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Human Rights Division

Special investigation mission

Into human rights violations and abuses committed in the Territory of Mitwaba, Katanga Province, 13 – 19 February 2006

Final Report

I. Summary

1. From 13 to 19 February 2006, a multidisciplinary Team of MONUC (Special Investigations Unit (SIU) of the Human Rights Division, Public Information Office, Security, Joint Mission Analysis Centre (JMAC) carried out an investigation into the current security situation and human rights violations committed by the FARDC and Mayi-Mayi in the territory of Mitwaba, Katanga province.

2. Over recent months, MONUC has received a number of reports indicating that the human rights, humanitarian and security situation in Central and Northern Katanga has drastically deteriorated following military operations conducted by the FARDC against Mayi-Mayi groups since November 2005. As previous FARDC operations, this one too has been ill-prepared and badly conducted by ill-equipped, unpaid and largely untrained soldiers who live on the back of the local population and are in no shape to tackle the situation. As a result of these operations, thousands of civilians were reported to have been forced to flee their homes, abandon their fields and seek refuge in the countryside, sometimes for several months. These persons increased the number of those who had already been displaced for more than two years.

3. To date residents of Central and North Katanga and 165,000 internally displaced persons (IDPs) struggle to survive in a dangerous environment in various territories of the

province. On the one hand, they are caught between attacks of Mayi-Mayi and FARDC and, on the other hand, are accused of being collaborators by both sides. Thus, as soon as a group of Mayi-Mayi or a FARDC unit arrives in a village, its residents are considered by this group to be either sympathisers or collaborators of their adversaries.

4. This mission was the first one conducted in order to assess the security and human rights situation in the territory of Mitwaba. Until this moment, the insecurity situation prevailing in the area has not allowed MONUC to carry out mission for longer than several hours. The team was able to assess the current security and human rights situation; identify victims, victims' relatives and eyewitnesses of human rights violations; investigate abuses and identify those responsible for these abuses; take necessary steps to encourage the FARDC to stop violating human rights of civilians. Due to the insecurity situation in Central Katanga, the SIU was unable to conduct an in-depth investigation outside Mitwaba-centre, especially in the areas where serious human rights violations were committed by the Mayi-Mayi.

5. Based on testimonies gathered, the MONUC Team was able to confirm that both the Mayi-Mayi and the FARDC violate human rights almost on a daily basis. The team established the identities of 97 civilians who had been killed, injured or severely mistreated between the beginning of 2005 and March 2006 (see Annex 1). Forty-seven violations/abuses registered, including 33 summary executions, were committed by the FARDC; 45 cases, including 31 summary executions, were attributed to the Mayi-Mayi and five cases to unidentified armed men. At least 12 summary executions committed by the Mayi-Mayi involved traditional chiefs or members of their families. Some of them were killed for having welcomed the FARDC in their villages; however, most of the killings were connected to the fight for power between customary chiefs. The MONUC team was able to investigate and confirm the case of forced disappearance of fifteen civilians who were suspected to be Mayi-Mayi combatants. They were allegedly summarily executed by the FARDC after their detention in Mitwaba prison in March 2005. This number represents only those victims whose names were established through interviews with family members and eye-witnesses conducted during a five-day mission of the team to Mitwaba. MONUC continues to receive allegations of serious human right violations committed by the Mayi-Mayi and that were not investigated during the mission. Illegal exploitation of cassiterite mines near Mitwaba by the FARDC soldiers of the 63rd Brigade was reported by several sources.

6. The members of the 63rd Brigade of the FARDC currently deployed in Mitwaba have not undergone the *brassage* process. Most of them, with an exception of a small group of officers of ex-RCD-Goma including Commander Mario Tshisweka and his deputy Major Ekembe, are former FAC soldiers. They are notorious among the population for the crimes they have committed during their eight-year presence in Katanga, namely arbitrary executions, rape, continuous harassment, extortion of goods and livestock, and illegal exploitation of natural resources. Civilians are afraid to talk about the abuses, as they fear that more harassment might follow. The brigade lost the trust of both the local population and Mayi-Mayi who are unwilling to negotiate with them for fear of being arrested and executed after the events of March 2005.

7. The Mayi-Mayi of Gédéon and his allies, including the Mayi May of Bavon, are allegedly responsible for the majority of human rights violations committed in Central Katanga in general and in the territory of Mitwaba in particular.

