para 100). This conclusion on Uganda's involvement in the DRC is illogical and unfounded given the following facts:

(a) Uganda has withdrawn 12 out of 14 battalions from the DRC under the Lusaka Cease-fire Agreement. Uganda has already requested the UN Security Council for the adequate deployment of MONUC to enable UPDF withdrawal of the remaining battalions in Buta and Bunia as soon as possible.

(b) Uganda has given full co-operation to the UN Panels. All requested information, evidence, and data on how the UPDF is financed have been provided. The concerned officers have given and will continue to give evidence on their activities in the DRC to the UN Panel and the Justice Porter Commission.

(c) Allegations of commercial benefit as a reason to continue the conflict have not been proved. Allegation of a diversion of donor aid to finance the war has neither been proved nor is it possible given the transparent budget process monitored by the IMF, World Bank and other donors in Kampala.

(d) Uganda's security concerns are legitimate and evidence of aggression by armed perpetrators of terrorist activities against Uganda from the DRC has been proved and confirmed by the UN Panel.

(e) Uganda has demonstrated her commitment to the implementation of the Lusaka Cease-fire Agreement and the relevant UN Security Council resolutions.

VI: RECOMMENDATIONS BY THE RECONSTITUTED UN PANEL

40. **Panel's Recommendation 1:**

An international conference should be concerned on peace and development in the Great Lakes Region linked to a plan to rebuild state institutions in the DRC.

Comment:

41. Uganda supports the proposal that the international community should urgently assist in the formulation of a plan of action to build state institutions in the DRC. Uganda believes, however, that the broader international conference on the Great Lakes, focused on the reconstruction and development of the sub-region should be convened after the implementation of the Lusaka Cease-fire Agreement on the DRC and the Arusha Peace and Reconciliation Agreement on Burundi. Holding an international conference on the Great Lakes before the conclusion of the Inter-Congolese Dialogue would ;undermine the Lusaka Cease-fire Agreement.

42. **Panel's Recommendation 2:**

Phase III of MONUC should accelerate the disarmament, demobilisation, and reintegration (DDRRR) of the negative forces in order to reduce the legitimate security concerns of the regional neighbours of the DRC.

Comment:

43. The Government of Uganda agrees with this recommendation as the DDRRR process of the negative forces – including Ex-FAR, Interahamwe, ADF, WBRF, PRA – is key to the withdrawal of the foreign forces from the DRC and the establishment of peace in the Great Lakes Region.

44. **Panel's Recommendation 3:**

The World Bank, IMF and other donors should critically evaluate their assistance to countries in the Great Lakes region on the possibility of helping finance the continuation of the conflict in the DRC and to submit reports to the UN Security Council.

45. **Comments:**

(a) The main task of the UN Security Council and the international community should be to support the implementation of the Lusaka Cease-fire Agreement, especially the Inter-Congolese dialogue – rather than creating new structures – so that a new transitional government can begin to reconstruct institutions of the state capable of controlling the natural resources of the DRC.

(b) Uganda has nothing to hide. Uganda's PRSP framework and her Medium Term Expenditure Framework (MTEF) budgeting process have been transparent and worked out with her development partners including the World Bank and the IMF. Uganda's military expenditure remains within the agreed spending limits. 12 out of 14 UPDF battalions have already been withdrawn from the DRC to demonstrate commitment to the implementation of the Lusaka Cease-fire

Agreement. The Government of Uganda has also requested the UN Security Council for MONUC to deploy in Buta and Bunia so that the UPDF withdrawal from the DRC can be completed as soon as possible.

46. **Panel's Recommendation 4:**

A moratorium should be declared banning purchases and importing of precious products such as Coltan, gold, diamond, coffee, timber, etc. originating in areas where there are foreign forces in the DRC as well as in territories under the control of rebel group, i.e. the whole of the DRC.

47. **Comment:**

(a) While a moratorium could be considered to contain illegal exploitation of the natural resources of the DRC, a clear distinction should be made between the big commercial mining companies and the small farmers and artisan miners who earn their living through the traditional cross-border trade.

(b) A moratorium on artisan mining production or small farmers' produce would be difficult to enforce in the porous borders with the nine neighbouring countries to the DRC.

48. **Panel's Recommendation 5:**

Revenue from the resources of the DRC should be channeled through the state budgets and tax collection and use should be controlled, transparent and accountable.

Comment:

49. This is a very good but unrealistic recommendation. Given the collapse of the state institutions and structures, the recommendation can only make sense after the implementation of the Lusaka Cease-fire Agreement especially the Inter-Congolese Dialogue and the establishment of a new political dispensation in the DRC.

50. **Panel's Recommendation 6:**

The Security Council may consider imposition of sanctions ... with regard to the exploitation of natural resources of the DRC as well as developments in the Great Lakes Region.

51. **Comment:**

(a) Uganda believes that sanctions should be used to speed up the implementation of the Lusaka peace process and should be aimed at those who violate the implementation of the provisions of the Lusaka Cease-fire Agreement.

(b) The UN Security Council should consider the establishment of a monitoring and follow-up mechanism for the countries involved to determine evidence of violation of the Lusaka Cease-fire Agreement provisions and the illegal exploitation of natural resources of the DRC.

VII: WAY FORWARD: RECOMMENDATIONS BY UGANDA

52. Uganda strongly believes that it is the urgent implementation of the Lusaka Cease-fire Agreement and the creation of institutions of a viable transitional state under the new political and democratic dispensation that can guarantee against the illegal exploitation of the natural resources and other forms of wealth of the DRC.

53. It is the implementation of the Lusaka Cease-fire Agreement, which will: (I) ensure the reconstruction of the collapsed state institutions and fill the vacuum created by absence of authority to regulate the country's natural resources, (ii) address the security concerns generated by the presence of armed terrorist groups in the DRC to destabilise her neighbours.

54. It is important that a summit between the UN Security Council and the Heads of State of the Political Committee of the Lusaka Cease-fire Agreement be convened, preferably in Africa, to maintain the momentum of the Inter-Congolese Dialogue and to agree on an enforceable strategy to ensure that a transitional government is in place in the DRC within a given timetable.

55. It is important that the UN Security Council sets up a mechanism which would encourage and enable the UN Panel to co-operate and share information with the independent Judicial Commissions established on recommendation of the Security Council regarding the illegal exploitation of natural resources of the DRC.

KAMPALA

4th December, 2001

SUMMARY REPORT ON THE VISIT TO UGANDA BY THE RECONSTITUTED UNITED NATIONS PANEL OF EXPERTS ON THE ILLEGAL EXPLOITATION OF NATURAL RESOURCES OF THE DRC, 23-25 AUGUST, 2001.

INTRODUCTION

1. As mandated in the Statement of the President of the UN Security Council on 3 May 2001, in connection with the Council's consideration of the item entitled: "The situation concerning the DRC", the reconstituted UN Panel of Experts on the Illegal Exploitation of Natural Resources of the DRC visited Kampala from 22 - 25 August 2001.[1] The Chairman of the Reconstituted UN Panel, Ambassador M Kassem of Egypt, was accompanied by three members of his team including Mr Moustapha Tall (Senegal), Mr Melvin Holt (USA) and Mr Amin Mohson (political assistant- Egypt).

2. In extending the mandate of the UN Panel of Experts for a period of three months, the Security Council requested the Panel to submit an addendum to its final report including the following:

(a) An update of relevant data and an analysis of further information, including as pointed out in the action plan of the Panel to the Security Council

(b) Relevant information on the activities of countries and other actors for which the necessary quantity and quality of date were not made available earlier

(c) A response, based as far as possible on the corroborated evidence, to the comments and reactions of the States and actors cited in the Final Report of the Expert Panel

(d) An evaluation of the situation a the end of the extension of the mandate of the Panel, and of its conclusions, assessing whether progress has been made on the issues which come under the responsibility of the Panel.

