

**Legislative Council Subcommittee
to Examine the Implementation in Hong Kong of Resolutions
of the United Nations Security Council in relation to Sanctions**

**UNITED NATIONS SANCTIONS (DEMOCRATIC REPUBLIC
OF THE CONGO) REGULATION 2011**

INTRODUCTION

A At the meeting of the Executive Council on 22 March 2011, the Council advised and the Chief Executive (“the CE”) ordered that the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2011 (“the Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (“the Ordinance”), to give effect to the instruction from the Ministry of Foreign Affairs of the People's Republic of China (“MFA”). The Regulation was gazetted on 25 March 2011 and came into effect on the same day.

BACKGROUND

Obligation and Authority

B 2. Under section 3(1) of the Ordinance, the CE is required to make regulations to give effect to an instruction from the MFA to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In February 2011, the CE received an instruction from the MFA requesting the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement UNSC Resolution (“UNSCR”) 1952 in respect of the Democratic Republic of the Congo (“DR Congo”). The Regulation was made pursuant to the instruction. A document issued by the Chief Secretary for Administration confirming the MFA’s instruction is at Annex B.

Sanctions against DR Congo

3. Given the political and social instability in DR Congo which constituted a threat to international peace and security in the

region, the UNSC has adopted several resolutions imposing and renewing sanctions against DR Congo since 2003. These sanctions include the following –

- C
- (a) prohibition against the direct or indirect supply, sale or transfer of arms and related materiel, and the provision of assistance, advice or training related to military activities, including financing and financial assistance, to all non-governmental entities and individuals operating in the territory of DR Congo (*paragraphs 1, 2, 3 and 5 of UNSCR 1807, at Annex C, refer*);
 - (b) prohibition against the entry into or transit through the territories of the Member States by persons designated by the Committee established by UNSCR 1533 (“the Committee”) (*paragraphs 9, 10 and 13 of UNSCR 1807 refer*); and
 - (c) freezing of funds, other financial assets and economic resources owned or controlled directly or indirectly by persons designated by the Committee, or that are held by entities owned or controlled directly or indirectly by any persons acting on their behalf or at their direction, as designated by the Committee, and the prohibition against making available to, or for the benefit of, such persons or entities any funds, financial assets or economic resources (*paragraphs 11, 12 and 13 of UNSCR 1807 refer*).

4. Pursuant to the instructions of the MFA, the HKSAR implemented these sanctions through making subsidiary legislation under the Ordinance, the most recent one being the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2010 (Cap. 537 sub. leg. AP). Cap. 537AP expired at midnight on 30 November 2010.

UNSCR 1952

D 5. On 29 November 2010, the UNSC adopted UNSCR 1952 (at Annex D), which renewed until 30 November 2011 the following sanctions in respect of DR Congo –

- (a) the measures on arms imposed by paragraph 1 of UNSCR 1807 and the provisions of paragraphs 2, 3 and 5 of UNSCR 1807 (*paragraph 1 of UNSCR 1952 refers*); and
- (b) the financial measures and travel measures imposed by paragraphs 9 and 11 of UNSCR 1807 and the provisions of paragraphs 10 and 12 of UNSCR 1807 regarding the individuals and entities referred to in paragraph 4 of UNSCR 1857 (*paragraph 3 of UNSCR 1952 refers*).

THE REGULATION

6. The Regulation, at Annex A, seeks to implement the sanctions against DR Congo that are renewed by UNSCR 1952. The main provisions of the Regulation include –

- (a) sections 2 and 3, which prohibit the supply, sale, transfer and carriage of arms or related materiel to a person operating in the territory of DR Congo;
- (b) section 4, which prohibits the provision of assistance, advice or training related to military activities to a person operating in the territory of DR Congo;
- (c) section 5, which provides for prohibitions against making available to certain persons or entities any funds or other financial assets or economic resources, or dealing with funds or other financial assets or economic resources of certain persons or entities;

- (d) section 6, which prohibits the entry into or transit through the HKSAR by certain persons;
- (e) sections 8 to 10, which provide for the granting of licences for the supply, sale, transfer or carriage of prohibited goods; for the provision of assistance, advice or training to certain persons; and for making available to certain persons or entities any funds or other financial assets or economic resources, or dealing with funds or other financial assets or economic resources of certain persons or entities;
- (f) section 30, which provides that the CE may by notice published in the Gazette specify as a relevant person or a relevant entity a person or an entity designated by the Committee for the purpose of the financial sanctions under the Regulation; and
- (g) section 32, which provides that the Regulation will expire at midnight on 30 November 2011.

The content of the Regulation, which renews sanctions against DR Congo, is essentially the same as those in the expired Cap. 537AP.

IMPLICATIONS OF THE PROPOSAL

7. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the Ordinance. It has no financial, civil service, economic, productivity, environmental or sustainability implications.

PUBLICITY

8. A press release was issued on 25 March 2011 when the Regulation was published in the Gazette.

INFORMATION ON DR CONGO AND RELATION WITH THE HKSAR

9. For information on DR Congo, background of the sanctions regime against the country as well as its bilateral trade relation with the HKSAR, please refer to Annex E.

E

ADVICE SOUGHT

10. Members are invited to note the implementation of the UNSCR 1952 in the HKSAR by the Regulation.

**Commerce and Economic Development Bureau
March 2011**

UNITED NATIONS SANCTIONS ORDINANCE (CAP. 537)

**UNITED NATIONS SANCTIONS (DEMOCRATIC REPUBLIC OF
THE CONGO) REGULATION 2011**

ANNEXES

- ANNEX A UNITED NATIONS SANCTIONS
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REGULATION 2011
- ANNEX B DOCUMENT ISSUED BY THE CHIEF
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CONFIRMING THE INSTRUCTION FROM
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- ANNEX C UNITED NATIONS SECURITY COUNCIL
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- ANNEX D UNITED NATIONS SECURITY COUNCIL
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- ANNEX E INFORMATION ON DEMOCRATIC
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United Nations Sanctions (Democratic Republic of the Congo) Regulation 2011

B1739

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United Nations Sanctions (Democratic Republic of the Congo) Regulation 2011

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United Nations Sanctions (Democratic Republic of the Congo) Regulation 2011

(Made by the Chief Executive under section 3 of the United Nations Sanctions Ordinance (Cap. 537) on the instruction of the Ministry of Foreign Affairs of the People's Republic of China and after consultation with the Executive Council)

Part 1

Preliminary

1. Interpretation

In this Regulation—

authorized officer (獲授權人員) means—

- (a) a police officer;
- (b) a member of the Customs and Excise Service holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap. 342); or
- (c) a public officer employed in the Customs and Excise Department in the Trade Controls Officer Grade;

Commissioner (關長) means the Commissioner of Customs and Excise, any Deputy Commissioner of Customs and Excise or any Assistant Commissioner of Customs and Excise;

Committee (委員會) means the Committee of the Security Council established under paragraph 8 of Resolution 1533;

economic resources (經濟資源) means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;

funds (資金) includes—

- (a) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders and other payment instruments;
- (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
- (c) securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts);
- (d) interest, dividends or other income on or value accruing from or generated by property;
- (e) credit, rights of set-off, guarantees, performance bonds or other financial commitments;
- (f) letters of credit, bills of lading and bills of sale; and
- (g) documents evidencing an interest in funds or financial resources, and any other instrument of export financing;

licence (特許) means a licence granted under section 8(1)(a) or (b), 9(1) or 10(1);

master (船長), in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

operator (營運人), in relation to a ship, aircraft or vehicle, means the person for the time being having the management of the ship, aircraft or vehicle;

pilot in command (機長), in relation to an aircraft, means the pilot designated by the operator or the owner, as appropriate, as being in charge of the aircraft without being under the direction of any other pilot in the aircraft and charged with the safe conduct of a flight;

prohibited goods (禁制物品) means any arms or related materiel;