II. Background information

8. The territory of Mitwaba is part of the Haut Katanga district of the province of Katanga. It consists of three administrative entities: two sectors – Balomotwa and Banweshi, and the *chefferie* of Kiona-Ngoie. The administrative centre, Mitwaba, is located approximately 460 km north of Lubumbashi (08° 37.179 S; 027° 20.324 E). Many roads leading to Mitwaba are impassable due to their deplorable condition. Only roads eastward and southward of Mitwaba are used occasionally as the security situation in the area remains fragile. A small airdrome in Mitwaba centre makes the area accessible by helicopter. The territory of Mitwaba is economically attractive thanks to its natural resources such as cassiterite illegally exploited by the Mayi-Mayi and the FARDC as well as civilian population. Several international companies have already conducted market exploration.

9. In 1999, after the Rwandan army seized Manono – 600 km north of Lubumbashi – the Military Headquarters of the Congolese Armed Forces (FAC) were moved to Mitwaba. The 63rd Brigade was deployed in Mitwaba in September 1998, alongside the Forces d'Autodéfense Populaire (FAP)¹ who later turned either into the Mayi-Mayi or police. They were trained and armed by President Laurent-Désire Kabila in order to fight against the Rwandan aggression and liberate Manono. The army of Zimbabwe was also deployed in the area to help the Congolese forces.

10. After the end of the hostilities in the province, the FAP was disbanded and the Mayi-Mayi lost the support they received at the time of the President Laurent Kabila. However, provincial and national administrative authorities thought the problem to be secondary and did not take adequate measures to disarm and integrate these groups into the regular army. This resulted in acute tensions between the FARDC soldiers and the Mayi-Mayi, each group accusing the other of living at the cost of the civilian population. Both groups began to commit atrocities against civilians and started to engage in extortions and abuses. For several years now, the population has been held hostage by the Mayi-Mayi and the FARDC.

11. At the Inter-Congolese Dialogue, the Mayi-Mayi groups were granted with the right to be treated as an independent political component. However, in contrast to the Mayi-Mayi of the Kivus and Oriental Province, who received posts in the Transitional Government, the Katangan Mayi-Mayi largely failed to make their voice heard. In fact, many politicians from Central and North Katanga, including those in the presidential circles in Kinshasa, feared to lose control over their fiefdom, which led to a massive distribution of light weapons and financial assets without serious engagement to canton and/or disarm these groups. There is information – difficult to verify – that the distribution of firearms to the Mayi-Mayi continued until the beginning of 2006. The result was an escalation of violence, as the rewarded groups rapidly split over the sharing of the booty while the ignored ones engaged in extremely violent attacks with the hope to be taken into consideration.

12. However, in 2002 the FAC became increasingly responsible for harassing the local population and extort their goods. At about the same time, some of the FAP combatants turned into Mayi-Mayi who claimed that they would protect civilians from the arbitrary

actions of the FAC. On several occasions the Mayi-Mayi asked the central government to re-deploy the 63rd Brigade elsewhere. As these requests remained unanswered, the Mayi-Mayi decided to take justice into their own hands and started to attack the FAC. At least 100 FAC soldiers were allegedly killed during clashes since 2002.

13. Several of the most notorious Mayi-Mayi leaders (Gédéon, Bonzolo, Bavon, Mongole, Mambole) known for most gruesome atrocities come from Mitwaba territory. As in other territories, the Mayi-Mayi of Mitwaba opposed in particular the 63rd Brigade, which, abandoned since the war by the central government, increasingly harassed and abused the civilian population. The difference between the assailants is, however, that the Mayi-Mayi have strong ties with the communities, and that, despite the horror that they spread, they initially set out to defend the population. The Mayi-Mayi and the supernatural power that is associated with them provide another element for the civilian population to fear reprisals and other consequences of spiritual nature.

14. The 63rd Brigade is composed of ex-FAC soldiers who have not undergone the *brassage* process and, thus, it retains its old chain of command. Even when RCD/G officers took over the commandment of the troops, some believed that real power was in the hands of those who reported directly to Kinshasa. The Brigade has long outlived the hospitality of the population. Some of its elements have been in Mitwaba for more than nine years, and although they have now married into the local population, they are still seen as foreign elements. The commandment realises that due to this link with the population, leaks about operations are frequent, which, in turn, makes them consider the entire civilian population as potential Mayi-Mayi spies. The Mayi-Mayi also trap the population by accusing them of collaboration. At least 13 customary chiefs of the environs were branded traitors because they welcomed FARDC soldiers in their villages and were executed between 2003 and 2005 and their populations chased away. Often this occurred in conjunction with other killings and the burning of villages.