3. The UN Panel of Experts met HE President Y Museveni. The Panel also held discussions with the following Cabinet Ministers:

(a) Hon. James F Wapakhabulo, 3rd Deputy Prime Minister/Minister Foreign Affairs.
(b) Hon. Gerard Ssendaula, Minister of Finance, Planning and Economic Development
(c) Hon. Amama-Mbabazi, Minister of Defence.
(d) Hon. Kisamba-Mugerwa, Minister of Agriculture, Animal Industry and Fisheries.
(e) Hon. Edward Rugumayo, Minister of Trade, Tourism and Industry.
(f) Hon. Kezimbira Miyingo, Minister of State for Environment
(g) Hon. Kamanda Bataringaya, Minister of State for Mineral Development

[1] See attachment (Annex 1): Programme for the visit to Uganda by the UN Expert Panel on the DRC, 22 – 25 August 2001

4. The Reconstituted UN Expert Panel held a substantive session with the Working Group of technical officials on the Country Questionnaire as well as on specific areas of Uganda's concerns on the allegations/conclusions on the Final Report of April 2001.

5. The UN Panel requested for and met Major General Salim Saleh (retired), Brigadier James Kazini (Army Chief of Staff), and Lt. Col. Noble Mayombo (Chief of Military Intelligence).

6. Justice David Porter, Chairman of the Judicial Commission of Inquiry on the Allegations of Illegal Exploitation of Natural Resources of the DRC and members of his team held meetings with the Reconstituted UN Panel of Experts in Kampala.

SUMMARY REPORT ON THE MEETING WITH H.E. PRESIDENT MUSEVENI

7. The meeting between H.E. President Museveni and Amb. M. Kassem was attended by Hon. J F Wapakabulo, 3rd Deputy Prime Minister/Minister of Foreign Affairs; Hon. Omwony Ojok, Minister of State for Economic Monitoring; Mr. Busho Ndinyenka, President's Office; Ms Hilda Musubira, the Principal Private Secretary to H.E. the President; Amb. James Mugume, Director of International Cooperation; Mr. Ssemanda; and Mr. Adonia Ayebare, Ministry of Foreign Affairs.

8. Amb. Kassem was accompanied by three members of the Expert Panel - Mr. Holt (USA), and Tall (Senegal) and Mr. Amin Mohson a Political Officer (Egypt).

9. Amb. Kassem thanked the President for having found time to receive the UN Panel of Experts on the Illegal Exploitation of Natural Resources of the DRC. He informed the President that the purpose of the reconstituted Panel was to prepare an addendum to the Final Report. The Panel, therefore, needed both updated and new information in order to revise items or review parts of the Final Report. He also informed the President that since his arrival in Kampala the Panel had had useful meetings with Government Ministers and the Working Group of the technical officials.

The Need for Inclusion on the UN Panel of a Veteran of the African Struggle

10. H.E. the President welcomed the UN Panel members and expressed satisfaction that Mme Ba N'Daw of Ivory Coast had been replaced. He expressed the hope that Amb. Kassem would be a more balanced Chairman of the UN Panel. In this context, the President said that in order to help the UN Secretary General Kofi Annan, he had recommended that the Panel should include a veteran of the struggles in Eastern and Southern Africa – someone from either Mozambique or who had worked with the late President Nyerere of Tanzania – because the problems of Rwanda, Burundi and DRC were all historically linked.

11. H.E. the President said that he disagreed with the old UN Panel's definition of "Illegality" that any economic activity which was not sanctioned by Kinshasa was 'illegal'! If that definition were to be followed, the President emphasized, the people in the Eastern DRC would have either starved to death or we would have had a terrible genocide. He pointed out that during Uganda's civil wars of both 1979 and 1985 when

Kampala was cut off, people from Western Uganda would have died and lost their cattle if medicines and cattle drugs were not procured from Tanzania, Rwanda, Burundi, etc.

12. In response to the suggestion to include a veteran of African struggles on the UN Panel, Ambassador Kassem informed the president that he had been involved in the Great Lakes issues since 1995 as Chairman of the UN Panel on the Genocide in Rwanda. He had also served as the Egyptian Ambassador to Ethiopia and Mozambique. He also explained that it is the practice of the UN Panels of Experts not to include persons from the region or country being investigated.

Request for Information on Illegal Exploitation Activities by Zimbabwe, Angola, Namibia and the Kabila Administrations in the DRC

13. Amb. Kassem told the President that one of the problems with the report of 1st UN Panel was lack of balance in the coverage of countries involved in the DRC, focusing on Uganda and Rwanda and ignoring Zimbabwe, Angola, Namibia, etc. In an interesting move, Amb. Kassem then requested H.E. the President that Uganda should help in the Panel's efforts to cover other countries involved in the DRC, by providing information on any illegal exploitation involving Zimbabwe, Angola, Namibia or the Kabila Administrations. He explained that the Panel requires that information must be confirmed by two sources in order to be sure the allegations are based on actual evidence.

14. In response, H.E. the President told the Ambassador that Uganda has heard of various activities by Angola, Zimbabwe and Namibia in the DRC. He explained, however, that in Ugandaﾠs courts of law, evidence is given under oath. It is, therefore, not enough to hear, one needs concrete evidence. Allegations which are not backed by such concrete evidence could lead to perjury. He advised the Ambassador to talk to the armed opposition to the Kinshasa government who should have the information on activities of the allies of the Kabila Administration.

Allegation of H.E. the President's Family Involvement in the Illegal Exploitation of Natural Resources of the DRC

15. H.E. the President assured the UN Panel that neither himself nor his son Muhoozi are involved in any business in the DRC. He also recommended that the UN Panel should interview his brother Major General Salim Saleh.

Why Uganda got Involved in the DRC

16. H.E. the President gave Ambassador Kassem a compiled book containing the background press reports, data and information since the ADF invasion of Western Uganda in 1996, which explain why Uganda got involved in the DRC; and a copy of his statement on **"Background to the Situation in the Great Lakes Region"** in Harare on 9 August 1998. The President informed the Ambassador that the biggest problem in the Great Lakes has been caused by the absence of a state in the DRC since the era of President Mobutu. That is why, President Museveni explained, Mobutu always relied on foreign forces and mercenaries – in 1966, 1967, 1977 and 1991 – to control the state. He further explained that the Late

President Mobutu of Zaire would have died in office if he had not compounded the problems of Congo by giving Congolese territory as a base for ADF, Interehamwe and EX-Far forces of Rwanda in early 1990s.

17. H.E. the President also informed the Ambassador that Uganda is compiling the affidavits of the people who were attacked in North Western Uganda in November 1996, by an Islamic extremist group (the tabliqs) who had been trained by H. Turabi, the then Speaker of Parliament in the Sudan. In response to a question by Amb. Kassem on the role of IGADD in resolving the crisis in the Sudan, H.E. the President pointed out that the IGADD process deals with issues of the internal problem in the Sudan and not cross-border terrorism.

Recommendation for the UN Panel to Visit Eastern DRC

18. H.E. the President recommended to Amb. Kassem that the UN Panel should visit the DRC and inspect some of the mines referred to in the first UN Panel Report. In response, Amb. Kassem told the President that the various government departments in Kampala had been very supportive and that the Ministry of Defense had, indeed, invited him to visit the mines in the DRC.

H.E. the President's Recommendation on Investigations on Minerals

19. H.E. the President told the UN Panel that in investigating exploitation of minerals it is important to distinguish between two types:

(a) Big mines which require equipment and capital to exploit; and
(b) Artisan mining operations which are difficult to trace.

20. He informed the Ambassador that Uganda has managed artisan miners by liberalizing the economy including the forex and capital accounts. As a result of the liberalization of the economy 1993, Uganda gold exports grew from 1 to 5 tons (1994), and 10 tons (2000). Uganda is now exporting US$60m of hides and skins per year again because of liberal economic policies, indicating that the crucial ingredient is the creation of a good macro-economic policy environment.

