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Report on the conclusions of the Special Investigation concerning allegations of summary executions and other human rights violations perpetrated by the Armed Forces of the Democratic Republic of Congo (FARDC) in Kilwa (Katanga Province) on 15 October 2004.

I. Summary

1. Between 22 and 24 October 2004, a team of the special human rights investigative Unit of MONUC, comprising officers of the human rights, political affairs, humanitarian affairs, child protection and public information sections, undertook a mission of verification in Kilwa, a mining town of 48,000 inhabitants located at the border of Zambia, on the Mwero Lake (Pweto territory, High Katanga district, Katanga Province). Kilwa is located 350Km north of Lubumbashi, in an area where MONUC is not represented on the ground.

2. According to local sources, more than 100 people were killed following the counter-offensive launched by members of the Armed Forces of the Democratic Republic of Congo (FARDC) (62th brigade headed by Colonel Ilunga Ademars) on 15 October 2004; the FARDC aimed to crush a poorly organised and poorly armed rebellion movement which occupied the town of Kilwa in the early hours of 14 October 2004. MONUC was able to gather some information related to the death of 73 people, at least 28 of whom appear to have been summarily executed. MONUC also found that the FARDC were responsible for acts of pillage, extortion, and arbitrary detention.

3. The rebellion was orchestrated by at least ten apparently naïve and ill-equipped persons, claiming to belong to the Revolutionary Movement for the Liberation of Katanga (MRLK). This movement was unknown before the attack in Kilwa. Contrary to early rumours, neither the Mayi Mayi nor Zambian citizens were involved in the rebellion. The participation of Katanga state police force is also unlikely. The attack by the Revolutionary Movement for the Liberation of Katanga (MRLK) met almost no resistance from members of the military present in Kilwa - estimated between 0 and 20 persons – or the local police. The MRLK managed to recruit some young people locally – estimated to less than 100 persons. It is very likely that the MRLK did not prepare this operation on its own but that it was manipulated by other persons. However, MONUC did not find definite proof of persons who would have mandated and supported the MRLK. There are strong suspicions that high-ranking military officers may have been involved in the incident.

4. The events in Kilwa have generated a massive exodus of civilians, probably up to 90% of the local population. During MONUC's visit to Kilwa, only half of the people who had fled had come back to Kilwa. Several persons found that their belongings had been pillaged.

5. Since its investigation of October 2004, MONUC has put pressure on local and national authorities to ensure that the persons responsible for the crimes perpetrated in Kilwa are being brought to court. On 29 June 2005, the Colonel Ademars, Commander of the 62th brigade of the Armed Forces of the Democratic Republic of Congo (FARDC) was arrested by Military Court officials in Lubumbashi. This arrest constitutes an important step in the fight against impunity in the Democratic Republic of Congo; many more efforts must still be made to ensure that other members of the military responsible and accessory to these crimes are being arrested, and to ensure the safety of victims and of witnesses. Indeed, the threats and intimidations made against the human rights organisation ASADHO/Katanga, based in Lubumbashi, following its investigation of the incident in Kilwa, demonstrate the risks taken by those who have denounced the events that occurred in Kilwa.

6. MONUC has been in contact with the mining company Anvil Mining concerning allegations according to which the FARDC appear to have used the company's logistic and at least three of the company's employees during their counter-offensive in Kilwa. As expressly stated in the *United Nations Norms on the Responsibility of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, and in the *OECD (Organisation for Economic Co-operation and Development) Guidelines for Multinational Enterprises*, it is crucial that activities of international investors be undertaken in conformity with the protection of human rights. The present report includes the conclusions reached by MONUC following its investigation on the ground and the discussions it had with the company Anvil Mining.

II. Methodology

7. Despite MONUC's request to travel to Kilwa on 21 October, General Alengbia Nzambe, the 6th Military Regional Commander, delayed the mission by one day to allow his deputy General Sylvain Tchokwe to travel to Kilwa before the arrival of the team of investigators. The team found that potential key witnesses in Kilwa had been warned by the military not to collaborate with MONUC. In order to avoid exposing civilian sources to reprisals the team decided to limit its investigations and contacts with the local population and took all possible preventive measures to protect the anonymity of its sources.