15. These summary executions of traditional chiefs also need to be seen in the wider context of a struggle for power. There could be several reasons for this struggle, such as contesting views on succession with a rival family, conflict over economic influence (mining concessions depending on the area), or the outside influence concerning the control of certain chiefs. These conflicts were allegedly orchestrated by influential politicians in Kinshasa in order to increase their grip on the region and remind the President Kabila just how much interest he has in keeping them close by his side.

III. Situation between November 2005 and February 2006

16. In central Katanga, recent Mayi-Mayi activities have largely but not exclusively been concentrated in the Manono-Mitwaba-Pweto triangle. The operations have now pushed the Mayi-Mayi towards the Upemba National Park, which resulted in a shift of the triangle, with the current focus on Malemba-Nkulu, Bukama and Mitwaba territories. The park provides a good hiding-ground for the Mayi-Mayi and, despite continued atrocities against civilians, the Mayi-Mayi retain support from the population in which they are deeply ingrained.

¹ People's Self-defence Forces, some of which later became Mayi-Mayi

17. After the attack of Mayi-Mayi against the FARDC in Nkonga – 35 km north-east of Mitwaba – on 17 March 2005, the civilian population fled to Malemba-Nkulu, Pweto and the village of Mazombwe (7 km south-east of Mitwaba). Some of the civilians fled to Mitwaba centre, where most of the male IDPs were arrested, accused of being Mayi-Mayi, and detained in the prison of Mitwaba. At least 15 of them were later allegedly summarily executed by the FARDC and buried in a mass grave behind the prison. At the same time, the FARDC allegedly summarily executed eight civilians in Konga and four others in Kuswa, possibly in order to retaliate for the attacks of the Mayi-Mayi.

18. Due to the contribution of the Mayi-Mayi to the war, several rounds of negotiations attempted to solve the problem in central and northern Katanga. The limited successes of these talks and the continued destabilization of the region, as well as the arrival of a new Military Region Commander, led to military operations, which commenced in mid-November 2005. In the result of these operations, a large part of the Mayi-Mayi of Gédéon was disorganised and many of them surrendered. Those remained allegedly retreated to the Upemba National Park and to the north of Mitwaba.

19. In December 2005, Mayi-Mayi launched an attack on the village of Mazombwe forcing the civilians to flee to Mitwaba. In Dilenge, hundreds of civilians fled to the mountains near the village under the similar circumstances. Due to the insecure situation, the civilians preferred to stay in the bush until mid-February 2006 when administrative authorities managed to persuade them to come to Mitwaba.

20. The Team witnessed that, on 16 February 2006, as a result of negotiations between IDPs and Mitwaba authorities, 398 civilians who had been hiding in the mountains near Dilenge – 30 km east of Mitwaba – reached Mitwaba. During interviews with the member of the Team, many IDPs claimed that they were met with hostility and several women were beaten by widows of FARDC soldiers who had allegedly been killed by the Mayi-Mayi. The widows accused the newly arrived women of being wives of Mayi-Mayi combatants and their collaborators. All this increased mistrust between civilians and the military.

21. All men (estimated 109 persons) from the newly arrived group were suspected of being Mayi-Mayi and were detained by the military during their first night in Mitwaba for questioning. Their wives and mothers feared that the detainees might be accused of being Mayi-Mayi. In this environment of resentment and uncertainty women were reluctant to talk to the human rights officers (HRO) and some of the testimonies were obtained with difficulties.

22. The continuous number of abuses and human rights violations committed by the FARDC soldiers further exacerbates the situation in the area already suffered from atrocities committed by the Mayi-Mayi. Multiple cases of extortion, arbitrary arrests, subjugation to forced labour and rape prevent civilians from working the fields and searching for other sources of food, which, in its turn, leads to their further malnourishment.

IV. Methodology of investigation

23. On the basis of the reports received over the past several months, MONUC decided to conduct a special investigation mission to Central Katanga in order to look into the allegations made. For the purposes of the investigation qualitative methods of research were used, namely – participant observation and in-depth and unstructured interviews.

24. On 13 February, the team arrived to Lubumbashi where the HROs and other members of the team held meetings with local NGOs and other authorities in order to obtain more detailed information on the situation in the territory of Mitwaba.

25. In Mitwaba, from 14 to 19 February, the SIU visited two camps of IDPs – *Kananda* and *Mission*, the temporary place of residence of the newly arrived IDPs and the local medical centre. The HROs conducted more than 70 interviews with victims, relatives of victims, eyewitnesses, medical personnel, community leaders, local administrative officials and FARDC officers. The Team was able to establish names of 122 victims of human rights violations, including violations committed in 2002-2005. The SIU also visited the local prison, currently empty, and the place of the alleged mass grave of victims of summary executions in the prison of Mitwaba. Due to security problems and the absence of the MONUC military escort, the Team was able to visit only one abandoned village – Mazombwe – 7 km east of Mitwaba.