Part 1

Section 1

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relevant entity (有關實體) means an entity specified by the Chief Executive as a relevant entity in accordance with section 30;

relevant person (有關人士) means a person specified by the Chief Executive as a relevant person in accordance with section 30;

Resolution 1533 (《第1533號決議》) means Resolution 1533 (2004) adopted by the Security Council on 12 March 2004;

Resolution 1596 (《第1596號決議》) means Resolution 1596 (2005) adopted by the Security Council on 18 April 2005;

Resolution 1649 (《第1649號決議》) means Resolution 1649 (2005) adopted by the Security Council on 21 December 2005;

Resolution 1698 (《第1698號決議》) means Resolution 1698 (2006) adopted by the Security Council on 31 July 2006;

Resolution 1807 (《第1807號決議》) means Resolution 1807 (2008) adopted by the Security Council on 31 March 2008;

Resolution 1857 (《第1857號決議》) means Resolution 1857 (2008) adopted by the Security Council on 22 December 2008;

Security Council (安全理事會) means the Security Council of the United Nations.

Part 2

Section 2

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Part 2**Prohibitions****2. Prohibition against supply, sale or transfer of certain goods**

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 8(1)(a), a person must not supply, sell or transfer, or agree to supply, sell or transfer, directly or indirectly, or do any act likely to promote the supply, sale or transfer of, any prohibited goods—
 - (a) to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo; or
 - (b) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
- (a) that the goods concerned were prohibited goods; or
 - (b) that the goods concerned were or were to be supplied, sold or transferred—
 - (i) to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo; or
 - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo.

3. Prohibition against carriage of certain goods

- (1) This section applies to—
- (a) a ship that is registered in the HKSAR;
 - (b) an aircraft that is registered in the HKSAR;
 - (c) any other ship or aircraft that is for the time being chartered to a person who is—
 - (i) in the HKSAR;
 - (ii) both a Hong Kong permanent resident and a Chinese national; or
 - (iii) a body incorporated or constituted under the law of the HKSAR; and
 - (d) a vehicle in the HKSAR.
- (2) Without limiting section 2, except under the authority of a licence granted under section 8(1)(b), a ship, aircraft or vehicle must not be used for the carriage of any prohibited goods if the carriage is, or forms part of, a carriage—

- (a) to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo; or
 - (b) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo.
- (3) Subsection (2) does not apply if—
- (a) the carriage of the prohibited goods is performed in the course of the supply, sale or transfer of the prohibited goods; and
 - (b) the supply, sale or transfer was authorized by a licence granted under section 8(1)(a).
- (4) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
- (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of any other ship—
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;

- (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
- (d) in the case of any other aircraft—
 - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
- (e) in the case of a vehicle, the operator and the driver of the vehicle.
- (5) A person who commits an offence under subsection (4) is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (6) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe—
 - (a) that the goods concerned were prohibited goods; or
 - (b) that the carriage of the goods concerned was, or formed part of, a carriage—

- (i) to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo; or
 - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo.
- 4. Prohibition against provision of certain assistance, advice or training**
- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
 - (2) Except under the authority of a licence granted under section 9(1), a person must not provide, directly or indirectly, to a person operating in the territory of the Democratic Republic of the Congo any assistance, advice or training related to military activities, including financing and financial assistance.
 - (3) A person who contravenes subsection (2) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
 - (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—

- (a) that the assistance, advice or training concerned was or was to be provided to a person operating in the territory of the Democratic Republic of the Congo; or
- (b) that the assistance, advice or training concerned related to military activities.

5. Prohibition against making available funds, etc. or dealing with funds, etc.

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 10(1)—
 - (a) a person must not make available, directly or indirectly, any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; and
 - (b) a person (*first-mentioned person*) must not deal with, directly or indirectly, any funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity, and if the first-mentioned person is a relevant person or a relevant entity, including any funds and other financial assets or economic resources owned by or otherwise belonging to, or held by, the first-mentioned person.
- (3) A person who contravenes subsection (2) commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
- (a) that the funds or other financial assets or economic resources concerned were or were to be made available to, or for the benefit of, a relevant person or a relevant entity; or
 - (b) that the person was dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.
- (5) A person is not to be regarded as having contravened subsection (2) by reason only of having credited an account owned by or otherwise belonging to, or held by, a relevant person or a relevant entity with—
- (a) interest or other earnings due on that account; or
 - (b) payment due under contracts, agreements or obligations that arose before the date on which the person or entity became a relevant person or a relevant entity.
- (6) In this section—
- deal with* (處理) means—
- (a) in respect of funds—
 - (i) use, alter, move, allow access to or transfer;
 - (ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or

- (iii) make any other change that would enable use, including portfolio management; and
- (b) in respect of other financial assets or economic resources, use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the assets or resources.

6. Prohibition against entry or transit by certain persons

- (1) Subject to section 7, a specified person must not enter or transit through the HKSAR.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.
- (3) This section does not apply to a person having the right of abode or the right to land in the HKSAR.
- (4) In this section—

specified person (指明人士) means—

- (a) a person—
 - (i) designated by the Committee under paragraph 13 of Resolution 1596, paragraph 2 of Resolution 1649, paragraph 13 of Resolution 1698 or paragraph 9 of Resolution 1807; and
 - (ii) in respect of whom paragraph 9 of Resolution 1807 applies by virtue of paragraphs 3 and 5 of Resolution 1857; or
- (b) a person designated by the Committee under paragraph 4 of Resolution 1857.

7. Exceptions to prohibition against entry or transit by certain persons

Section 6 does not apply to a case in respect of which—

- (a) the Committee has determined that the relevant entry into or transit through the HKSAR is justified on the ground of humanitarian need, including religious obligation;
- (b) the Committee has determined that the relevant entry into or transit through the HKSAR would further the objectives of the resolutions of the Security Council, that is, peace and national reconciliation in the Democratic Republic of the Congo and stability in the region;
- (c) the Committee has authorized the relevant transit through the HKSAR by a person returning to the territory of the State of his or her nationality; or
- (d) the Committee has authorized the relevant transit through the HKSAR by a person participating in efforts to bring to justice perpetrators of grave violations of human rights or international humanitarian law.

Part 3

Licences

8. Licence for supply, sale, transfer or carriage of certain goods

- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate—
 - (a) a licence for the supply, sale or transfer of, or the doing of an act likely to promote the supply, sale or transfer of, prohibited goods—
 - (i) to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo; or
 - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo; or
 - (b) a licence for the carriage of prohibited goods that is, or forms part of, a carriage—
 - (i) to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo; or
 - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo.
- (2) The requirements referred to in subsection (1) are as follows—
 - (a) it is a supply, sale, transfer or carriage of prohibited goods to the Government of the Democratic Republic of the Congo;

- (b) the prohibited goods are intended solely for the support of or use by the United Nations Organization Mission in the Democratic Republic of the Congo;
 - (c) the prohibited goods are protective clothing, including flack jackets and military helmets, to be temporarily exported to the Democratic Republic of the Congo by United Nations personnel, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;
 - (d) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use.
- (3) If the Chief Executive is satisfied that the requirement in subsection (2)(a) or (d) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the proposed supply, sale, transfer or carriage of the prohibited goods to which the application for the licence relates.