8. MONUC investigations were also constrained by the fact that many inhabitants who had fled the town had not returned yet to Kilwa (around 40%) making it difficult to verify allegations of enforced disappearances.

9. Before travelling to Kilwa, the team met with the Governor of Katanga, the Commander of the 6th military region and the Police Provincial Inspector. At Kilwa, the team met the local civilian authorities, the Commander of 62nd Brigade of the FARDC and the local Deputy Police Chief.

III. Account of the Events

14 October 2004

10. In the early hours of 14 October at around 2am, a group of six to seven people¹ led by Alain Kazadi Makalayi, a 20 year-old fishermen from the town of Pweto, who claimed to be the General in Chief of the Mouvement Révolutionnaire pour la Liberation de Katanga (MRLK) attacked and briefly occupied Kilwa. The exact circumstances of the start of the operation have not been definitely established. Preliminary reports refer to an attack having been launched from Nshimba, a small island 7 km from Kilwa, on the Zambian side of Lake Mweru, and that it then passed through Katanda, a small fishing village, situated approximately 10 kms away from Kilwa. However, it has not been possible to confirm this information.

11. Despite their limited weaponry, the MRLK seemingly encountered no resistance from the troops – about 10 – 20 soldiers – and from the local police based in Kilwa. No armed confrontation has been reported. The majority of the FARDC forces based at Kilwa and in the area around Pweto had been redeployed elsewhere between September 2004 and the day before the attack. On 14 October, early in the morning, the insurgents arrested two soldiers who were seen later with the hands bound, at the home of a local teacher who supported the insurgents. They had gone to the police station to ask the police to join them claiming that they had the support of military and politicians from the whole province of Katanga. Apparently convinced by Kazadi's claims, at least eight policemen, including the chief of police, allegedly decided to join the insurgents. These then took five guns and ammunition from the police station. Then they headed to the army armouries and stole 17 weapons. Throughout the day of 14 October, a number of FARDC and police officer, who had not sided with the insurgents' second in command, a group of 40 unarmed Congolese previously recruited by Kazadi in the island of Nshimba reached Kilwa and jointed the initial group.

12. Kazadi and his second in command, Bwalya, went to the MSF-B office in search of a radio. They intended to use the radio to proclaim to the world the liberation of Katanga, they were thus dismayed when they were told that this radio could not connect them directly to RFI or the BBC. According to Bwalya, Kazadi then tasked him with announcing to the population that he had secured some money in South Afarica so as to buy new tractors and nets. In the meantime, Kazadi and a few armed followers allegedly headed to the fuel depot of Anvil Mining in Kilwa.

¹ According to some of the presumed assailants the group was allegedly composed of Kazadi, his deputy Mpundu Bwalya, a retired military who was Kazadi's uncle, a former policeman and four other people.

13. En route Kazadi stopped at the market and held a public meeting in the course of which he proclaimed the independence of Katanga. He stressed that ‘the time for pocketing the money from the mines’ was over for President Kabila and Katumba Mwanke –a presidential adviser. He then told the audience that there was nothing to fear since more cities in the Province were doomed to fall during the day and that the FARDC Brigade in Pweto and high-ranking officials were supportive of his initiative. He asked the inhabitants of Kilwa to side with their cause and take up arms. He concluded by asserting that news of the liberation of Katanga could soon be heard on the international radios.

14. At Anvil’s petrol depot in Kilwa, Kazadi ask the employees to help him make contact with the ‘whites’ in the company at Dikulushi, situated about 30 km to the north of Kilwa. The insurgents insisted all the time that they had not come to disturb the activities of the company. When the Anvil Mining employees refused to negotiate, they became more aggressive and demanded access to the petrol and apparently obtained some. In the early morning, the insurgents distributed weapons to their sympathizers – estimated to be fewer than 100 people – who were mainly young men from the town with very little or no knowledge of handling weapons. Four of them – detained afterwards and transferred by the FARDC to Lubumbashi – told MONUC that they had been recruited by force. According to other reports the insurgents paid or promised to pay civilians who joined them. The new recruits, in their excitement at being given weapons, started to fire them into the air. Kazadi had to intervene and give them an order to stop following complaints from the population.