26. It should be emphasised that HROs faced many difficulties in identifying victims, their relatives and eyewitnesses of human rights violations and abuses as local civilian population and IDPs were reluctant to talk to outsiders for the fear of possible reprisals from the FARDC based in Mitwaba. Several FARDC soldiers in civilian clothes were dispersed among the IDPs, which also hindered the collection of testimonies.

27. It is often difficult to identify the real perpetrators of human rights violations reported by civilians. Thus, Mayi-Mayi combatants use military uniform and arms they had taken from the bodies of killed soldiers, thus making it difficult for civilians to distinguish who is who and identify the perpetrators. On the other hand, FARDC soldiers often put on civilian clothes and attack local residents blaming the attack on the Mayi-Mayi. Consequently, in many cases it is difficult to establish the identity of the real perpetrators.

28. Out of 97 cases registered by the HR team, 66 constituted summary and arbitrary executions. FARDC soldiers are held responsible for at least 33 executions, while 31 killings are attributed to the Mayi-Mayi and were committed during attacks on villages.

29. A large number of summary executions – 27 cases – attributed to the FARDC were committed in March and April 2005. After clashes between the FARDC and Mayi-Mayi near Nkonga in March 2005, the FARDC conducted operations in several villages and arrested civilians suspected of being Mayi-Mayi. Following these operations, eight civilians in Konga and four others in Kuswa were killed by FARDC soldiers of the 63rd Brigade.

30. According to several witnesses who had lost their family members, FARDC soldiers regularly arbitrarily kill male civilians during attacks on villages after having accused

them of being Mayi-Mayi. Ex-Mayi-Mayi combatant Kasereka is allegedly responsible for killings of several civilians in the village of Nkonga – 35 km south of Mitwaba - in March 2005. At least five men were killed by FARDC soldiers under his command and in his presence and several others were taken to the prison of Mitwaba. No one has seen them since the arrest.

31. At the same time, following military operations, a group of IDPs fled to Mitwaba. Many of the men in this group were arrested on the suspicion of being Mayi-Mayi. They were identified as Mayi-Mayi combatants by Kasereka, a former Mayi-Mayi of the group of Gédéon, currently integrated into the 63rd Brigade. However, according to several independent testimonies, many of those identified as Mayi-Mayi and arrested by the FARDC in Mitwaba had never participated in any hostilities. These identified civilians were allegedly forcefully converted by the Mayi-Mayi who used their special water solution, known as KIZABA, to 'baptise' civilians.

32. According to several witnesses of the events of March 2005, interviewed by HROs, some 90 men were arrested on the fourth day of their stay in Mitwaba after they were identified as Mayi-Mayi by Kasereka. They were all taken to the prison of Mitwaba and detained in the same cell. They were allegedly beaten with belts by guards on a regular basis. The wives of the detainees tried to visit them in prison, but they were authorised only to deliver food and were not allowed to see their husbands even once. In April, at least 20 detainees were taken away from the cell by FARDC soldiers and they disappeared since then. The rest of the detainees were released after MONUC's visit on 25 April 2005 on the condition they would keep silence.

33. Although at least four witnesses claimed that the number of disappeared persons was close to 20, the team was able to determine the names of 15 civilians accused of belonging to Mayi-Mayi who disappeared in April 2005, and to talk to some members of their families.

34. Residents of Mitwaba believe that all the disappeared were summarily executed by the FARDC. Their bodies are allegedly buried behind the prison of Mitwaba in several holes containing two-three bodies each (alleged mass graves). The civilians interviewed claimed that the ground behind the prison changed in a manner which allowed them to conclude that several holes were dug up and later covered with earth again. Their suspicions were reinforced when, after heavy rains in October 2005, human remains appeared on the surface. The local administration held a meeting on the issue and a police report was sent to Lubumbashi. However, due to the absence of a medical examiner no action was taken to excavate these remains and identify the victims. The team visited the site and confirms that the ground just behind the prison looks significantly different from other areas, but no human remains were visible.