9. Licence for provision of certain assistance, advice or training

- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant a licence to provide to a person operating in the territory of the Democratic Republic of the Congo assistance, advice or training related to military activities, including financing and financial assistance.
- (2) The requirements referred to in subsection (1) are as follows—
 - (a) the assistance, advice or training is provided to the Government of the Democratic Republic of the Congo;
 - (b) the assistance, advice or training is related to protective clothing, including flack jackets and military helmets, to be temporarily exported to the Democratic Republic

of the Congo by United Nations personnel, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;

- (c) the assistance or training is technical assistance or training intended solely for the support of or use by the United Nations Organization Mission in the Democratic Republic of the Congo;
 - (d) the assistance or training is technical assistance or training related to non-lethal military equipment intended solely for humanitarian or protective use.
- (3) If the Chief Executive is satisfied that the requirement in subsection (2)(a) or (d) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the proposed provision of the assistance, advice or training to which the application for the licence relates.

10. Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities

- (1) If on application the Chief Executive determines that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate, a licence for—
 - (a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or
 - (b) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.
- (2) The requirements referred to in subsection (1) are as follows—
 - (a) the funds or other financial assets or economic resources are—

- (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;
 - (ii) for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or
 - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity;
- (b) the funds or other financial assets or economic resources are necessary for extraordinary expenses;
 - (c) the funds or other financial assets or economic resources—
 - (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered before 31 March 2008 and is not for the benefit of a person designated by the Committee under paragraph 13 of Resolution 1807; and
 - (ii) are to be used to satisfy the lien or judgment.
- (3) If the Chief Executive determines that—
- (a) the requirement in subsection (2)(a) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (ii) must grant the licence in the absence of a negative decision by the Committee within 4 working days of the notification;

- (b) the requirement in subsection (2)(b) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the determination; and
 - (ii) must not grant the licence unless the Committee approves the determination;
- (c) the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination.

11. Provision of false information or documents for purpose of obtaining licences

- (1) A person who, for the purpose of obtaining a licence, makes any statement or provides or produces any information or document that the person knows to be false in a material particular commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
 - (2) A person who, for the purpose of obtaining a licence, recklessly makes any statement or provides or produces any information or document that is false in a material particular commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
-

Part 4

Things Done outside HKSAR

12. Licence or permission granted by authorities of places outside HKSAR

- (1) If the circumstances described in subsection (2) apply, a provision of this Regulation that prohibits the doing of a thing by a person except under the authority of a licence does not have effect in relation to any such thing done in a place outside the HKSAR by the person.
 - (2) For the purposes of subsection (1), the circumstances are that the thing is done by the person under the authority of a licence or with permission granted, in accordance with any law in force in that place outside the HKSAR (being a law substantially corresponding to the relevant provision of this Regulation), by the authority competent in that behalf under that law.
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Part 5

Enforcement of Regulation

Division 1

Investigation, etc. of Suspected Ships

13. Investigation of suspected ships

- (1) If an authorized officer has reason to suspect that a ship to which section 3 applies has been, is being or is about to be used in contravention of section 3(2), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the ship and search it and, for that purpose, use or authorize the use of reasonable force; and
 - (b) request the charterer, operator or master of the ship to provide any information relating to the ship or its cargo, or produce for inspection any of its cargo or any document relating to the ship or its cargo, that the officer may specify.
- (2) If an authorized officer has reason to suspect that a ship to which section 3 applies is being or is about to be used in contravention of section 3(2), the officer may, for the purpose of stopping or preventing the use of the ship in contravention of that section or to pursue enquiries, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), do one or more of the following—

- (a) direct the charterer, operator or master of the ship to refrain, except with the consent of an authorized officer, from landing, at any port specified by the authorized officer, any part of the ship's cargo that is so specified;
- (b) request the charterer, operator or master of the ship to take any of the following steps—
 - (i) to cause the ship and any of its cargo not to proceed with the voyage on which the ship is then engaged or about to be engaged until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may so proceed;
 - (ii) if the ship is in the HKSAR, to cause the ship and any of its cargo to remain in the HKSAR until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may depart;
 - (iii) if the ship is in any other place, to take the ship and any of its cargo to a port specified by an authorized officer, and to cause the ship and its cargo to remain in that place until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may depart;
 - (iv) to take the ship and any of its cargo to another destination specified by an authorized officer in agreement with the charterer, operator or master.
- (3) A power conferred by this section to request a person to provide any information or produce any cargo or document for inspection includes a power to—
 - (a) specify whether the information should be provided orally or in writing and in what form; and

- (b) specify the time by which, and the place in which, the information should be provided or the cargo or document should be produced for inspection.

14. Offences by charterer, operator or master of ship

- (1) A charterer, operator or master of a ship who disobeys any direction given under section 13(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 13(1)(b) or (2)(b) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) A charterer, operator or master of a ship who, in response to a request made under section 13(1)(b) or (2)(b), provides or produces to an authorized officer any information or document that the charterer, operator or master knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

15. Power of authorized officers to enter and detain ships

- (1) Without limiting section 14, if an authorized officer has reason to suspect that a request that has been made under section 13(2)(b) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—
- (a) enter or authorize the entry on any land or the ship concerned;
- (b) detain or authorize the detention of that ship or any of its cargo;

- (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of a ship for more than 12 hours.
- (3) The Chief Secretary for Administration may, by order in writing, authorize the detention of a ship for further periods of not more than 12 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 2

Investigation, etc. of Suspected Aircraft

16. Investigation of suspected aircraft

- (1) If an authorized officer has reason to suspect that an aircraft to which section 3 applies has been, is being or is about to be used in contravention of section 3(2), the officer may—
- (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the aircraft and search it and, for that purpose, use or authorize the use of reasonable force; and
- (b) request the charterer, operator or pilot in command of the aircraft to provide any information relating to the aircraft or its cargo, or produce for inspection any of its cargo or any document relating to the aircraft or its cargo, that the officer may specify.
- (2) If the aircraft referred to in subsection (1) is in the HKSAR, an authorized officer may, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), further request the charterer, operator or pilot in command of the aircraft to cause the aircraft and

any of its cargo to remain in the HKSAR until the charterer, operator or pilot in command is notified by an authorized officer that the aircraft and its cargo may depart.

- (3) A power conferred by this section to request a person to provide any information or produce any cargo or document for inspection includes a power to—
- (a) specify whether the information should be provided orally or in writing and in what form; and
 - (b) specify the time by which, and the place in which, the information should be provided or the cargo or document should be produced for inspection.

17. Offences by charterer, operator or pilot in command of aircraft

- (1) A charterer, operator or pilot in command of an aircraft who, without reasonable excuse, refuses or fails to comply with a request made under section 16(1)(b) or (2) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) A charterer, operator or pilot in command of an aircraft who, in response to a request made under section 16(1)(b) or (2), provides or produces to an authorized officer any information or document that the charterer, operator or pilot in command knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

18. Power of authorized officers to enter and detain aircraft

- (1) Without limiting section 17, if an authorized officer has reason to suspect that a request that has been made under

section 16(2) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—

- (a) enter or authorize the entry on any land or the aircraft concerned;
 - (b) detain or authorize the detention of that aircraft or any of its cargo;
 - (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of an aircraft for more than 6 hours.
- (3) The Chief Secretary for Administration may, by order in writing, authorize the detention of an aircraft for further periods of not more than 6 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 3

Investigation, etc. of Suspected Vehicles

19. Investigation of suspected vehicles

- (1) If an authorized officer has reason to suspect that a vehicle in the HKSAR has been, is being or is about to be used in contravention of section 3(2), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the vehicle and search it and, for that purpose, use or authorize the use of reasonable force;
 - (b) request the operator or driver of the vehicle to provide any information relating to the vehicle or any article carried on it, or produce for inspection any article

carried on it or any document relating to the vehicle or any article carried on it, that the officer may specify; and

- (c) further request, either there and then or on consideration of any information provided or article or document produced in response to a request made under paragraph (b), the operator or driver to take the vehicle and any article carried on it to a place specified by an authorized officer, and to cause the vehicle and the article to remain in that place until the operator or driver is notified by an authorized officer that the vehicle and the article may depart.