15. At the end of the morning Kazadi’ supporters were told to return home for lunch and to meet again later in the afternoon. This was the time when an estimated 90% of the 48,000 inhabitants of Kilwa chose to flee and either went by boats to the island of Nshimba or took the roads to hide in the bush. In the absence of any information on the radios giving some credibility to the promised liberation of the province, they rapidly understood that this movement in rags with no proper leadership would easily be wiped out by the regular armed forces. The assailants put up no resistance to these departures.

15 October 2004

16. In the afternoon of the 15 October the 62nd brigade from Pweto under the command of Colonel Ademars began an attack on the town. According to MONUC the operation had been authorized by the Kinshasa authorities who had overturned the instructions of the Commander of the 6th military region (ex-MLC). [The text has been altered in the public report. MONUC’s earlier confidential report of the Special Investigation in Kilwa, dated 10 November 2004, stated: ‘The 62nd Brigade of Pweto under the command of Colonel Ilunga Ademars – launched their attack on the town with vehicles provided by (crossed out)/ from the local mining company, Anvil Mining.’]

17. Before entering the town, the FARDC bombarded Kilwa, destroying at least 5 or 6 houses. Then they were in an armed engagement with Kazadi’s group mainly in the area

around the market and along the road to the airport. The confrontation lasted for one or two hours. The FARDC did not sustain any casualties. Afterwards the FARDC carried out house to house searches which lasted until the afternoon of 16 October. During this operation the FARDC carried out summary executions and other human rights violations.

16 October 2004

18. In the evening, Alain Kazadi was eventually arrested in the vicinity of Kilwa after having been shot and wounded in the hand and back. Kazadi was taken to the hospital where he met Colonel Ademars. According to a witness, Kazadi expressed his bitterness in front of Colonel Ademars calling him a traitor and refusing to speak to him, being of a higher rank. Colonel Ademars contested this version and asserted that he was not part of the plot and allegedly violently removed Kazadi's drip.

17 October 2004

19. On 17 October 2004 the situation returned to calm. Katumba Mwanke, an advisor to the President, the Governor Kisula Ngoy, the commander of the 6th military region and other officials visited the island of Nshimba where a large part the population had fled for safety. [According to MONUC ninety per cent of the population had fled the fighting on 14 October 2004.]

IV. Political analysis

20. Despite the rumours, neither the Mayi Mayi nor Zambian citizens were implicated in the attack. The participation of the former gendarmes of Katanga is also very unlikely.

21. The rebellion was apparently orchestrated by a group of people who knew the area well. This does not come as a surprise because during the period of July and October 2004, Kazadi appears to have travelled to Kilwa several times, to share his plan of action with several persons without being bothered by the police. Kazadi also appears to have travelled to Pweto, crossing the Zambian border and travelling back to Kilwa via the island of Nshimba without being stopped. According to a police source, Kazadi was aware of the frustration experienced by members of the police force – all ex-FAP²-; he could expect that them not to oppose much resistance and that some of them would even join him in the plot. Kazadi also knew that he could count on some frustration prevalent amongst the local community in relation to Anvil Mining's activities. This mining company appears to exploit the rich silver/copper mine in Dikulushi with the presumed support of certain members of the presidential team who have links with Katanga businessmen. The company was indeed accused by parts of the population of employing non-native persons and of not contributing enough to the improvement of the level of life of the local community³.

² Forces d'Autodéfense Populaires : they were created by the President Laurent Désiré Kabila.

³ In its press release of 21 June 2005, Anvil said that the company was involved in two community projects, a school, and the renovation of the local hospital.

22. However, based on information from a variety of sources in Kilwa and on the interviews with some of the insurgents detained by the 6th military region at Lubumbashi, these assailants were too naïve and badly equipped to carry out the attack.