21. Finally, Ambassador Kassem thanked H.E. the President for the co-operation that was extended by the government departments, and promised to keep in touch with the various officials from his operational headquarters in Nairobi.

SUMMARY REPORT ON THE MEETING WITH THE THIRD DEPUTY PRIME MINISTER AND MINISTER OF FOREIGN AFFAIRS, HON. JAMES WAPAKHABULO ON 23RD AUGUST 2001 AT 9.00 A.M.

22. The meeting between Hon J Wapakabulo and the Reconstituted Panel of Experts was attended by: Mr. Ralph Ochan, Permanent Secretary, Ministry of Foreign Affairs; .Amb. James Mugume; Director, International Cooperation; Mr. I. Kiwanuka, Uganda Coffee Development Authority; Mr. Deo N. Byarugaba, Forest Department; Mr. L. Tibaruha, Director Legal Services, Ministry of Justice; Mr. P. Ssemanda, Senior Economist, Ministry of Foreign Affairs; Mr. Fred Wainyaba, Office of the President; Ms. Allen Kagina, Commissioner Customs & Excise/Uganda Revenue Authority; Ms. Christine Lubega, Bank of Uganda; Mr. Ahurwendeire Didas, Office of the President; and B.J. Ochana, Counsellor, Ministry of

Foreign Affairs.

23. The Third Deputy Prime Minister and Minster of Foreign Affairs welcomed the reconstituted United Nations Panel to Uganda and added that this gives Uganda a good chance of defending herself on allegations made in the UN report on plundering of the DRC resources. He assured Amb. M Kassem that Uganda would continue to extend maximum co-operation to the UN Panel. He, however informed the UN Panel that the data to be collected may differ because of the following:-

(a) The officially analyzed data should be integrated and given by the Uganda Bureau of Statistics (UBOS), which however is only two years old.

(b) The various departments of Government have different data cut-off dates and time lags. For example, coffee exports recorded by Uganda Coffee Development Authority (UCDA) in the month of November, will be reflected in the month of December by Uganda Revenue Authority (URA).

(c) Export licensing departments capture intended export data while URA records actual imports and exports. For example, gold export figures by the Ministry of Energy and Mineral Development reflect intention of exports while URA captures actual exports of gold.

(d) It is known that a number of companies understate values of export products in order to avoid high transit bond charges in the neighboring countries.

(e) Different methods of data capturing. Some departments record quantities while others capture value.

24. The Minister further went on to say that the conceptual definition of "Illegality" by the old UN Panel has to be discussed, as it remains a contentious issue. The historical cross boarder trade and transit cargo between Uganda and DRC since Colonial times should not be overlooked. Mombasa and Dar-es-salaam Ports have their hinterland which includes Eastern Democratic Republic of Congo, Burundi and Rwanda since 1920s.

25. Hon. J Wapakabulo also made the following points:

(a) Uganda remains convinced that the Lusaka Cease-fire Agreement on the Democratic Republic of Congo provide the only viable way to address the security concerns of the Democratic Republic of Congo, her neighbours and the establishment of a new democratic dispensation in the DRC.

(b) Uganda has demonstrated good will and has withdrawn most of the troops from the DRC except Beni, Buta and the western slopes of Rwenzori Mountains. As requested by the UN Secretary General, the remaining troops will withdraw in the context of the Lusaka disengagement process.

(c) Of all foreign forces and the emergency of a strong and stable state, remain the only guarantee to the end of the illegal exploitation of the natural resources of the Democratic Republic of Congo.

26. Ambassador Kassem made the following points:

(a) The Panel was given three (3) months and already one has elapsed. The UN Panel is committed to producing a balanced report. The Panel has therefore come for more information and clarifications because there has been a lot of complaints on the final report. The report would be revised, depending on the new evidence.

(b) The country questionnaire was given in advance and is expected to rely on the new evidence given. The panel is committed to write a report which will boost the Lusaka Peace Process.

(c) All countries involved in the conflict would be visited. The Panel would also visit a number of European Union countries including Britain, France and Belgium if a need arose.

(d) It is the practice of United Nations to keep their sources of information secret.

(e) The reconstituted UN Panel will discuss the issue of "illegality" since a lot of interpretation has been put forward and the Panel of Experts had not made up its mind on the issue.

(f) The Panel wanted to know the status of the Protocol signed in 1998 between Uganda and DRC and whether it was still valid.

(g) The Panel would revisit Uganda, if necessary. Time constraint was however a problem.

(h) The team needed to know the status of the rebel controlled areas.

(i) How were taxes in rebel controlled areas collected and distributed?

27. In response Hon. Wapakhabulo said that:

(a) It is a good development that the issue of "illegality" was to be revisited and that the Panel would write a balanced report. The idea of the UN Panel visiting other countries involved in the DRC conflict is welcome.

(b) Uganda is happy that the Panel recognizes the Lusaka Peace Process as the only way forward for creating a stable DRC.

(c) Tax collection in the DRC is an issue of the Congolese and that the little he knew was that under Front for Liberation of Congo (FLC), all taxes are collected jointly.

(d) With regard to the control in the rebel territory, according to CLF agreement, Bemba is supposed to be the leader.

SUMMARY REPORT ON THE MEETING WITH THE MINISTER OF DEFENCE, HON.

28. The meeting between Hon. Amama Mbabazi and the Reconstituted UN Panel of Experts was attended by: Hon. Muluri Mukasa, Minister for Security, Ministry of Defence; Mr. Gabindadde Musoke, Secretary for Defence; Maj. Gen. Jeje Odongo, Army Commander; Brig. J. Mugume, Deputy Army Commander; Brig. J. Kazini, Chief of Staff; Col. Mayombo, Chief of Military Intelligence; Mr. Busho Ndinyenka, Deputy Director ESO; Mr. Busingye Amooti, Deputy Director ISO; Mr. Fred Wairugala, Head of Legal Affairs ISO; Mr. Ahurwendeire, Head of Research ESO; Ms Naome Kibaaju, Under Secretary/Logistics; Amb. J. Mugume, Director/International Cooperation (MOFA); Mr. P. Ssemanda, Senior Economist (MOFA).

29. In his opening remarks, Mr. Mahmoud Kassem stated that: -

(a) The reconstituted UN Panel was given a new mandate to complete the unfinished work of the first Panel led by Mme Ba N'Daw of Cote d'Ivoire

(b) The purpose of the UN Panel is to find out if there is new evidence on earlier allegations and to seek clarification on various issues in the first Panel's Report.

(c) The new UN Panel mandate was extended for 3 months of which one month had already passed. The Panel was ready to hear from the Ugandan side in light of what was reported by the first Panel. In particular, the reconstituted UN Panel wished to gather information which could strengthen Ugandaﾟs objections to the first report.

30. In response, Hon. Amama Mbabazi made the following points:

(a) The Uganda Government is grateful to the Security Council for reconstituting a new UN Panel Experts of DRC with a new Chairman. The new Panel would not have ample time as it was rushing through many meetings in a single day.

(b) The first UN Panel was not balanced because it predominately consisted of members from the Francophone countries.

(c) Uganda was unhappy with the first report because it was based on hearsay, falsehood and contained distorted data in many cases. Hence Ugandaﾟs condemnation in the strongest terms of the methods used by the first Panel in writing the Report on the Illegal Exploitation of Natural Resources of the DRC in April 2001.

(d) When the 1st UN Panel of Experts on the DRC met with H.E. President Museveni in November 2000 with Brigadier Kazini was present. Their report stated that the

Panel requested to see Brig. Kazini but the request was turned down.