35. Since 2004, executions committed by the Mayi-Mayi have become more aggressive, and traditional chiefs are usually the final targets of Mayi-Mayi raids. During the passed two years they attacked civilian villages looking specifically for traditional chiefs. Two main reasons for their killings are that they either collaborate with the FARDC or are killed following orders of rival traditional chiefs in their struggle for power. If the Mayi-Mayi fail to find a traditional chief, they often abduct or kill their family members. In February 2005, during the Mayi-Mayi attack on the village of Mwema, they abducted four family members of the traditional chief, two of whom were later executed. During the attack on the village of Mazombwe – 7 km east of Mitwaba –

on 1 December 2005, the Mayi-Mayi allegedly killed the traditional chief of the village, the only victim of the attack. Many of the civilians were spared during these attacks. At least thirteen traditional chiefs have been killed since 2003. The Mayi-Mayi are often used by the chiefs seeking to take power in contravention of the existing traditional procedure of nomination of a chief by "*donneur de pouvoir*"², the only person entitled to choose a chief. Once a chief is killed or chased away, the one who used the Mayi-Mayi takes the power.

b. Rape

36. Human Rights Officers registered one attempted rape committed in January 2006 by a FARDC soldier. At least seven women were victims of rape committed by the FARDC before 2005. All the rapes took place when women were on their way to find food for their families – whether by a river or in the fields. As a consequence of such incidents, civilians, both men and women, do not go to work the fields. This makes the nutritional situation disastrous.

37. There are all grounds to believe that cases of rape are numerous, but victims and witnesses are unwilling to talk about them as they are afraid of revenge of the soldiers. Another factor that hinders victims from talking to HROs is the taboo of rape and the stigma attached to victims in the Congolese culture. A separate investigation into this issue is required.

c. Cruel, inhuman and degrading treatment

38. The MONUC Team confirmed ten cases of arbitrary arrest and cruel, inhuman and degrading treatment committed by the FARDC in March–April 2005. All the cases involve civilians accused of being Mayi-Mayi combatants and detained in the Mitwaba prison. They were regularly beaten by belts and were not given food during all the period of detention. After being released, at least three victims passed away as the result of the ill treatment in the prison.

d. Looting and destruction of private houses

39. The team established that at least 24 villages were looted and burnt in the *chefferie* of Kiona-Ngoie, territory of Mitwaba by FARDC and Mayi-Mayi since 2003. Four villages were deserted due to insecurity. The location of the villages is the following³:

- North of Mitwaba – four villages burnt and one deserted;
- North-west of Mitwaba – five villages burnt and one deserted;
- East of Mitwaba – six villages burnt and two deserted;
- West of Mitwaba – three villages burnt;
- South of Mitwaba – six villages burnt.

40. The team visited the site of the former village of Mazombwe – 7 km east of Mitwaba. The village is completely deserted and twenty huts of the IDPs and the make-

² The person who nominates a new chief, literally "the one who gives power"

³ **North:** Kakundo, Kongo, Watupempe, Tambo, *Kintsba* (deserted)

North-west: Dilenge, Bokonge, Bulanda, Kilungu, Kusua, *Mwema* (deserted)

East: Masombwe, Masunda, Kansowe, Mubidi, Kwihongo, Kifinga, *Katolo, Kisele* (deserted)

West: Mwele, Musumali, Kyakaba

South: Kibula, Mumbolo, Muvule, Mukana, Kyalwe, Kyiubo

shift house of their traditional chief had allegedly been burnt by Mayi-Mayi. The residents and IDPs of the village of Mazombwe were displaced to Mitwaba.

e. Extortion

41. On several occasions residents of Mitwaba complained about extortion of goods and livestock committed by the FARDC on a regular basis. They also emphasised that the presence of MONUC guarantees their protection from such acts.

f. Illegal exploitation of natural resources

42. According to several eye-witnesses, the soldiers of the 63rd Brigade exploit open cassiterite mines in Kansowe – 7 km from Mitwaba. Most of these soldiers dig-up cassiterite for the benefit of their commanding officers who are engaged in its commercialisation. Due to the lack of time, the MONUC team was unable to investigate this question further; however, the existence of this source of enrichment is believed to explain why the 63rd Brigade is stationed in Mitwaba.

VI. Alleged perpetrators

63rd Brigade of the 6th Military region of the FARDC

43. Soldiers perpetrating human rights violations in the territory of Mitwaba belong to the 63rd Brigade of the 6th Military Region. Until the end of 2004, the brigade was under command of Colonel Gaspar TshuTshu (ChuChu) known for committing numerous acts of extortion against the civilian population and for his involvement in cassiterite trafficking in collaboration with certain Mayi-Mayi groups. At the beginning of 2005, he was redeployed to Manono to take command of 67th Brigade. He was arrested in October 2005, accused of "theft and wilful destruction of property" and is currently detained in the Kasapa prison of Lubumbashi. He was replaced by Colonel Tshisweka Mario (ex RCD/G).