23. According to Kazadi, the attack was part of a much larger scheme planned by local pro-independence movements. At the last minute this attack appears to have been called off but Kazadi went ahead with the plan. In support of this theory, Kazadi allegedly told one of the persons interviewed that on the eve of the attack, he had received orders to postpone the offensive and return to Lubumbashi to receive new instructions. Kazadi allegedly decided to ignore this order, given that he was convinced by the separatist cause that he espoused and perhaps by the magial protection accorded by the Mbidi Sect, a popular sect in Katanda, a fishing village that the insurgents had passed through. Besides that, the people interviewed at Kilwa reported that Kazadi's statements led them to believe that the insurgents were waiting for military forces, in particular those of the brigade based in Pweto, to join them in their action. From this perspective, it is tempting to believe that this group was not an uncontrolled group at the heart of a global separatist movement but rather the easy prey of a group of manipulators who wished to create a situation of instability in Kilwa and ultimately to play a double game.

V. Allegations of human rights violations committed by FARDC troops

V.1. Summary Executions

24. According to local sources more than 100 civilians were killed or were summarily executed during the FARDC counter-offensive on 15 October 2004. The military authorities at Kilwa and the Governor of Katanga stated that 24 – 30 members of a militia had been killed and that the local civilian authorities had no knowledge about the number of dead. Kilwa hospital sources, who had coordinated the burial of the bodies, denied to MONUC that they had information on this subject. It is worth noting that before meeting the MONUC team, these sources had been called to a meeting with Colonel Ademars. According to information from independent sources 73 people had been found dead, 28 of whom had been summarily executed.

- 11 people drowned on the lake trying to flee from Kilwa
- 34 bodies were allegedly found and buried by the inhabitants of Kilwa. Among them there were victims of summary executions, insurgents killed in armed confrontations with the FARDC, and civilians killed by stray bullets.
- At least 28 people, suspected of supporting the insurgents, are believed to have been summarily executed.
- The MONUC team received information according to which the military allegedly buried an undetermined number of bodies, principally the victims of summary executions.

25. After MONUC's investigation, ADADHO/Katanga estimated in its report 'Rapport sur les violations de droits de l'homme commises a Kilwa au mois d'octobre 2004' of January 2005 that more than 90 people may have been summarily executed by the FARDC.

V.2. Details about Summary Executions.

26. The accounts of eyewitnesses and survivors obtained by MONUC mention that after the fighting between FARDC and the insurgents, soldiers allegedly carried out house to house searches and summarily executed on the spot a number of civilians and insurgents (dressed in civilian clothes) suspected of being combatants. Other people were allegedly detained before being transported to execution sites. According to a military source, the soldiers were allegedly given order before the attack 'to shoot anything that moved'. On 21 October, the MONUC team was told by Colonel Ademars that when the armed entered Kilwa, they only found insurgents as all civilians had fled.

27. Four men and the boys (listed below) were allegedly summarily executed by FARDC soldiers according to eyewitnesses reports given to MONUC:

28.

29. A list obtained by MONUC from local independent sources indicated that twelve other people were also allegedly summarily executed among them: **Severa, Ilunga Ndeka Ndeka et Nyembo.**

V.3. Illegal Detentions

30. The military authorities obstructed MONUC's investigation into the situation of prisoners who had captured in Kilwa and then transferred to Lubumbashi. Between 18-25 October 2004 the Commander of the 6th military region and the Governor on several occasions refused MONUC access to the detainees and denied information about the number and identity of those in detention, on the pretext that they were in 'a state of shock' and that military inquiries were underway. On 26 October, MONUC was finally able to see the detainees. It was only on 28 October that the Commander of the 6th military region gave MONUC permission to visit and interview the prisoners in private. Two prisoners, including the leader of the uprising, Alain Kazadi, died while in hospital. According to the military they succumbed to their injuries, but only an independent autopsy would be able determine the truth regarding the deaths that occurred while in custody.