- (2) A power conferred by this section to request a person to provide any information or produce any article or document for inspection includes a power to—
- (a) specify whether the information should be provided orally or in writing and in what form; and
- (b) specify the time by which, and the place in which, the information should be provided or the article or document should be produced for inspection.

20. Offences by operator or driver of vehicle

- (1) An operator or driver of a vehicle who, without reasonable excuse, refuses or fails to comply with a request made under section 19(1)(b) or (c) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) An operator or driver of a vehicle who, in response to a request made under section 19(1)(b) or (c), provides or produces to an authorized officer any information or document that the operator or driver knows to be false in a material particular, or recklessly provides or produces to an

authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

21. Power of authorized officers to enter and detain vehicles

- (1) Without limiting section 20, if an authorized officer has reason to suspect that a request that has been made under section 19(1)(c) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—
- (a) enter or authorize the entry on any land or enter or authorize the entry into the vehicle concerned;
- (b) detain or authorize the detention of that vehicle or any article carried on it;
- (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of a vehicle for more than 12 hours.
- (3) The Commissioner may, by order in writing, authorize the detention of a vehicle for further periods of not more than 12 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 4

Proof of Identity

22. Production of proof of identity

Before or on exercising a power conferred by section 13, 15, 16, 18, 19 or 21, an authorized officer must, if requested by any person so to do, produce proof of the officer's identity to the person for inspection.

Part 6

Evidence

23. Power of magistrate or judge to grant warrant

- (1) A magistrate or judge may grant a warrant if satisfied by information on oath given by an authorized officer that there are reasonable grounds for suspecting that—
 - (a) an offence under this Regulation has been committed or is being committed; and
 - (b) there is on any premises specified in the information, or on any ship, aircraft or vehicle so specified, evidence in relation to the commission of the offence.
- (2) A warrant granted under subsection (1) may authorize any authorized officer, together with any other person named in the warrant, to enter the premises, ship, aircraft or vehicle specified in the information or any premises on which the ship, aircraft or vehicle so specified may be, at any time within one month from the date of the warrant, and to search the premises, ship, aircraft or vehicle.
- (3) A person authorized by a warrant to search any premises, ship, aircraft or vehicle may exercise any or all of the following powers—
 - (a) search any person who is found on, or whom the authorized person has reasonable grounds to believe to have recently left or to be about to enter, the premises, ship, aircraft or vehicle;
 - (b) seize and detain any document, cargo or article found on the premises, ship, aircraft or vehicle or on any person referred to in paragraph (a) that the authorized person has reasonable grounds to believe to be evidence in relation to the commission of an offence under this Regulation;

(c) take in relation to any document, cargo or article seized under paragraph (b) any other steps that may appear necessary for preserving the document, cargo or article and preventing interference with it.

(4) A person may only be searched under this section by a person who is of the same sex.

(5) If a person is empowered under this section to enter any premises, ship, aircraft or vehicle, the person may use any force that is reasonably necessary for that purpose.

24. Detention of documents, cargoes or articles seized

(1) Subject to subsection (2), any document, cargo or article seized under section 23(3) may not be detained for more than 3 months.

(2) If the document, cargo or article is relevant to an offence under this Regulation, and proceedings for the offence have begun, the document, cargo or article may be detained until the completion of those proceedings.

Part 7

Disclosure of Information or Documents

25. Disclosure of information or documents

(1) Any information or document provided, produced or seized under this Regulation may be disclosed only if—

(a) the person who provided or produced the information or document or from whom the document was seized has given consent to the disclosure;

(b) the information or document is disclosed to a person who would have been empowered under this Regulation to request that it be provided or produced;

(c) the information or document is disclosed on the authority of the Chief Executive, subject to the information or document being transmitted through and with the approval of the instructing authority, to—

(i) any organ of the United Nations;

(ii) any person in the service of the United Nations; or

(iii) the Government of any place outside the People's Republic of China,

for the purpose of assisting the United Nations or that Government in securing compliance with, or detecting evasion of, measures in relation to the Democratic Republic of the Congo decided on by the Security Council; or

(d) the information or document is disclosed with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation.

- (2) For the purposes of subsection (1)(a)—
- (a) a person may not give consent to the disclosure if the person has obtained the information or possessed the document only in the person's capacity as servant or agent of another person; and
 - (b) a person may give consent to the disclosure if the person is entitled to the information or to the possession of the document in the person's own right.
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Part 8

Other Offences and Miscellaneous Matters

26. Liability of persons other than principal offenders

- (1) If the person convicted of an offence under this Regulation is a body corporate and it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, the director, manager, secretary or other similar officer is guilty of the like offence.
- (2) If the person convicted of an offence under this Regulation is a firm and it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, any partner in the firm or any person concerned in the management of the firm, the partner or the person concerned in the management of the firm is guilty of the like offence.

27. Offences in relation to obstruction of authorized persons, etc.

A person who obstructs another person (including a person acting under the authority of an authorized officer) in the exercise of the powers of that other person under this Regulation commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

28. Offences in relation to evasion of this Regulation

A person who destroys, mutilates, defaces, secretes or removes any document, cargo or article with intent to evade any of the provisions of this Regulation commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 2 years; or

- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

29. Consent and time limit for proceedings

- (1) Proceedings for an offence under this Regulation may only be instituted by or with the consent of the Secretary for Justice.
- (2) Summary proceedings for an offence under this Regulation that is alleged to have been committed outside the HKSAR may be commenced at any time not later than 12 months from the date on which the person charged first enters the HKSAR after the alleged commission of the offence.

30. Specification of relevant person or relevant entity by Chief Executive

The Chief Executive may, by notice published in the Gazette, specify as a relevant person or a relevant entity any of the following persons or entities—

- (a) a person or entity—
 - (i) designated by the Committee under paragraph 15 of Resolution 1596, paragraph 2 of Resolution 1649, paragraph 13 of Resolution 1698 or paragraph 11 of Resolution 1807; and
 - (ii) in respect of whom paragraph 11 of Resolution 1807 applies by virtue of paragraphs 3 and 5 of Resolution 1857;
- (b) a person or entity designated by the Committee under paragraph 4 of Resolution 1857.

31. Exercise of powers of Chief Executive

- (1) The Chief Executive may delegate any of the Chief Executive's powers or functions under this Regulation to any person or class or description of person.

- (2) The Chief Executive may authorize a person to whom a power or function is delegated to sub-delegate it to any other person or class or description of person.
- (3) A delegation or authorization under subsection (1) or (2) may be subject to any restrictions or conditions that the Chief Executive thinks fit.

Part 9

Duration

32. Duration

This Regulation expires at midnight on 30 November 2011.

Donald TSANG
Chief Executive

22 March 2011

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution 1952 (2010) as adopted by the Security Council of the United Nations on 29 November 2010 by providing for the prohibition against—

- (a) the supply, sale, transfer or carriage of arms or related materiel to certain persons;
- (b) the provision of assistance, advice or training related to military activities in certain circumstances;
- (c) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
- (d) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities; and
- (e) entry into or transit through the HKSAR by certain persons.