(e) Brig. Kazini was again seated in the meeting. The reconstituted Panel was free to ask Brig. Kazini, Lt. Col. Mayombo, Chief of the Military Intelligence or any official present questions relating to issues under the UN Panel's mandate.

(f) The 1st UN Panel of Experts on the DRC should not have condemned one without giving them a chance to be heard.

(g) The 1st UN Panel of Experts on the DRC met H.E. the President in Kampala, November 2000 but did not inform him that there were allegations labeled against him personally.

(h) The Ministry of Defence was ready and willing to facilitate the Panel to get evidence from various officials on various allegations even from the Congolese themselves.

(i) The 1st UN Panel of Experts on the DRC did not condemn Zimbabwe, Namibia, etc. but condemned only Uganda and Rwanda.

31. The UN Panel asked and the Hon. Minister of Defence answered the following questions:

(a) **Question**:
What was the UPDF mission objectives for involvement in the DRC?

Response: UPDF Mission in Congo:

(i) Secure Ugandaﾒs security interest by denying the Sudanese Government opportunity to destabilise Uganda through Eastern Congo.

(ii) Deny habitation of Ugandaﾒs dissidents, the ADF, WNBF, NALU, UNRF II, in the Congo.

(iii) Ensure that the political and administrative instability arising from rebel and government clashes in Eastern Congo does not destablise Uganda.

(iv) Demobilise elements of the Interahamwe, the former Rwandan army, and prevent them from terrorizing Uganda and Rwanda.

(v) Protect Ugandaﾒs territorial integrity from invasion by Kabila forces.

(b) **Question**:

Was there an established law on the relationship between UPDF and the rebels in the DRC?

Response:
There is a code of conduct which regulated the relationship between the UPDF and rebels. Initially this document were supposed to govern the operations and conduct of RPA as well but the Rwandese government later refused arguing that their constitution does not allow their soldiers to be punished outside Rwanda. (Code attached as annexture 'C')

(c) **Question**:
What was the relationship between UPDF and DRC civilian Administration.

Response:

(i) UPDF was not involved in the civil administration of the areas where it operated. The decision that UPDF and other Ugandan authorities must not be involved in the civil administration and control the economic activities in areas controlled by UPDF was taken September 1998. The only incident known to the Ugandan authorities which breached the directive to that effect was the appointment by Brig. J Kazini of Lotsove Adele as governor of Ituri Province. The UPDF High Command met over the issue and reprimanded Kazini for his action.

(ii) Even though this was contrary to policy of UPDF, Brig. Kazini's appointment letter to the governor highlighted need to improve the quality of life of the Congolese people:

- "Embark on a minimum road rehabilitation programme with a view to boosting trade and commerce and the delivery of social services to the people".

- "Remember that as a decentralised authority you are answerable to the people you lead. The essence is to serve the people providing the much needed guidance for the attainment of improved welfare".

(d) **Question**:
Was there any involvement by UPDF in collection and distribution of taxes in DRC?

Response:
UPDF was not at all involved in the collection of taxes as this was the domain of civil leadership. UPDF officers namely Brig. Kazini, Col. Kahinda Otafiire and Lt. Col. Mayombo witnessed the signing of a memorandum of sharing resources by RCD. Ugandaﾀs stand had always been to approach the revenue question in such a way as not to get involved in the internal administration of Congo.

Revenue collected must be injected in security, social and economic infrastructures (see annexture A).

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Revenue collected must be injected in security, social and economic infrastructures (see annexture A).

UPDF, however, went ahead to implement the code of conduct to regulate its activities in DRC.

(e) **Question**:
Is there evidence of individuals or companies known by UPDF to be involved in the exploitation of natural resources in the DRC?

Response:

(i) There were various economic operators in Eastern DRC who can easily be accounted for by the civil leadership since they would give them permission to operate there. Although it was outside our mandate, we investigated and found out the following:

- **Victoria Group**: this is a company registered in Goma DRC and its registered proprietors are found in annexture (D) as Ahmed Ibrahim, a Lebanese resident in Goma and K Ndukuhire, Ugandan who was resident in Goma at the time.

- **AIR NAIVETTE**: owned by Shiraz Hudan, a Canadian of Ugandan origin and his partner is one Alexis Makabuza. It is registered both in Uganda and Goma DRC.

- **Showa Trading Company** owned by Sam Engola, Ugandan.

(ii) UPDF as a policy did not and was not allowed to do any business. In the early days of the operation in DRC H.E. the President sent a radio message prohibiting any involvement in business in DRC. Ref. Msg DTG 1500010C Dec 1998 (attached as annexture E).

- Those who deviated from this directive were punished, some of whom were Lt. Okumu, Lt. Kisima, and Cpt. Kyakabale.

- Even the code of conduct that was joint for both RPA and UPDF (ref. joint code of conduct)) discouraged involvement in any commercial activity by soldiers.

- UPDF could not allow any diversion from its mission by the involvement of its troops in business.

(f) **Question**:
Is there any intelligence information by Ministry of Defence that the Kinshasa government was giving to the Rwandese Interahamwe based in DRC?

Response:
There is some information from Zimbabwean POWs and Interahamwe captured from the DRC which we shall pass on to the inquiry in due course.

However there is a force of 3000 WNBF at Ilebu which is being commanded by Amin's son Taban and are co-located, trained, armed and fed by the Government of Congo.

(g) **Question:**
What is the total human and material cost of Ugandan involvement in the DRC?

Response:
On the human and material cost of the war we believe that this question hinges on the National Security and is not material to the matter under inquiry.

(h) **Question:**
Annual Budget figures for Ministry of Defence since 1997?

MINISTRY OF DEFENCE BUDGET PERFORMANCE (UG) SHS. BILLION[2]

DETAILS	1997/98	1998/99	1999/00	2000/01	2001/02
WAGE	31.05	60.8	100.6	113.6	118.25
NON-WAGE	90.92	84.7	91.8	74.123	85.306
DEVELOPMENT	10.00	17.45	13.7	10.64	12.03
STATUTORY	6.3	17.8	17.8	14.3	5.3
TOTALS	138.27	180.75	223.9	212.663	220.888

Notes: *There was a Supplementary Expenditure of Shs.42,907,590,762/= in 98/99 F/Y for Classified Expenditure.*
1 US$ = (U) SHS.1750

SUMMARY REPORT ON THE MEETING BETWEEN HON. KEZIMBIRA MIYINGO, THE MINISTER OF STATE FOR ENVIRONMENT AND FORESTRY AND THE UN EXPERT PANEL ON THE DRC 23, AUGUST 2001

32. The meeting between Hon. Kezimbira Miyingo and the Reconstituted Panel of Experts was attended by: Amb. James Mugume, Mr. Semanda Patrick, Mr. J Ocana, Mr. James Ndimukulaga,

33. Amb. M. Kassem made the following points:

(a) There had been lots of reports on the exploitation of the natural resources including timber and wild life in the DRC by foreign forces.

2 See RST/34/100/01 faxed to Ambassador M Kassem, Chairman of he UN Expert Panel on the DRC, dated 1 October 2001

(b) The Panel would therefore like to hear from the Minister on anything on the subject that might have come to his knowledge, since Uganda had raised objections to the first UN Panel Report, April 2001.

34. In response, the Hon. Minister said that:

(a) The Ministry of Water, Land and Environment is responsible for policy as far as the Environment is concerned. The main objective of the Ministry policy is to ensure Uganda's environmental sustainability; self-sufficiency in timber for the provision of fine wood and other forest products.

(b) Uganda is not an importer of timber and the other forest products. Whatever forests products that passthrough Uganda are in transit and are not normally monitored by his Ministry. The Ministry of Water, Lands and Environment only monitors local timber market. Uganda is self-sufficient in timber. He could not comment on the forest in the DRC as he has never been there.

35. Following questions:

(a) Is there any formal bilateral trade co-operation between Uganda and the DRC?