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V.4. Pillage and Extortion

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VI. Allegations concerning the multinational company Anvil Mining

36. According to statements made to MONUC by eyewitness, the Armed Forces of the Democratic Republic of Congo (FARDC) used vehicles of the mining company Anvil Mining during their operation in Kilwa. These vehicles appear to have been used to transport pillaged goods as well as corpses – which may have included victims of summary execution – to the area of Nsensele; there, MONUC located two shallow graves and one individual grave. Anvil Mining has confirmed to MONUC that the FARDC did use the company's vehicles but Anvil has denied that the vehicles were used to transport corpses or pillaged goods. Anvil Mining has also acknowledged that planes chartered by the company to evacuate its personnel to Lubumbashi were used on 14 and 15 October to transport approximately 150 soldiers in the area of operation. These planes were also used to transport to Lubumbashi some of the suspects arrested by the army following its counter-offensive in Kilwa. MONUC was able to confirm that three drivers of the company Anvil Mining drove the vehicles used by the FARDC⁴. MONUC was also able to confirm that food was provided to the armed forces in order to – according to Anvil – prevent the pillage of goods of civilians. Anvil also appears to have acknowledged to have contributed to the payment of a certain number of soldiers.

37. In October 2004, the Commander of the 6th military region in Lubumbashi informed MONUC that the intervention of the FARDC to bring safety back to Kilwa was made possible thanks to the logistical assistance given by Anvil Mining. On another occasion, during an interview made with an Australian television channel (ABC) on 6 June 2005, the President and CEO of Anvil Mining, M. Bill Turner, responded to a question concerning the use of Anvil Mining vehicles by saying “so what?”. He acknowledged that Anvil Mining had provided logistic to the army, following a “request from the army of a legitimate government”. He also added: “We helped the military to get to Kilwa and then we were gone. Whatever they did there, that's an internal issue”⁵. According to a part of the interview which was not televised, Mr Turner would have

⁴ The information of MONUC according to which an international security officer of Anvil was also in the vehicles used by the army was denied by Anvil.

⁵ The interview being held in English, what follows is the original text: “...*We helped the military to get to Kilwa and then we were gone. Whatever they did there, that's an internal issue.*” In other parts of the interview, Mr Turner added: “*They requested assistance from Anvil for transportation. We provided that transportation so that they could get their soldiers down to Kilwa.*”. To the question of how many vehicles Anvil were being provided he answered: “*What difference does it make how many vehicles? There are a group of soldiers, and whatever number of vehicles was necessary to move these guys I guess we sent up there and they moved them down.*”.

added: “Can you imagine us sitting there expecting the protection of the government. We’ve got all these vehicles there and these soldiers just making their 200 kilometer trip down to Kilwa ... could we just sit there and let these guys walk past the mine. I don’t think so »⁶.

38. The United Nations Security Council Resolution 1565 stresses the importance of creating an efficient and transparent monitoring system with regard to the exploitation of natural resources in the Democratic Republic of Congo. As stated in the *United Nations Norms on the Responsibility of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, as well as in the *OECD (Organisation for Economic Co-operation and Development) Guidelines for Multinational Enterprises*, it is crucial that the activities of international investors are conducted in conformity with the protection of human rights. The United Nations Norms require in particular that “transnational corporations and other business enterprises shall not engage in nor benefit from war crimes, crimes against humanity, genocide, torture, forced disappearance, forced or compulsory labour, hostage-taking, extrajudicial, summary or arbitrary executions, other violations of humanitarian law and other international crimes against the human person as defined by international law, in particular human rights and humanitarian law”⁷.

39. As a part of its mandate, MONUC contacted Anvil Mining in order for the company to explain the use being made of the company’s logistic and personnel by the Armed Forces of the Democratic Republic of Congo (FARDC) during the FARDC’s counter-offensive in Kilwa and the crimes that then followed. Anvil Mining cooperated to clarify its presumed involvement and informed MONUC that the logistic, the transport by plane and the drivers were provided to the army following requests “which could not be refused”, made by the High commandment of the 6th military region, the Colonel Ademars in Pweto and the governor of Katanga in Lubumbashi. Anvil Mining referred in particular to a previous incident dating of March 2004 during which soldiers of the FARDC had taken vehicles of the company Anvil at gun point and had attacked an employee of Anvil⁸. According to Anvil Mining, the company would have objected on 16 October 2004 to the presumed requisitions of October 2004, to the Colonel Ademars at the local level and to the territory Administrator in Kilwa.