44. Based on testimonies gathered, the Team concluded that discipline of soldiers improved significantly under the command of Colonel Tshisweka. According to the residents of Mitwaba, the military stopped harassing civilians and subjecting them to cruel, inhuman and degrading treatment. However, right after the situation changed for the better, in January 2006, the Colonel was called to Lubumbashi for "consultations". The soldiers profited from his absence and returned to their old practices of harassing and threatening civilians and IDPs, and extort money and goods from them. Major Ekembe was in charge of the garrison in the absence of Colonel Tshisweka until 2 April 2006 when he was called to Lubumbashi in order to explain his hostile attitude towards the deployment of MONUC. Currently, the 63rd Brigade is under the commandment of Captain Vincent "Sac Vide", but the command of the 6th Military Region ordered Colonel Mario Tshisweka to return to Mitwaba to take over the commandment of the 63rd Brigade.

45. FARDC soldiers stated that they did not receive their salaries regularly and, consequently, were not able to sustain their families. This created an atmosphere of hostility towards IDPs and civilians who receive food from the international community.

The Team witnessed that the living conditions of the military were deplorable and they often did not have uniforms – boots and clothes.

46. The most common weapon used by the perpetrators is AK-47. The fact that the soldiers are armed gives them numerous opportunities to abuse their power by intimidating civilian population, which increases the insecurity in the area.

47. A captain of the 63rd Brigade is responsible for receiving complaints from civilians and is supposed to forward them to the *Auditorat Militaire*⁴ in Kipushi as there is no office of the Military Prosecutor in Mitwaba. Several victims and witnesses claim to have filed complaints to the military commandment in Mitwaba indicating names of the alleged perpetrators. Despite this fact, most of the perpetrators are not arrested and not prosecuted; their cases are not submitted to the *Auditorat Militaire*. They continue to serve in the Brigade.

Mayi-Mayi

48. The Mayi-Mayi of Gédéon and his groups, including the Mayi-Mayi of Bavon, are reportedly responsible for most of the Human Rights violations committed in Central Katanga in general, and in the territory of Mitwaba in particular. Several crimes were attributed to the Mayi-Mayi led by Katema who was killed by the FARDC in January 2006. Mayi-Mayi Kasereka accountable for numerous killings of civilians surrendered in at the end of 2004 and was integrated into the 63rd Brigade of the FARDC in Mitwaba.

49. Mayi-Mayi combatants are often recruited by force, sometimes even after they have been abducted, and are generally very young. They are not trained and have no basic skills in using firearms and conducting warfare.

50. Although this conflict has a very local dynamic it is tied to the regional rivalries that exist in the province. According to various sources, Mayi-Mayi combatants are often well-dressed in new uniforms and possess new firearms (e.g. AK-47). There are allegations that the Mayi-Mayi might still be financially supported by presidential circles, which gives them a possibility to buy firearms. Several advisors to the President are known to have been involved in previous arms supplies for the Mayi-Mayi and are suspected to continue to stir up the conflict.

VII. Response of the Congolese authorities

51. The SIU held a number of meetings with administrative officials, community leaders and FARDC officers in order to discuss the current situation in the territory of Mitwaba.

52. Civilians complained that the military authorities are slow in identifying perpetrators and bringing them to justice. In cases when perpetrators are known they are not prosecuted which creates and maintains the culture of impunity.

⁴ Military Prosecutor's office

53. The 63rd Brigade is under the jurisdiction of the *Auditorat Militaire* of Kipushi located 530 km south of Mitwaba. According to the *Auditeur Militaire*⁵ of Kipushi, the only complaint they received from Mitwaba concerned the former commander of the 63rd Brigade Colonel TshuTshu. The prosecutor explained the small number of complains by the long distance and bad communication between Mitwaba and Kipushi. During the time the Team was in Mitwaba, the military judge sent a file with complaints to Lubumbashi.

54. The *Auditeur* is aware of the critical situation in Mitwaba and he expressed willingness to look into the situation and investigate the alleged mass killings of Mayi-Mayi in the Mitwaba prison. He asked MONUC to facilitate the transportation of magistrates to Mitwaba.