(b) Are there any Ugandan companies that are investing in the DRC?

(c) Amb. Kassem requested for documents on the DARA company which show that it is not a Ugandan company.

(d) Which body is responsible for giving the certificates of origin for wood products in Uganda?

(e) Who finances the DARA Company?

(f) (Which authorities are responsible for issuing certificates of origin for Timber that originates from Eastern DRC?

36. In response, the Minister of State for Environment made the following points:

(a) There is no bilateral trade agreement between Uganda and the DRC on forestry and related products.

(b) The question relating to Uganda companies investing in the DRC or certification products from the DRC should be directed to the Ministry of Finance and Uganda Revenue Authority.

(c) The question relating to impounded ivory should be directed to the Ministry of Tourism, Trade and Industry, and the Wildlife Authority.

(d) For Ugandan timber the certificates of origin are issued by the Forestry officers on the site where the timber is coming from.

(e) The list of the shareholders of DARA – Great Lakes company can be obtained by the Commission of Forestry and give to the Panel. The copies of the share certificates were given to the UN Panel on 24 August 2001).

37. In his concluding remarks, the Hon. Minister advised the Reconstituted UN Panel of the Experts that in addressing all the questions relating to the illegal explanation of natural resources of the DRC, efforts must be made to ensure that the implementation of the Lusaka Peace Agreement remains in focus as it is the most viable guarantee against illegal exploitation in the DRC.

SUMMARY REPORT ON THE MEETING BETWEEN HON. G SSENDAULA THE MINISTER OF FINANCE AND THE UN PANEL OF EXPERTS ON THE DRC, 23 AUGUST 2001

38. The meeting between Hon. Ssendaula, Minister of Finance and the reconstituted UN Panel of Experts was attended by: Mr. Francis Tumuhairwe, Commissioner, Ministry of Finance; Mr. Tisasirana L K, Assistant Commissioner, Ministry of Finance; Mr. Sewanyana, Uganda Bureau of Statistics; Mr. John Mayende, Uganda Bureau of Statistics; Mr. Bownbridge, Ministry of Finance; Amb. James Mugume, Ministry of Foreign Affairs; Ms Allen Kagina, Uganda Revenue Authority; Mr. Michel Ego, Bank of Uganda and Mr. Ssemanda Patrick, Ministry of Foreign Affairs.

39. Amb. Kassem made the following points:

(a) The UN Panel on the illegal exploitation of the natural resources of the DRC is on the second phase of the mission to enable the reconstituted UN Panel to address complaints and reservations raised by Uganda and other countries in the Final Report April 2001. And that is why they are re-visiting those countries with reservations on the report.

(b) The UN Panel was therefore ready to listen so that it can come up with new conclusions.

(c) The UN Panel has some questions with regard to activities in Easter DRC – one of such case is the DARA Companies – one being registered in Kinshasa and the other in Kampala but both conducting the same business.

40. In response, Hon. G Ssendaula, Minister of Finance, made the following points:

(a) Uganda is one of those countries who objected to the UN report. The objections were submitted through the Ministry of Foreign Affairs.

(b) Before the current dispute in Eastern DRC, there were people conducting business with authority from Kinshasa. When the dispute broke out these people were cut off from Kinshasa but continued to do their business. It is only these Congolese business people who can explain better activities in that part of the DRC.

(c) As a sovereign State, Uganda has customs laws that are amended from time to time and implemented by the Uganda Revenue Authority.

(d) As Uganda's neighbour Eastern DRC relies on Uganda for transiting their goods given the geography of the DRC. Therefore, traditionally Uganda has been a transit point for all goods to and from Eastern DRC and there are laws governing goods in transit.

41. In response to Mr. Holt's question, on the financial relationship between Uganda and the rebel groups in Eastern DRC, the Minister made the following observations:

(a) There is no economic relationship between Uganda and the rebels in Eastern DRC.

(b) The World Bank and the IMF which have monitored the economic progress of Uganda can testify that the factors behind Ugandan economic growth have nothing to do with the DRC.

(c) The only opportunity when Uganda discussed economic co-operation with the DRC was soon after President Kabila Snr. took over power in Kinshasa in 1997. At that time a large number of Uganda Ministers was invited to Kinshasa. They stayed in Kinshasa for two weeks. They were supposed to talk about oil explorations along the shared Western Rift Valley lakes, but nothing took off.

42. Mr. Holt, also asked the Minister the following questions:

(a) Is there any relationship that exists between CFL rebels, RCD and Uganda on timber and minerals?

(b) Is there any relationship between Uganda and Eastern DRC in terms of tax benefits.

43. In response, the Minister of Finance made the following comments:

(a) The only time tax issues were discussed between Uganda and DRC was when Mr. Kabila Snr. took over power in Kinshasa in 1997. Uganda wanted to help the Kinshasa Government improve on tax and financial administration. Nothing came out of these discussions.

(b) With regard to the rebels in Eastern DRC, no invitations has come from them or from for discussions on tax issues.

44. Amb. M. Kassem in an irritated mood, raised the following points:

(a) The UN Panel came to Kampala in respect of objections raised by Uganda. The UN Panel circulated questionnaires in advance. The Questionnaire must be answered so that the Panel can revise the objections in order to come up with new conclusions.

(b) In the past border trade between Uganda and the DRC was between states. Given the present situation in the Eastern DRC, is there any decree or parliamentary legislation in Uganda to cover the situation in Eastern DRC? If the answer is negative then the point now is whether the activities in Eastern DRC are legal or not.

45. In response, the Hon. Minister of Finance made the following comments:

(a) Uganda has not made any legislation that is specifically on trade From Eastern DRC.

(b) Uganda's revenue started to increase in early 1990s as a result of reforms carried out with the help of the World Bank and IMF. The liberalization of the economy, moving away from the public to the private sector led growth strategies helped to improve the Uganda economy. Uganda's development partners including the World Bank and IMF can collaborate causes of the positive changes in the Uganda economy since the early 1990s.

46. Amb. Kassem, still visibly irritated, informed the Hon. Minister that he was interested in Uganda's responses and not comments by the World Bank/IMF. If the Panel had wanted the IMF/World Bank answers, it would have gone to Washington DC. Ambassador Kassem wondered if the Minister had seen the resolutions passed by the EU Parliament on the illegal exploitation of the natural resources of the DRC. He added that the resolution gives some warnings to Uganda. It is therefore, important that the reconstituted UN Panel comes with new conclusions. And for that the UN Panel needs new information.

47. The meeting ended on a cold note. It was clear that the chemistry was not good. For some strange reasons, Amb. Kassem seemed to be tense and irritated most of the time.

SUMMARY RECORD OF MEETING WITH MINISTER OF STATE FOR MINERAL

48. The meeting between Hon. Bataringaya Kamanda and the Reconstitute UN Panel was attended by: Amb. Mugume, Ministry of Foreign Affairs; Mr. Patrick Ssemanda, Ministry of Foreign Affairs; Mr. Ochana, Ministry of Foreign Affairs; Mr. Watuwa Bwobi, Ministry of Energy and Mineral Development.

49. Hon. Kamanda Bataringaya made the following observations:

(a) Having been Uganda's Ambassador to DRC during the days of Mobutu and Kabila Snr.

In 1990s, and also having been born near the boarder with DRC, he can bear witness to the cross boarder trade between Ugandans and Congolese which has existed since the colonial days.

(b) The Ministry records export permits for companies which have intentions to export and also capture production statistics.

(c) The policy of the Ministry of energy and Mineral Development is to register only businessmen who deal in minerals produced in Uganda.

50. The Chairman of the reconstituted UN Panel of Experts explained to the Hon. Minister about the new mandate of the Panel and lamented about the short period given to him to produce a report. He informed the Minister that in order to write a balanced report, he needed new evidence. The Chairman asked the following questions:

(a) Is there a mechanism/system of monitoring Uganda's mineral production and exports?
(b) Is there a distinction between DRC gold and Ugandan gold?