40. This version of events appears to contradict the statements made by the company to the Australian media on 6 June as well as the report of activities of Anvil Mining of

⁶ The interview being held in English, what follows is the original text: “...*Can you imagine us sitting there expecting the protection of the government. We’ve got all these vehicles there and these soldiers just making their 200 kilometer trip down to Kilwa ... could we just sit there and let these guys walk past the mine. I don’t think so*”.

⁷ United Nations Norms on the Responsibility of Transnational Corporations and Other Business Enterprises with Regard to Human, Paragraph C.3, E/CN.4/Sub.2/2003/12/Rev.2, 26 August 2003.

⁸ See also the press release of Anvil Mining of 21 June 2005.

December 2004⁹, where it is stated that “the government and military response on both provincial and national levels was rapid and supportive of the prompt resumption of operations”¹⁰.

41. In order to shed some light on this issue, the MONUC has asked Anvil Mining to have access to the company’s internal investigative report concerning the events in Kilwa, including the statements made by the employees who would have been requisitioned by the army. But Anvil Mining declined to give the report to MONUC due to legal proceedings envisaged against the company. Indeed, following the documentary of 6 June on the ABC television, the Australian Federal Police was approached by an Australian law firm acting for a coalition of international and national NGOs in order for the AFP to investigate the presumed involvement of Anvil Mining in the crimes perpetrated in Kilwa and to investigate allegations of corruption. The latter allegations relate to the presumed relationship existing between Anvil Mining and Mr. Katumba Mwanke, a close adviser of the President of the Democratic Republic of Congo, Mr. Joseph Kabila. Mr. Mwanke is included in the list of persons against whom the Expert Group on the illegal exploitation of natural resources and other types of richness in the Democratic Republic of Congo recommends a prohibition of travel and financial restrictions, in its report of October 2002 (S/2002/1146). During the interview of 6 June 2005 with the ABC television, the President and CEO of Anvil Mining, Mr. Turner has admitted that Mr. Katumba Mwanke had in the past been a representative of the Congolese government in the Board of Directors of Anvil Mining (in fact, this was the case for the period of 2001 to 2004); the company also admitted that Anvil Mining had paid Mr. Mwanke some fees for being present at meetings and that the headquarters of Anvil Mining in Lubumbashi are located in a rental property belonging to Mr. Mwanke.

42. MONUC has discussed with Anvil Mining the issue of preventing an incident such as the one that occurred in Kilwa never to happen again. As stated in the *United Nations Norms on the Responsibility of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, in particular in paragraphs C.4 and E.11, “Security arrangements for transnational corporations and other business enterprises shall observe international human rights norms as well as the laws and professional standards of the country or countries in which they operate” and “Transnational corporations and other business enterprises shall refrain from any activity which supports, solicits, or encourages States or any other entities to abuse human rights”. Anvil Mining has reaffirmed its belief in the principle that mining activities must be conducted in a way that conforms to the protection of human rights. Anvil Mining has also informed MONUC that the company is currently working on protocols which will specify the way

⁹ The « *Report for Quarter ended December 31, 2004* » states that “the government and military response on both provincial and national levels was rapid and supportive of the prompt resumption of operations” and it does not mention the presumed requisitions done by the FARDC.

¹⁰ Anvil Mining has explained the apparent contradiction between their report of December 2004 and the events in Kilwa – including the presumed requisition of its vehicles and of its employees- by saying, in its letter of 20 June 2005 to MONUC that the report was « a dry response to compulsory reporting requirements of the financial markets ». The report – Anvil Mining insisted - was produced prior to them having an appreciation of the seriousness of these events and in no way reflects the deep sadness they feel following the deaths that occurred”.

in which the company must respond in instances where the government and Congolese armed forces make similar requests in the future; the protocols will also set out the principles that will guide Anvil Mining's action should a similar situation to that of Kilwa ever happen again.