United Nations Sanctions Ordinance (Cap. 537)**United Nations Sanctions
(Democratic Republic of the Congo) Regulation 2011**

This is to confirm that the Chief Executive received specific instruction from the Ministry of Foreign Affairs of the People's Republic of China in February 2011 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution No. 1952 of the Security Council of the United Nations, and that the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2011 was made in pursuance of that instruction.

Dated this 22 day of March 2011

A handwritten signature in black ink, appearing to be 'Henry Tang', written in a cursive style.

(Henry Tang)
Chief Secretary for Administration

**Security Council**Distr.: General
31 March 2008

Resolution 1807 (2008)**Adopted by the Security Council at its 5861st meeting,
on 31 March 2008**

The Security Council,

Recalling its previous resolutions, in particular resolution 1794 (2007), and the statements by its President concerning the Democratic Republic of the Congo,

Reaffirming its commitment to the sovereignty, territorial integrity and political independence of the Democratic Republic of the Congo as well as all States in the region,

Reiterating its serious concern regarding the presence of armed groups and militias in the Eastern part of the Democratic Republic of the Congo, particularly in the provinces of North and South Kivu and the Ituri district, which perpetuate a climate of insecurity in the whole region,

Stressing the primary responsibility of the Government of the Democratic Republic of the Congo for ensuring security in its territory and protecting its civilians with respect for the rule of law, human rights and international humanitarian law,

Recalling the joint communiqué of the Government of the Democratic Republic of Congo and the Government of the Republic of Rwanda signed in Nairobi on 9 November 2007 and the outcome of the Conference for Peace, Security and Development in North and South Kivu, held in Goma from 6 to 23 January 2008, which together represent a major step towards the restoration of lasting peace and stability in the Great Lakes region, and *looking forward* to their full implementation,

Recalling its resolution 1804 (2008) and its demand that the Rwandan armed groups operating in the eastern Democratic Republic of the Congo lay down their arms without any further delay or preconditions,

Reiterating the importance of urgently carrying out security sector reform and of disarming, demobilizing, repatriating, resettling and reintegrating, as appropriate, Congolese and foreign armed groups for the long-term stabilization of the Democratic Republic of the Congo, and *welcoming* in this regard the round table on the reform of the security sector that was held on 24 and 25 February 2008 in Kinshasa,



Taking note of the final report (S/2008/43) of the Group of Experts on the Democratic Republic of the Congo established pursuant to resolution 1771 (2007) (“the Group of Experts”) and of its recommendations,

Condemning the continuing illicit flow of weapons within and into the Democratic Republic of the Congo, *declaring* its determination to continue to monitor closely the implementation of the arms embargo and other measures set out by its resolutions concerning the Democratic Republic of the Congo,

Stressing that improved exchange of information between the Committee established pursuant to resolution 1533 (2004) (“the Committee”), the Group of Experts, the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), other United Nations offices and missions in the region, within their respective mandates, and the Governments of the region can contribute to the prevention of arms shipments to non-governmental entities and individuals subject to the arms embargo,

Recognizing the linkage between the illegal exploitation of natural resources, illicit trade in such resources and the proliferation and trafficking of arms as one of the factors fuelling and exacerbating conflicts in the Great Lakes region of Africa,

Recalling its resolution 1612 (2005) and its previous resolutions on children and armed conflict, and *strongly condemning* the continued recruitment, targeting and use of children in violation of applicable international law, in the hostilities in the Democratic Republic of the Congo,

Recalling its resolution 1325 (2000) on women, peace and security, and *strongly condemning* the continuing violence, in particular sexual violence directed against women in the Democratic Republic of the Congo,

Calling on the donor community to continue to provide urgent assistance needed for the reform of the administration of justice in the Democratic Republic of the Congo,

Recalling the measures on arms imposed by paragraph 20 of resolution 1493, as amended and expanded by paragraph 1 of resolution 1596,

Recalling the measures on transport imposed by paragraphs 6, 7 and 10 of resolution 1596,

Recalling the financial and travel measures imposed by paragraphs 13 and 15 of resolution 1596, paragraph 2 of resolution 1649, and paragraph 13 of resolution 1698,

Determining that the situation in the Democratic Republic of the Congo continues to constitute a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

A

1. *Decides*, for a further period ending on 31 December 2008, that all States shall take the necessary measures to prevent the direct or indirect supply, sale or transfer, from their territories or by their nationals, or using their flag vessels or aircraft, of arms and any related materiel, and the provision of any assistance, advice or training related to military activities, including financing and financial

assistance, to all non-governmental entities and individuals operating in the territory of the Democratic Republic of the Congo;

2. *Decides* that the measures on arms, previously imposed by paragraph 20 of resolution 1493 and paragraph 1 of resolution 1596, as renewed in paragraph 1 above, shall no longer apply to the supply, sale or transfer of arms and related materiel, and the provision of any assistance, advice or training related to military activities to the Government of the Democratic Republic of the Congo;

3. *Decides* that the measures in paragraph 1 above shall not apply to:

(a) Supplies of arms and related materiel as well as technical training and assistance intended solely for support of or use by the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC);

(b) Protective clothing, including flack jackets and military helmets, temporarily exported to the Democratic Republic of the Congo by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only;

(c) Other supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance and training, as notified in advance to the Committee in accordance with paragraph 5 below;

4. *Decides* to terminate the obligations set out in paragraph 4 of resolution 1596 and paragraph 4 of resolution 1771;

5. *Decides*, for the period referred to in paragraph 1 above, that all States shall notify in advance to the Committee any shipment of arms and related materiel for the Democratic Republic of the Congo, or any provision of assistance, advice or training related to military activities in the Democratic Republic of the Congo, except those referred to in subparagraphs (a) and (b) of paragraph 3 above, and *stresses* the importance that such notifications contain all relevant information, including, where appropriate, the end-user, the proposed date of delivery and the itinerary of shipments;

B

6. *Decides* that, for a further period ending on the date referred to in paragraph 1 above, all governments in the region, and in particular those of the Democratic Republic of the Congo and of States bordering Ituri and the Kivus, shall take the necessary measures:

(a) To ensure that aircraft operate in the region in accordance with the Convention on International Civil Aviation, signed in Chicago on 7 December 1944, in particular by verifying the validity of documents carried in aircraft and the licenses of pilots;

(b) To prohibit immediately in their respective territories operation of any aircraft inconsistent with the conditions in that Convention or the standards established by the International Civil Aviation Organisation, in particular with respect to the use of falsified or out-of-date documents, to notify the Committee of the measures they take in this regard;

(c) To ensure that all civilian and military airports or airfields on their respective territories will not be used for a purpose inconsistent with the measures imposed by paragraph 1 above;

7. *Recalls* that, pursuant to paragraph 7 of resolution 1596, each government in the region, in particular those of States bordering Ituri and the Kivus, as well as that of the Democratic Republic of the Congo, must maintain a registry for review by the Committee and the Group of Experts of all information concerning flights originating in their respective territories en route to destinations in the Democratic Republic of the Congo, as well as flights originating in the Democratic Republic of the Congo en route to destinations in their respective territories;

8. *Decides* that, for a further period ending on the date referred to in paragraph 1 above, the government of the Democratic Republic of the Congo on the one hand, and those of States bordering Ituri and the Kivus on the other hand, shall take the necessary measures:

(a) To strengthen, as far as each of them is concerned, customs controls on the borders between Ituri or the Kivus and the neighbouring States;

(b) To ensure that all means of transport on their respective territories will not be used in violation of the measures taken by Member States in accordance with paragraph 1 above, and notify the Committee of such actions;

C

9. *Decides* that, during the period of enforcement of the measures referred to in paragraph 1 above, all States shall take the necessary measures to prevent the entry into or transit through their territories of all persons designated by the Committee pursuant to paragraph 13 below, provided that nothing in this paragraph shall obligate a State to refuse entry into its territory to its own nationals;

10. *Decides* that the measures imposed by paragraph 9 above shall not apply:

(a) Where the Committee determines in advance and on a case-by-case basis that such travel is justified on the grounds of humanitarian need, including religious obligation;

(b) Where the Committee concludes that an exemption would further the objectives of the Council's resolutions, that is peace and national reconciliation in the Democratic Republic of the Congo and stability in the region;

(c) Where the Committee authorises in advance, and on a case by case basis, the transit of individuals returning to the territory of the State of their nationality, or participating in efforts to bring to justice perpetrators of grave violations of human rights or international humanitarian law;

11. *Decides* that all States shall, during the period of enforcement of the measures referred to in paragraph 1 above, immediately freeze the funds, other financial assets and economic resources which are on their territories from the date of adoption of this resolution, which are owned or controlled, directly or indirectly, by persons or entities designated by the Committee pursuant to paragraph 13 below, or that are held by entities owned or controlled, directly or indirectly, by them or by any persons or entities acting on their behalf or at their direction, as designated by the Committee, and *decides further* that all States shall ensure that no funds,

financial assets or economic resources are made available by their nationals or by any persons within their territories, to or for the benefit of such persons or entities;

12. *Decides* that the provisions of paragraph 11 above do not apply to funds, other financial assets and economic resources that:

(a) Have been determined by relevant States to be necessary for basic expenses, including payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, or for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges, in accordance with national laws, for routine holding or maintenance of frozen funds, other financial assets and economic resources, after notification by the relevant States to the Committee of the intention to authorize, where appropriate, access to such funds, other financial assets and economic resources and in the absence of a negative decision by the Committee within four working days of such notification;

(b) Have been determined by relevant States to be necessary for extraordinary expenses, provided that such determination has been notified by the relevant States to the Committee and has been approved by the Committee; or

(c) Have been determined by relevant States to be the subject of a judicial, administrative or arbitration lien or judgement, in which case the funds, other financial assets and economic resources may be used to satisfy that lien or judgement provided that the lien or judgement was entered prior to the date of the present resolution, is not for the benefit of a person or entity designated by the Committee pursuant to paragraph 13 below, and has been notified by the relevant States to the Committee;

13. *Decides* that the provisions of paragraphs 9 and 11 above shall apply to the following individuals and, as appropriate, entities, as designated by the Committee:

(a) Persons or entities acting in violation of the measures taken by Member States in accordance with paragraph 1 above;

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

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

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

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

14. *Decides*, for a further period ending on the date referred to in paragraph 1 above, that the measures in paragraphs 9 and 11 above shall continue to apply to individuals and entities already designated pursuant to paragraphs 13 and 15 of

resolution 1596, paragraph 2 of resolution 1649, and paragraph 13 of resolution 1698, unless the Committee decides otherwise;

D

15. *Decides* that the Committee shall, from the adoption of this resolution, have the following mandate:

(a) To seek from all States, and particularly those in the region, information regarding the actions taken by them to implement effectively the measures imposed by paragraphs 1, 6, 8, 9 and 11 above and to comply with paragraphs 18 and 24 of resolution 1493, and thereafter to request from them whatever further information it may consider useful, including by providing States with an opportunity, at the Committee's request, to send representatives to meet with the Committee for more in-depth discussion of relevant issues;

(b) To examine, and to take appropriate action on, information concerning alleged violations of the measures imposed by paragraph 1 above and information on alleged arms flows highlighted in the reports of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of the Congo, identifying where possible individual and entities reported to be engaged in such violations, as well as aircraft or other vehicles used;

(c) To present regular reports to the Council on its work, with its observations and recommendations, in particular on the ways to strengthen the effectiveness of the measures imposed by paragraph 1 above;

(d) To receive notifications in advance from States made under paragraph 5 above, to inform MONUC and the Government of the Democratic Republic of the Congo of every notification received, and to consult with the Government of the Democratic Republic of the Congo and/or the notifying State, if appropriate, to verify that such shipments are in conformity with the measures set forth in paragraph 1 above, and to decide, if need be, upon any action to be taken;

(e) To designate, pursuant to paragraph 13 above, persons and entities as subject to the measures set forth in paragraphs 9 and 11 above, including aircraft and airlines in light of paragraphs 5 and 7 above, and regularly to update its list,

(f) To call upon all States concerned, and particularly those in the region, to provide the Committee with information regarding the actions taken by them to investigate and prosecute as appropriate individuals and entities designated by the Committee pursuant to subparagraph (e) above,

(g) To consider and decide on requests for the exemptions set out in paragraphs 10 and 12 above,

(h) To promulgate guidelines as may be necessary to facilitate the implementation of paragraphs 1, 6, 8, 9 and 11 above;

16. *Calls upon* all States, in particular those in the region, to support the implementation of the arms embargo and to cooperate fully with the Committee in carrying out its mandate;

E

17. *Requests* the Secretary-General to extend, for a period expiring on 31 December 2008, the Group of Experts established pursuant to resolution 1771;

18. *Requests* the Group of Experts to fulfil the following mandate:

(a) To examine and analyse information gathered by MONUC in the context of its monitoring mandate and share with MONUC, as appropriate, information that might be of use in the fulfilment of the Mission's monitoring mandate;

(b) To gather and analyse all relevant information in the Democratic Republic of the Congo, countries of the region and, as necessary, in other countries, in cooperation with the governments of those countries, on flows of arms and related materiel, as well as networks operating in violation of the measures imposed by paragraph 1 above;

(c) To consider and recommend, where appropriate, ways of improving the capabilities of States interested, in particular those of the region, to ensure the measures imposed by paragraph 1 above are effectively implemented;

(d) To update the Committee on its work as appropriate and report to the Council in writing, through the Committee, by 15 August 2008 and again before 15 November 2008, on the implementation of the measures set forth in paragraphs 1, 6, 8, 9 and 11 above, with recommendations in this regard, including information on the sources of financing, such as from natural resources, which are funding the illicit trade of arms;

(e) To keep the Committee frequently updated on its activities;

(f) To provide the Committee in its reports with a list, with supporting evidence, of those found to have violated the measures imposed by paragraph 1 above, and those found to have supported them in such activities for possible future measures by the Council;

(g) Within its capabilities and without prejudice to the execution of the other tasks in its mandate, to assist the Committee in the designation of the individuals referred to in subparagraphs (b) to (e) of paragraph 13 above, by making known without delay to the Committee any useful information;

19. *Requests* MONUC, within its existing capabilities and without prejudice to the performance of its current mandate, and the Group of Experts to continue to focus their monitoring activities in North and South Kivu and in Ituri;

20. *Requests* the Government of the Democratic Republic of the Congo, other Governments in the region as appropriate, MONUC and the Group of Experts to cooperate intensively, including by exchanging information regarding the arms shipment with a view to facilitating the effective implementation of the arms embargo on non-governmental entities and individuals, regarding the illegal trafficking in natural resources and regarding activities of individuals and entities designated by the Committee pursuant to paragraph 13 above;

21. *Reiterates* its demand, expressed in paragraph 19 of resolution 1596, that all parties and all States, particularly those in the region, cooperate fully with the work of the Group of Experts, and that they ensure:

- The safety of its members;

- Unhindered and immediate access, in particular to persons, documents and sites the Group of Experts deems relevant to the execution of its mandate;

F

22. *Decides* that, when appropriate and no later than 31 December 2008, it shall review the measures set forth in this resolution, with a view to adjusting them, as appropriate, in the light of consolidation of the security situation in the Democratic Republic of the Congo, in particular progress in security sector reform including the integration of the armed forces and the reform of the national police, and in disarming, demobilizing, repatriating, resettling and reintegrating, as appropriate, Congolese and foreign armed groups;

23. *Decides* to remain actively seized of the matter.