51. In reply the Hon. Minister of State for Mineral Development said that:

(a) The Ministry would provide more information as requested. The Ministry was unhappy that the a which was given to the first Panel of Experts was not used in their report. The first UN Panel had instead relied on hearsay. Data requested by the UN Panel would be given during the meeting with the Working Group of the Technical officials on 24 August 2001.

(b) The monitoring system, for mineral exports and production exists but it is not very efficient like in any other Developing Country. It is difficult to make the distinction between DRC and Ugandan gold. The Ministry of Energy and Mineral Development is interested in gold produced and exported from Uganda.

52. Mr. Watuwa Bwobi, the Commissioner for Geological Survey and Mines reviewed the UN Panel report and made the following comments:

(a) All Minerals mentioned in the UN Report are known to exist in Uganda including diamonds and Coltan.

(b) The first diamond (0.243 metric carats) was picked at Kibale, Buhweju in 1938 and another at Butale in 1956 both as a result of gold winning (see Geological Survey of Uganda Bulletin 4 - The Mineral Resources of Uganda published in 1961 page 61).[3]

[3] Geological Survey of Uganda, Bulletin 4, the Mineral Resources of Uganda (1961)

(c) Information on Coltan is found on page 24 of Bulletin 4 (1961).[4] The production of Coltan declined due to depressed prices in the late 1950s. The production was bound to pick up with improved prices as is the case today.

(d) Information on gold is on page 15 of the same Bulletin 4. Today gold has been found almost in all districts of Uganda. Most of the gold mined is alluvial (except Busia gold field which is reef) and is mined by artisanal/small-scale miners, many of whom are unlicensed.

(e) It is estimated that over 500,000 Ugandan artisans are engaged in gold production in Uganda during any single month.

(f) Mineral production figures (especially of gold) have always been lower than export figures since the trade in gold was liberalized and royalty removed in 1992/93 (CF Para 96 of the report of the first UN Panel of Experts, April 2001). Before liberalization, the gap between the gold production on export figures was not significant.

(g) The main reasons for the increased gap between production and export figures for gold include:

- Before liberalization, the few licensed artisanal miners would indicate few grams of production to hang on their licenses and the buyers would file low figures to avoid payment of royalties.

- After liberalization in 1992/93, buyers felt confident to export their gold through official channels thus indicating increased exports. Most of the artisanal miners are not licensed and invariably do not file their production returns which in turn come from a few licensed miners. Thus, while the production figures have remained fairly stable, the export figures have steadily gone up.

- The gold export figures in table 1 of the UN Report (para 96) are those on the Export Permits issued by the Ministry of Energy and Mineral Development. In most cases they differ from those of actual exports. Actual export figures are those captured by the Customs Department. One needs an Export Permit before processing other export documents.

(h) Although Uganda has no production figures for diamond, it is possible that some diamonds are being produced as a result of winning gold. During the Diamond Prospecting Programme in Uganda (1965-1974) by Mineral Prospecting (U) LTD a number of diamonds totaling over 0.4m CTS were recovered and three (3) Kimberlites were discovered. Kimberlites are rocks which are major hosts for diamond.

(i) Since Uganda does not have official figures of diamond exports or production the

[4] 1 bid

Ministry cannot comment on the figure in table 2 of the UN Report of April 2001, the source being the Diamond High Council. If we are given export papers, we could know whether the purported exports were from Uganda or not. The possibility of fraudsters using forged documents must not be ruled out.

(j) Niobium (Coltan) production was halted in Uganda due to low prices. Increased demand and higher prices have led to more production and hence exports, the coincidence with the Congo conflict notwithstanding (cf para 33 of the UN Report). It is stated that "seven years" worth of Columbo-Tantalite (Coltan) was found in stock. Is it possible that the material could not have been sold due to low prices! Besides we do not measure minerals worthiness in years!

(k) Following the conclusion of UNDP assisted Mineral Investment Programme in 1992, the number of investors interested in the mineral sector increased. This number dropped with revision of the surface rent in 2000.

SUMMARY REPORT OF THE MEETING WITH HON. PROF. E RUGUMAYO THE MINISTER OF TOURISM, TRADE AND INDUSTRY 23 AUGUST 2001

53. The meeting between Hon. Prof. E Rugumayo and the Reconstituted UN Panel of Experts was attended by: Ambassador Mugume, Ministry of Foreign Affairs; Mr. Ssemanda. P., Ministry of Foreign Affairs; Mr. J. Muhwezi, Ministry of Tourism, Trade and Industry; and Mr. .J. Tindigarukayo, Ministry of Tourism, Trade and Industry.

54. The chairman of the UN Panel explained why the Panel was reconstituted for an extra period of 3 months. He pointed out that this time, the reconstituted Panel was to cover more countries including Burundi, Uganda, Zimbabwe, South Africa, Namibia, Rwanda, Angola, and a number of countries outside Africa.

55. Ambassador Kassem and his team asked the following questions:

(a) Is there an arrangement in which trade is carried out in the rebel controlled areas In Eastern DRC since the Kinshasa Government is not in control of the area?

(b) Would the Minister be able to show that the trade in timber, minerals and other items in the Eastern DRC is legal since the Kinshasa authorities have no control over the areas.

(c) What would be the effect of conflict among members of the same trade agreement such as COMESA?

(d) How does the Ministry of Trade, Tourism and Industry define the import, export, re-export and goods in transit?

(e) What are the conditions in which Uganda government gives a certificate of origin?

(f) What is the trade balance between Congo and Uganda for the last five years in terms of volume and value?

(g) Who are the largest importers, exporters, transporters and countries of origin and destination?

(h) Which enforcement authority conducts the follow up on the illegal trafficking of ivory? Where was the origin and fate of the 200 kg of Ivory that was impounded at Entebbe Airport as reported in the Ugandan press in July 2001?

56. In response Prof. E. Rugumayo informed the reconstituted UN Panel that as a Minister, he deals with policy issues and promised them that all the data the UN Panel needs will be given by the Working Group of the Technical officials on 24th August 2001. He further informed the panel that most of the information the UN Panel needed could be got from Customs Department, Uganda Revenue Authority.

57. On the issue of the ivory which was impounded at Entebbe international airport. Assistant Commissioner, World Life Authority, later explained that usually when ivory is impounded, the matter is handed over to the police and the culprits prosecuted in the courts of law.

SUMMARY RECORD ON THE MEETING BETWEEN THE RECONSTITUTED UN PANEL AND THE WORKING GROUP OF THE TECHNICAL OFFICIALS ON THE DRC, 24 AUGUST 2001

58. The reconstituted UN Panel of Experts met he following members of the Working Group of the Technical officials at the Ministry of Foreign Affairs Boardroom:

Amb. James Mugume, Ministry of Foreign Affairs (Chairman of the Working Group); Michael Aztingin Ego, Bank of Uganda; Christine Lubega, Bank of Uganda; Ayebare Adonia, Ministry of Foreign Affairs; Ssemanda Patrick, Ministry of Foreign Affairs; Allen Kagina, Uganda Revenue Authority; Henry Ngabirano, Uganda Coffee Development Authority; I David Kiwanuka, Uganda Coffee Development Authority; J Muhwezi, Ministry of Tourism, Trade and Industry; Justus Tindigarukayo K, Ministry of Tourism, Trade and Industry; Moses Kabanga, Ministry of Finance; Kabbs Twijuke, Civil Aviation Authority; James Ndimukulaga, Ministry of Water, Lands and Environment; Ahuwendeire Didas, Office of the President; Moses Kaggwa, Ministry of Finance; Watuwa Bwobi, Commissioner, Geological Survey ad Mines; Mubiru James, Uganda Bureau of Statistics; Bahemuka Stephen, Uganda Bureau of Statistics; and Mayende John, Uganda Bureau of Statistics.