55. According to the Commander of the 63rd Brigade of the FARDC in Mitwaba, all the territories north, east and south of Mitwaba are secure. The only exception is the northern and central part of the Upemba National Park - approximately 10 km west of Mitwaba – where operations against Mayi-Mayi of Gédéon are ongoing. However, there are indications to the contrary. Thus, the IDPs do not trust these declarations and are unwilling to return to their villages. Most of these villages north of Mitwaba are burnt, and the current rainy season makes it virtually impossible for the IDPs to find proper shelter.

VIII. Humanitarian situation

56. The present humanitarian situation in the area around Mitwaba requires urgent attention. Some 14,000⁶ IDPs reside in three camps - Makanda, Mission, Kananda – and a local hospital. Some of them have been living there since 2004; others came in 2005 – after attacks on Nkonga and Mazombwe. On 16 February 2006, a new group of 398 persons came to Mitwaba from the area near Dilenge – 30 km east of Mitwaba, and a larger group arrived after the departure of the Team. Most of the IDPs come from villages north of Mitwaba that had been burnt by either the Mayi-Mayi or the 63rd Brigade of the FARDC.

57. The living conditions in the IDP camps are appalling. A significant number of IDPs is suffering from severe malnutrition and, before the recent arrival of food aid partially transported by MONUC, had no other option but to eat the wastes of manioc leaves. The food crisis of Mitwaba had been known for several months, in fact, but due to logistical and security concerns WFP could deliver only 30 tons of food items in February 2006 with the help of MONUC. However, on 5 April 2006, the WFP started another operation in order to deliver 160 tons of food (corn flour, oil and salt) to the IDPs in Central Katanga.

58. The reasons for this crisis are two-fold. First, in a perimeter of 5 to 7 km the soil is not suitable for agriculture. Hence, the population needs to collect food from beyond this area. Due to the increased attacks of Mayi-Mayi, such gathering has become increasingly

⁵ Military Prosecutor

⁶ as of 25 April 2006

impossible, considerably reducing the availability of food for the population of Mitwaba. The IDPs are, of course, the first victims of such a shortage.

59. Second, the population has suffered from the looting of agricultural produce by the military of the 63rd Brigade based in Mitwaba. Due to this insecurity, as well as other abuses, the IDP population has not yet received distributions of vital household goods and shelter materials because the risk of such a distribution leading to looting attacks by the FARDC is too high.

60. There has been considerable pressure from Lubumbashi and Kinshasa on the IDPs of Central Katanga to return to their villages. Civilian authorities in Mitwaba unanimously agree that the idea of repatriating the IDPs (mostly located in the Northern part of the territory) is premature. To them, the 63rd Brigade is not in a position to protect these villages in case of new Mayi-Mayi attacks. The Mayi-Mayi attacks on Nkonga on 27 January, and Muvule on 17 February, only confirmed this view. The authorities also fear that extortions by the military would resume. Nonetheless, pressure remains to repatriate IDPs for political (elections) and military (IDPs as cannon fodder) reasons since the return of the displaced would be heralded as the proof for the increased stability and improved security situation. Thus, this would not necessitate increased humanitarian presence and the deployment of MONUC troops in the area, who might hinder illegal exploitation of natural resources by the FARDC and their political benefactors.

IX. Follow-Up

61. MONUC follows the situation in the territory of Mitwaba and conducts regular meetings with military commandment and administrative authorities in Lubumbashi in order to find a solution to the current situation in Mitwaba territory and bring impunity to an end.

62. On 11 March 2006, during the visit to Lubumbashi of Jean-Marie Guéhenno, Under-Secretary-General for UN Peacekeeping Operations, it was decided to send the 63rd Brigade for *brassage* to Kamina. However, the military leadership of the 6th MR claims that there are many difficulties in terms of logistics as there are no means to transport the soldiers. According to CONADER, the humanitarian situation in the military camp in Kamina is critical and it will be exacerbated with the arrival of the 63rd Brigade, as there are no means to sustain all soldiers. The 6th MR suggested that the 63rd Brigade should walk from Mitwaba to Likasi through the Upemba National Park and that they would "clean" the Mitwaba-Likasi axis of the Mayi-Mayi. It was feared however that it might cause more human rights violations and a new wave of IDPs. As a result, in mid-April, it was decided that the brigade would stay in Mitwaba and that Colonel Mario would take over the commandment. His top priority would be to assist the peaceful surrender of the Mayi-Mayi leader Gédéon.

63. On 14 March 2006, the Commander of the 6th Military Region, General Divioka, was suspended after he was accused of misbehaviour and corruption. General Tshimbumbu was appointed the head of the 6th Military Region. General Tshimbumbu

confirmed the FARDC intention to work in cooperation with MONUC, despite the fact that his influence on the troops is limited as he belongs to *ex-Tigre Katangais*⁷.