Security Council

Distr.: General
29 November 2010

Resolution 1952 (2010)

Adopted by the Security Council at its 6432nd meeting, on 29 November 2010

The Security Council,

Recalling its previous resolutions, in particular resolution 1807 (2008), 1857 (2008) and 1896 (2009), and the statements of its President concerning the Democratic Republic of the Congo,

Reaffirming its commitment to the sovereignty, territorial integrity and political independence of the Democratic Republic of the Congo as well as all States in the region,

Taking note of the interim and final reports (S/2010/252 and S/2010/596) of the Group of Experts on the Democratic Republic of the Congo (“the Group of Experts”) established pursuant to resolution 1771 (2007) and extended pursuant to resolutions 1807 (2008), 1857 (2008) and 1896 (2009) and of their recommendations, and *welcoming* the collaboration between the Group of Experts and the Government of the Democratic Republic of the Congo, as well as other Governments in the region and other international forums,

Reiterating its serious concern regarding the presence of armed groups and militias in the eastern part of the Democratic Republic of the Congo, including the provinces of North and South Kivu and Orientale Province, which perpetuate a climate of insecurity in the whole region,

Demanding that all armed groups, in particular the Forces démocratiques de libération du Rwanda (FDLR) and the Lord’s Resistance Army (LRA), immediately lay down their arms and cease their attacks against the civilian population, *demanding also* that all the parties to the 23 March 2009 Agreements implement their commitments effectively and in good faith,

Reiterating its concern about the support received by illegal armed groups operating in the eastern part of the Democratic Republic of the Congo from regional and international networks,

Condemning the continuing illicit flow of weapons within and into the Democratic Republic of the Congo in violation of resolutions 1533 (2004), 1807 (2008), 1857 (2008) and 1896 (2009), *declaring* its determination to continue to monitor closely the implementation of the arms embargo and other measures set out



by its resolutions concerning the Democratic Republic of the Congo, and *stressing* the obligation of all States to abide by the notification requirements set out in paragraph 5 of resolution 1807 (2008),

Recalling the linkage between the illegal exploitation of natural resources, illicit trade in such resources and the proliferation and trafficking of arms as one of the major factors fuelling and exacerbating conflicts in the Great Lakes region of Africa,

Noting with great concern the persistence of human rights and humanitarian law violations against civilians in the eastern part of the Democratic Republic of the Congo, including the killing and displacement of significant numbers of civilians, the recruitment and use of child soldiers, and widespread sexual violence, *stressing* that the perpetrators must be brought to justice, *reiterating* its firm condemnation of all violations of human rights and international humanitarian law in the country, and *recalling* all its relevant resolutions on women and peace and security, on children and armed conflict, and on the protection of civilians in armed conflicts,

Stressing the primary responsibility of the Government of the Democratic Republic of the Congo for ensuring security in its territory and protecting its civilians with respect for the rule of law, human rights and international humanitarian law,

Welcoming the ongoing efforts of the Democratic Republic of the Congo and the countries of the Great Lakes region to jointly promote peace and stability in the region, in particular in the context of the International Conference on the Great Lakes Region, and *reiterating* the importance of the Government of the Democratic Republic of the Congo and all governments, particularly those in the region, taking effective steps to ensure that there is no support, in and from their territories, for the armed groups in the eastern part of the Democratic Republic of the Congo,

Supporting the commitment of the Government of the Democratic Republic of the Congo to rid the trade in natural resources of criminal networks and *welcoming* the enhanced collaboration between the Government of the Democratic Republic of the Congo and the Group of Experts in this area,

Determining that the situation in the Democratic Republic of the Congo continues to constitute a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to renew until 30 November 2011 the measures on arms imposed by paragraph 1 of resolution 1807 (2008) and *reaffirms* the provisions of paragraphs 2, 3 and 5 of that resolution;

2. *Decides* to renew, for the period specified in paragraph 1 above, the measures on transport imposed by paragraphs 6 and 8 of resolution 1807 (2008) and *reaffirms* the provisions of paragraph 7 of that resolution;

3. *Decides* to renew, for the period specified in paragraph 1 above, the financial and travel measures imposed by paragraphs 9 and 11 of resolution 1807 (2008) and *reaffirms* the provisions of paragraphs 10 and 12 of that resolution regarding the individuals and entities referred to in paragraph 4 of resolution 1857 (2008);

4. *Calls upon* all States to implement fully the measures specified in this resolution, and to cooperate fully with the Committee in carrying out its mandate;

5. *Requests* the Secretary-General to extend, for a period expiring on 30 November 2011, the Group of Experts established pursuant to resolution 1533 (2004) and renewed by subsequent resolutions, with the addition of a sixth expert on natural resources issues, and *requests* the Group of Experts to fulfil its mandate as set out in paragraph 18 of resolution 1807 (2008) and expanded by paragraphs 9 and 10 of resolution 1857 (2008), and to report to the Council in writing, through the Committee, by 18 May 2011 and again before 17 October 2011;

6. *Requests* the Group of Experts to focus its activities in areas affected by the presence of illegal armed groups, including North and South Kivu and Orientale Province, as well as on regional and international networks providing support to illegal armed groups, criminal networks and perpetrators of serious violations of international humanitarian law and human rights abuses, including those within the national armed forces, operating in the eastern part of the Democratic Republic of the Congo, *requests further* that the Group of Experts evaluate the impact of due diligence guidelines referred to in paragraph 7 of this resolution and continue its collaboration with other forums;

7. *Supports taking forward* the Group of Experts' recommendations on guidelines for due diligence for importers, processing industries and consumers of Congolese mineral products, as set out in paragraphs 356 to 369 in part IX of the final report (S/2010/596), to mitigate the risk of further exacerbating the conflict in the eastern part of the Democratic Republic of the Congo by providing direct or indirect support to:

- illegal armed groups, in the eastern part of the Democratic Republic of the Congo,
- those found to violate the asset freeze and travel ban on sanctioned individuals and entities, as renewed by paragraph 3 above,
- criminal networks and perpetrators of serious violations of international humanitarian law and human rights abuses, including those within the national armed forces.