59. The meeting between the reconstituted UN Panel and the Working Group of technical officials covered the following Agenda items:

(a) Country Questionnaire for Uganda by the UN Panel of Experts.

(b) Workplan/Time-Frames of work of the UN Panel in the next two months.

(c) Discussions on specific areas of Uganda's concerns on allegations/conclusions in the Final Report of April 2001. Helping the reconstituted Panel to understand Uganda's objections to the Report.

(d) AO.B.

COUNTRY QUESTIONNAIRES FOR UGANDA BY THE RECONSTITUTED UN PANEL:

60. The respective members of the Working Group provided the required data and explanations to the UN Panel per item as indicated on the country questionnaire including on Imports/exports/re-efforts/goods in transit for the period 1994-2001.[5] The Commissioner of Customs, Uganda Revenue Authority, Mrs. Allen Kagina explained to the UN Panel that data for 1995 and 1996 from Mpondwe was lost during the ADF rebel attack on Mpondwe Customs border post in 1996. She explained to the Panel that the names of transporters are not captured but the vehicle numbers of tracks transporting goods are recorded.

61. The UN Panel thanked the Working Group for the data provided. The UN Panel further sought clarification on the following items:

- System of certification of origin of Ugandan products (natural and industrial products).
- An arrangement in place to deal with countries in conflict?
- The case of Ivory which was impounded at Entebbe International Airport: how is the
- seizure/confiscation done at entry points and what are the enforcement structures?
- How is civilian enforcement at Entebbe Airport and other fields handled?

62. The Working Group of Technical officials mad the following clarifications:

(a) Mr. Julius Tindigarukayo, Assistant Commissioner in the Ministry of Tourism, Trade and Industry explained to the Panel the enforcement mechanism in the case of impounded ivory:

- The enforcement is carried out by Customs, UPDF, Police and civilians. The culprits are handed over to Police for investigation and persecution in courts of law.
- On the issue of ivory impounded at Entebbe International Airport, the Assistant Commissioner promised to provide more data since he had already contacted Uganda Wildlife Authority. (Information we subsequently forwarded through the UN Resident Co-ordinator to Nairobi via Note Verbale # RST/34/100/01 dated 27 September 2001).

[5] See attachment (Annex 2): List of Documents handed to Amb. M Kassem, Chairman of the UN Expert Panel on 24 August 2001.

(b) On the issue of Certificate of Origin Mr. J Muhwezi explained that this differs from product to product. The Uganda Coffee Development Authority issues certificates for coffee products while other products are handled by the Uganda Export Promotion Board.

(c) Mr. Kabbs Twijuke informed the Panel that at all the airfields customs officials are always present. He further explained that besides Entebbe Airport there are 5 airfields accessible to and from Uganda. For the small airports the Uganda Civil Aviation has to be informed in advance 5 days. Products imported through Entebbe International Airport have to pay tax unless the goods are in transit. There is a ban on the exportation of timber. He also elaborated regarding data on passenger flow, export by type, aeronautical income, aircraft movements between Entebbe and Burundi, DRC and Rwanda since 1993.

WORKPLAN

63. Amb. Kassem thanked the Working Group of technical officials for the information which had been provided. He said that if need arose, then the UN Panel would comeback for more data or clarification. He doubted, however, if time would allow the new Panel to revisit Kampala. Amb. Mugume informed the reconstituted Panel that the previous UN Panel chaired by Mrs. Ba N'Daw was given a lot of data but to his surprise they chose to ignore it and instead wrote a report based on hearsay. He prayed that this new Panel utilizes the data given to it and come out with a report based on evidence.

Specific areas of concern to Uganda, on the allegation/conclusions in the final Report of the old UN Panel dated 16 April 2001:

64. Amb. J Mugume informed Amb. Kassem, Chairman of the Reconstituted UN Panel of Experts that the full response by the Government of Uganda to the Final Report of the old UN Panel of Experts on the illegal exploitation of natural resources of the DRC is contained in (i) the statement to the Security Council by Hon. Amama Mbabazi, former Minister of State for Foreign Affairs on 3 May 2001 and (ii) UN Security Council document S/2001/458 dated 9 May 2001. The new Chairman of the UN Panel did not seem to have seen the two documents.

65. For the purpose of helping the new Chairman of the UN Panel to understand Uganda's objections to the Final Report of UN Panel of April 2001, Ambassador J Mugume , Chairman of the Working Group of Technical Officials, gave examples of concerns on the key fundamental flaws of the report:

(a) **Conceptual definition of 'Illegality'**: Uganda did not accept the definition in the Mme Ba N'Daw report of 'illegality' as covering all transactions and actions in the DRC that were not authorized by Kinshasa. The Mme Ba N'Daw Report ignored the legal status of the Lusaka Peace Agreement on the DRC, (1999) which mandated all parties to the Agreement - including the rebel forces to have Security/Administrative responsibilities in the respective areas until the establishment of the new dispensation in the DRC.

(b) **Biased coverage by the Report**: The report of the UN Expert Panel on the DRC, April 2001, failed to cover investigations in all the countries involved in the DRC as mandated by the UN

Security Council. The coverage of the Mme Ba N'Daw Report reflected a bias based on the original French proposal, January 2000, that investigations should cover only Uganda and Rwanda as 'uninvited countries' in the DRC, which was rejected by the UN Security Council in favor of investigation of all countries involved in the DRC including Zimbabwe, Angola, Namibia, and the Kinshasa government.

(c) **Poor quality of evidence**: The report recommended very strong sanctions against Uganda and Rwanda based on very poor quality of evidence. Instead of basing the allegations and conclusions on concrete evidence, the Mme Ba N'Daw report chose to rely heavily on hearsay, falsehoods, distorted data and obvious biases:

- **Hearsay**: The report argues, for example, that the decision to get involved in the DRC by Uganda was based, **according to numerous and reliable sources**, on economic interests of the senior UPDF who had served in 1997 war (para 27). No reference was made to the discussion with H.E. President Museveni on the subject in Kampala, November 2000. No attempt was made to examine Uganda's well-documented security concerns and attacks from the DRC by the Sudanese-backed ADF rebels etc.

- **Falsehoods:** The report falsely alleged, for example, that (i) President Museveni's family was a shareholder in DARA Great Lakes timber company; that the Department of Forestry certified timber from DRC as Ugandan timber and that a non-existent factory in Namanve processes DRC timber for export (paras 47-54) (ii) government refused permission for the UN Panel to interview Brig. Kazini, whom the Panel met at State House Kampala in November 2000 (iii) 25% of the right-hand cars imported in Uganda in 1999 were looted from the DRC which has left-hand vehicles, (para 36).

- **Distorted data**: The report deliberately and repeatedly distorted data to support false conclusions or allegations, for example (i) the use of gold export data by the Ministry of Energy and Mineral Development which reflect export permits or intended exports without reference to the explanatory notes and ignoring the actual export data by the Customs Department (para 96) to support the false allegation of gold looting from the DRC; (ii) wrong interpretation of Uganda's economic data to give a false impression that Uganda□s GDP growth and balance of payments benefited from the UPDF involvement in the DRC after 1998 (para 142). Uganda□s high GDP growth trends started in early 1990s and have declined after 1998.

- **Obvious biases**: The Mme Ba N'Daw report displays obvious biases. For example, it (i) condemns President Museveni as an accomplice to the illegal exploitation and the god father of the illegal exploitation of natural resources and continuation of war in the DRC (paras 206, 211) without any concrete evidence, (ii) examines the events of 1994 that led to the conflict in the DRC and conveniently fails to recognize the significance of one million genocide victims in Rwanda, (para 22) (iii) refers to the Interehamwe as 'the so called negative forces'. (para 173), (iv) makes no attempt to investigate the legitimate security concerns of Uganda and Rwanda in the DRC crisis.