64. On 29 March 2006, Major Ekembe, commander of the 63rd Brigade, arrested an emissary sent to Gédéon for negotiations despite the fact that this plan was supported by the civil and military authorities in Lubumbashi and by MONUC. Furthermore, FARDC soldiers based in Mitwaba installed roadblocks and searched all trucks of CARITAS carrying goods for the IDPs. They accuse MONUC and local administrative authorities of collaborating with the Mayi-Mayi and trying to hide Gédéon.

65. The new Commander of 6th military region called Major Ekembe to Lubumbashi for consultations where he arrived in the beginning of April 2006.

66. The second Special Investigations Mission is currently working in Central Katanga to follow up on the Human Rights situation.

X. Conclusions

67. The team established that in spite of the conducted operations and numerous reassurances of the military, there are not enough guarantees of the security in the region even for the minimal protection of civilians. Mayi-Mayi and the 63rd Brigade of the FARDC continue to violate human rights of civilians almost on a daily basis.

68. Local population and IDPs have no possibility of adequate legal protection against multiple cases of harassment and cruel, inhuman and degrading treatment committed by the military deployed in Mitwaba. The local administration has no legal authority over the military and is unable to protect civilians from the soldiers who often use both men and women as slaves forcing them to transport their goods and military materials.

69. The alleged summary execution of suspected Mayi-Mayi combatants only reinforced the mistrust of civilians and the Mayi-Mayi towards the 63rd Brigade of the FARDC soldiers deployed in Mitwaba. These implications make prospects of a peaceful conflict resolution questionable. Moreover, the latest events occurred in Mitwaba showed clearly that the 63rd Brigade was not ready for any negotiations with Gédéon and was trying to hinder the process.

70. Due to the insecurity situation and the lack of basis infrastructure, the IDPs will not be able to return to their home villages, and the population of Mitwaba will have to try and survive alongside. The sending of the 63rd Brigade is sent to *brassage* without a replacement (an integrated brigade) and failure to organise a peaceful surrender of Gédéon, will leave a vacuum that will most probably be filled by the Mayi-Mayi. The removal of the 63rd Brigade has thus to be part of a broader and more coordinated approach for Mitwaba and Central Katanga which takes into account the humanitarian and the security problems in the area.

⁷ *Ex-Tigre Katangais*: former soldiers fighting for the independence of Katanga who were in exile in Angola. They fought against the Mobutu regime in the framework of the secession project of Moïse Tshombe in the 1960s. Despite the fact that they supported the seizure of power by Laurent Kabila in 1997, they were marginalized by those close to President Joseph Kabila.

XI. Recommendations

71. To the Minister of Defence, the Commander of the 6th MR and the *Auditorat Militaire*:

- Ensure conditions for the replacement of the 63rd Brigade by an integrated brigade;
- Elaborate a DDR plan for Katanga which would include mobile teams;
- Bring to justice the identified perpetrators of Human Rights abuses and violations, including those responsible for the illegal exploitation of cassiterite mines, on the basis of the complaints submitted to the 63rd Brigade of the FARDC by the victims of these violations;
- Open an investigation into the alleged summary executions committed in the prison of Mitwaba in April 2005 by the 63rd Brigade of the FARDC and the alleged mass graves of the victims of these executions;
- Conduct a thorough investigation into human rights violations committed by General TshuTshu (ChuChu);
- Ensure that all FARDC soldiers follow military discipline and provide security for civilians;
- Ensure regular salary payments to FARDC soldiers so they cease harassing civilians and extort their money and goods;
- Investigate who finances the Mayi-Mayi and how they receive new weapons and uniforms, and to cut these sources in order bring the hostilities to an end;

72. To Humanitarian UN agencies and NGOs:

- Continue to encourage all efforts of distribution of food and non-food and monitor the operations in order to ensure that humanitarian assistance does not worsen the security situation;
- Consider the increase of humanitarian help (food and water) in the view of the arrival new IDPs to Mitwaba;
- Facilitate the return of IDPs to their original places of residence provided the security situation permits.

Annex

HRVs committed in the territory of Mitwaba between March 2005 and February 2006

	FARDC	Mayi-Mayi	Unidentified Armed Men	Total
Summary Execution	33	31	2	66
Attempted Summary Execution	-	3	-	3
Rape	1	-	-	1
Abduction	3	8	3	14
Arbitrary arrest/ CIDT	10	3	-	13
Total	47	45	5	97