VII. Threats made against the human rights organisation ASADHO/Katanga

43. The human rights organisation ASADHO/Katanga has received threats and intimidations following its investigating work on the incident in Kilwa. In January 2005, ASADHO published a report stating that at least 90 summary executions were perpetrated by the 62th brigade of the FARDC during its counter-offensive in Kilwa. Later on, in particular in its press release of 1 July 2005, the human rights organisation reminded the Congolese authorities of the importance of punishing and bringing to court the persons responsible for those crimes; the press release also underlined the logistic assistance provided by Anvil Mining to the FARDC. Since then, the press attaché of the Governor has attacked ASADHO/Katanga during a local television program. Following MONUC's intervention, the Governor M. Kisula Ngoy suspended his attaché for a period of 15 days. On 13 July 2005, a demonstration of about 50 hostile individuals was held in Lubumbashi, in particular outside the offices of ASADHO. The demonstration appears to have had the support of Mr. Moise Katumbi, honorific President of the PPRD Katanga known to be close to Mr. Katumba Mwanke. The demonstrators were shouting slogans against ASADHO/Katanga, accusing the NGO of undermining the economic interests of Katanga due to the accusations made by the NGO against Anvil Mining. The demonstrators threatened to ransack the offices of ASADHO/Katanga should the NGO continue to undermine Anvil. It appears that the police did not intervene even after members of ASADHO/Katanga called for help. MONUC has met local authorities to share its concerns about the attacks made against ASADHO/Katanga and has asked that the measures necessary to ensure the safety of the NGO be put in place.

VIII. Reaction of the authorities in relation to the Kilwa incident

44. Since October 2004, MONUC has brought the Kilwa incident and notably the responsibility of the 62nd Brigade and its commander, Colonel Ademars, to the attention of the Congolese national and local political and judicial authorities, including President Kabila himself. MONUC also made public a resume of the results of its inquiry at a press conference on 27 October 2004. The incident was included in paragraph 14 of the report of the Secretary General to the Security Council of 31 December 2004 (S/2004/1034).

45.

IX. Conclusions and Recommendations

46. Despite the uncertainty surrounding the identity of the real instigators of the rebellion in Kilwa, there are strong suspicions that high-ranking military officers may be

involved. It is hoped that in the context of the reform and the reunification of the Congolese army, the Ministry of Defence will conduct some preliminary investigations in order to verify those suspicions.

47. The arrest of Colonel Ademars constitutes an important step in the fight against impunity in the Democratic Republic of Congo. However, MONUC asks the Congolese authorities to take the necessary measures to ensure :

- that an in-depth and independent judicial investigation be conducted on the incident in Kilwa;
- that the court proceedings against Colonel Ademars be conducted fairly;
- that witnesses and victims present at the proceedings be protected by the authorities; and
- that other members of the military responsible and accessory to these crimes also be investigated.

48. The incident in Kilwa provides the opportunity to remind all international investors in the Democratic Republic of Congo of their responsibility to promote and respect human rights and principles of ethics when conducting their activities in the Democratic Republic of Congo. MONUC will continue to encourage Anvil Mining to take the necessary measures to prevent the reoccurrence of an incident such as that which occurred in Kilwa. In the same manner, MONUC also urges all international investors, in particular those who work in the area of natural resources, to make public all their initiatives undertaken to ensure the implementation of the *United Nations Norms on the Responsibility of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, as well as the *OECD (Organisation for Economic Co-operation and Development) Guidelines for Multinational Enterprises*, and other principles relevant to the conduct of companies in combat zones or post-combat times, hereby ensuring that their activities are undertaken in conformity with the protection of human rights.

49. MONUC also intends to follow closely the situation experienced by ASADHO/Katanga and other NGOs which would have been subject to intimidations and threats following their investigative work concerning violations of human rights.