(d) **Deliberate attempt to undermine the Lusaka Peace Agreement:** The Mme Ba N'Daw report belatedly mentions the significance of the Lusaka Peace Agreement (para. 219). Worse, it ignores its delicate balance and provisions in its interpretation of illegality, and chooses, in its very sweeping recommendations, to utilize the instrument of sanctions selectively to punish a few of the signatories. Indeed, when Uganda wanted to pull out of the DRC unilaterally in May 2001, the UN Secretary General rightly intervened to keep the peace process on track and requested Uganda to withdraw within the context of Lusaka Agreement.

CONCLUSION

66. The visit to Uganda by the reconstituted UN Panel of Experts went very well. Ambassador Kassem expressed ~~dissatisfaction~~ satisfaction with the co-operation extended by the Government of Uganda. The Government undertook to forward the outstanding data/information for the questionnaire to Nairobi through the UN Resident Co-ordinator in Kampala.[6] It was agreed that the Nairobi-based UN Panel would keep in touch with the Government on any further question and clarifications.

Prepared by:

The Directorate of International Cooperation
Ministry of Foreign Affairs
KAMPALA

[6] See attachment (Annex 3) List of items/documents forwarded to the UN Panel through the UN Resident Coordinator in Kampala (vide Note Verbale RST/34/100/01 dated 27 September 2001)

ANNEX 1

PROGRAMME FOR THE VISIT TO UGANDA BY THE UN EXPERT PANEL ON THE DRC - 22-25 AUGUST 2001

WEDNESDAY 22ND AUGUST 2001:

Morning	:	Arrival from Nairobi
Afternoon	:	Meetings with the Porter Judicial Commission. **Venue: ICC (International Conference Centre).**

THURSDAY 23RD AUGUST 2001:

9:00 a.m.	:	Opening Ceremony: Meeting with 3rd Deputy Prime Minister/Minister of Foreign Affairs. **Venue: MOFA Boardroom.**
10:15 a.m.	:	Meeting with Minister of State of Environment and Forestry. **Venue: Ministry Headquarters, Parliament Avenue.**
11:30 a.m.	:	Meeting with the Minister of Finance, Planning and Economic Development. (Officials from Customs, Civil Aviation Authority (CAA), Bank of Uganda, Uganda Uganda Bureau of Statistics (UBOS), etc. in attendance). **Venue: MOFED Boardroom.**
12:45 p.m.	:	**LUNCH BREAK**
2:00 p.m.	:	Meeting with Hon. Minister of Energy and Mineral Development. **Venue: Amber House.**
4:30 p.m.	:	Meeting with Hon. Amama Mbabazi, Minister of Defence. (Security/Intelligence Officials in attendance). **Venue: Ministry of Defence, Bombo.**

FRIDAY 24TH AUGUST 2001:

9:00 A.M.	:	Meeting with Hon. Minister of Agriculture. **Venue: MOFA Boardroom.**
10:15 - 11:30 a.m.	:	Meeting with Technical Officials/Working Group. **Venue: MOFA Boardroom.**
8:00 p.m.	:	Meeting with H.E. the President. **Venue: State House, Kampala.**

SATURDAY 25, AUGUST 2001

2:00 p.m.	:	2nd Meeting with Hon. Amama Mbabazi, Minister of Defence. **Venue: International Conference Centre.**
4:00 p.m.	:	Meeting with Brig. Gen. Salim Saleh, Brig. J Kazini and Lt. Col Mayombo. **Venue: International Conference Centre.**

ANNEX 2

LIST OF DOCUMENTS HANDED OVER TO THE NEW UN PANEL ON THE DRC ON 24 AUGUST 2001

1. **CUSTOMS:**

   Imports/Exports/goods in transit/re-exports, country of origin and destination, transportation since 1993.

2. **MINERAL PRODUCTION EXPORT:**

   List of all licensed dealers and estimated exports since 1993.

3. **AGRICULTURE AND FORESTRY:**

   A list of Coffee exporters and qualities exported since 1993 to-date:

   - A map showing the distribution of sawmills in Uganda.
   - Dara Great Lakes articles of association and a copy of company registration. A letter authorising Dara Great Lakes to suspect he wood forests in Uganda from the Commissioner of Forests.

4. A list of Ministries and personnel responsible for: Mineral/mining sector management, Agricultural Forestry and Environment and Energy.

5. Uganda's Mining code and Mining Regulations.

6. Uganda's Instrument Authority Polices and Activities.

7. The Financial Institutions Statute 1993.

8. Uganda Bureau of Statistics Statistical Abstract 2000.

9. Uganda Civil Aviation Authority statistics on exports, imports and flights

10. Uganda Investment Guide. Opportunities and conditions, March 2001.

ANNEX 3

RST/34/100/01

The Ministry of Foreign Affairs of the Republic of Uganda presents its compliments to the UNDP Resident Co-ordinator and has the honour to refer to the Country Questionnaire between the UN Panel of Experts and the Uganda Government Working Group of technical officials on the Illegal Exploitation of Natural Resources of the DRC in Kampala, 24 – 25 August 2001.

The Ministry of Foreign Affairs wishes to request that the UN Panel of Experts acknowledge receipt of the documents that were handed over 24 – 25 August 2001 in response to the Country Questionnaire.

The Ministry of Foreign Affairs also wishes to forward the attached copies of the following additional documents as requested by the UN Panel of Experts:

1. URA Documents:
   (i) Copies of DRC documentation.
   (ii) Uganda Customs Definition.
   (iii) Animal Teeth cleared through Entebbe in 2000.

2. Report on specific issues raised by the UN Panel Experts – Uganda Wildlife Authorities.

3. Why Uganda Government got involved in the DRC – an extract from the counter-memorial submitted to ICJ, April 2001.

4. Information provided by Bank of Uganda in Uganda:

   i) List of all Commercial Banks.
   ii) Memorandum and Articles of Association or Rules required by the UN Panel.
   iii) Their paid up share capital.
   iv) Names of Directors.
   v) Bank of Uganda Annual Reports 1999/2000.
   vi) Trade between Uganda and DRC.
   vii) Brief remarks on Uganda's Balance of Payments.

5. Data and Explanatory Notes on Imports and Exports, 1995/2000 by Uganda Bureau of Statistics (UBOS).

The Ministry of Foreign Affairs of the Republic of Uganda avails itself of this opportunity to renew to the UNDP Resident Co-ordinator the assurances of its highest consideration.

Kampala: 27 September 2001

The UNDP Resident Co-ordinator
Kampala

RST/34/100/01

1 October 2001

Amb. Mahamoud Kassem
Chairman, UN Expert Panel on DRC
EXPNATDRC/UNON
NAIROBI

Fax: 254-2-622 689

Re: **UGANDA'S DEFENCE BUDGET PERFORMANCE FOR FY 1997/98 TO 2001/2002**

Attached is a copy of the Ministry of Defence Budget Performance for FY 1997/98 – 2001/2002 which was requested for by the UN Panel of Experts in Kampala on 25 September 2001.

Please advise if the balance of the documents that were not handed over on 23 – 25 September 2001 which were forwarded through the Office of the UN Resident Co-ordinator in Kampala vide Diplomatic Note Verbale No. RST/34/100/01 dated 27 September 2001 have been received by your office (see attached copy of the Note Verbale).

Kindly let me know if there is any more data/information that you may require from Uganda. Our invitation for the UN Panel to revisit Kampala for any further interviews and clarifications still stands.

Please accept, Mr. Ambassador, my warm regards and highest consideration.

James Mugume
For: **PERMANENT SECRETARY**

cc: The Charge d'Affaires
Permanent Mission of Uganda to the UN
NEW YORK

The UN Resident Co-ordinator
KAMPALA

Enc.