8. *Calls upon* all States to take appropriate steps to raise awareness of the due diligence guidelines referred to above, and to urge importers, processing industries and consumers of Congolese mineral products to exercise due diligence by applying the aforementioned guidelines, or equivalent guidelines, containing the following steps as described in the final report (S/2010/596): strengthening company management systems, identifying and assessing supply chain risks, designing and implementing strategies to respond to identified risks, conducting independent audits, and publicly disclosing supply chain due diligence and findings;

9. *Decides* that the Committee, in determining whether to designate an individual or entity supporting the illegal armed groups in the eastern part of the Democratic Republic of the Congo through illicit trade of natural resources, pursuant to sub paragraph (g) of paragraph 4 of resolution 1857 (2008) should consider, amongst other things, whether the individual or entity has exercised due diligence consistent with the steps set out in paragraph 8;

10. *Calls upon* all States, especially those in the region, to take effective steps to ensure that there is no support, in and from their territories, for the illegal armed groups in the eastern part of the Democratic Republic of the Congo, welcoming the positive international developments in regard to addressing the risks posed by armed group leaders in the diasporas, and *calls upon* all States to take action, where appropriate, against leaders of the FDLR and other illegal armed groups residing in their countries;

11. *Encourages* the Government of the Democratic Republic of the Congo to continue to take appropriate measures to address the threat of criminal networks within the Armed Forces of the Democratic Republic of the Congo (FARDC) involved in illegal economic activities, such as mining, undermining their capacity to protect civilians in the eastern part of the country;

12. *Calls upon* the Congolese authorities to continue their fight against impunity, especially against all perpetrators of human rights and international humanitarian law violations, including sexual violence, including those committed by any illegal armed groups or elements of the FARDC;

13. *Encourages* the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) to continue to share all relevant information with the Group of Experts, especially information on the recruitment and use of children, and on the targeting of women and children in situations of armed conflicts;

14. *Reiterates* its recommendation to the Government of the Democratic Republic of the Congo to promote stockpile security, accountability and management of arms and ammunition as an urgent priority, with the assistance of international partners as necessary, and to implement a national weapons marking program in line with the standards established by the Nairobi Protocol and the Regional Centre on Small Arms;

15. *Urges* the international community to consider providing increased technical or other assistance to reinforce the Congolese justice institutions and support to strengthen the institutional capacity of the mining, law enforcement and border control agencies and institutions of the Democratic Republic of the Congo;

16. *Urges* MONUSCO to continue supporting the efforts of the Congolese authorities to strengthen their justice system, to consolidate the trading counters in North and South Kivu and to monitor the measures imposed by paragraph 1 above, as mandated in the sub paragraphs (o), (r) and (t) of paragraph 12 of resolution 1925 (2010);

17. *Encourages* enhanced cooperation between all States, particularly those in the region, MONUSCO and the Group of Experts and *encourages further* that all parties and all States ensure cooperation with the Group of Experts by individuals and entities within their jurisdiction or under their control;

18. *Reiterates* its demand, expressed in paragraph 21 of resolution 1807 (2008) and reaffirmed in paragraph 14 of resolution 1857 (2008) and paragraph 13 of resolution 1896 (2009), that all parties and all States, particularly those in the region, cooperate fully with the work of the Group of Experts, and that they ensure the safety of its members, and unhindered and immediate access, in particular to

persons, documents and sites the Group of Experts deems relevant to the execution of its mandate;

19. *Recommends* that all States, particularly those in the region, regularly publish full import and export statistics for natural resources including gold, cassiterite, coltan, wolframite, timber, and charcoal and enhance information sharing and joint action at the regional level to investigate and combat regional criminal networks and armed groups involved in the illegal exploitation of natural resources;

20. *Calls upon* all States, particularly those in the region and those in which individuals and entities designated pursuant to paragraph 3 of this resolution are based, to regularly report to the Committee on the actions they have taken to implement the measures imposed by paragraphs 1, 2, and 3 and recommended in paragraph 8 above;

21. *Encourages* all States to submit to the Committee for inclusion on its list of designees, individuals or entities that meet the criteria set out in paragraph 4 of resolution 1857 (2008), as well as any entities owned or controlled, directly or indirectly, by the submitted individuals or entities or individuals or entities acting on behalf of or at the direction of the submitted entities;

22. *Decides* that, when appropriate and no later than 30 November 2011, it shall review the measures set forth in this resolution, with a view to adjusting them, as appropriate, in light of the security situation in the Democratic Republic of the Congo, in particular progress in security sector reform including the integration of the armed forces and the reform of the national police, and in disarming, demobilizing, repatriating, resettling and reintegrating, as appropriate, Congolese and foreign armed groups;

23. *Decides* to remain actively seized of the matter.

**United Nations Sanctions
(Democratic Republic of the Congo) Regulation 2011**

Information on the Democratic Republic of the Congo

Country Background

The Democratic Republic of the Congo (DR Congo) is a country in central Africa with a total area of 2,344,858 sq. km. and a projected population of around 64.3 million. It is bordered by Angola, Burundi, Central African Republic, Rwanda, Sudan, Republic of the Congo, Tanzania, Uganda and Zambia. A major producer of cobalt ore, copper and tantalum, DR Congo had a GDP of US\$11.6 billion (or HK\$90.5 billion) in 2008.¹ Merchandise imports and exports of Congo in 2009 amounted to US\$ 3.6 billion (or HK\$28.1 billion) and US\$ 3.1 billion (or HK\$24.2 billion) respectively.² Formerly a Belgian colony, DR Congo achieved independence in June 1960 and established the republic government in capital Kinshasa. It has been led by President Joseph Kabila since 2001.

United Nations Sanctions against DR Congo

2. Since 1996, DR Congo has been plagued by civil war and armed conflict. The hostilities between the ruling government and foreign militia forces started off the so-called Africa's World War in 1998, which was ended by a peace accord in 2003. The war claimed lives of more than three million people. Despite the ceasefire, fightings between different warring factions continued in DR Congo, especially in the east.³ The instability of the state had resulted in extensive poverty and human rights abuses. The Mission of the United Nations Organisation in the Democratic Republic of the Congo was established in 1999 to monitor peace process in the state.

3. In view of the security concern arising from the instability of DR Congo, the United Nations Security Council (UNSC) adopted Resolution 1493 in July 2003, which imposed arms embargo on all foreign and Congolese armed groups and militias operating in the conflict territory.

¹ Source: World Statistics Pocket Book published by United Nations Statistics Division at <http://data.un.org/CountryProfile.aspx?crName=Democratic%20Republic%20of%20the%20Congo>

² Source : WTO Statistics Database at <http://stat.wto.org/Home/WSDBHome.aspx?Language=E>

³ Source: Official Website of UNICEF at http://www.unicef.org/infobycountry/drcongo_636.html

The sanctions regime was subsequently strengthened with the adoption of UNSC Resolutions 1533(2004), 1596(2005), 1649(2005) 1698(2006), 1768(2007), 1771(2007), and 1799(2008) by which the UNSC extended the scope of the arms embargo to the entire territory of DR Congo, and imposed travel ban and assets freeze measures.

4. Since March 2008, with the adoption of UNSC Resolution 1807(2008), the arms embargo has been further modified and only applies to all non-governmental entities and individuals operating in DR Congo. By Resolution 1952(2010) adopted on 29 November 2010, the UNSC further extended the arms embargo and targeted travel and financial sanctions until 30 November 2011.

Trade Relation between Hong Kong and DR Congo

5. In 2010, DR Congo ranked 144th among Hong Kong's trading partners in the world, with a total trade of HK\$75.1 million. Of these, HK\$73.9 million worth of trade were exports to DR Congo, and HK\$1.2 million imports. Hong Kong's trade with DR Congo are summarized as follows –

Hong Kong's Trade with DR Congo [Value in HK\$ (in million)]		
Item	2009	2010
(a) Total Exports to DR Congo	77.1	73.9
<i>(i) Domestic exports</i>	4.4 ⁴	2.9 ⁵
<i>(ii) Re-exports</i>	72.7 ⁶	71.0 ⁷
(b) Imports from DR Congo	8.2 ⁸	1.2 ⁹
Total Trade [(a) + (b)]	85.3	75.1

⁴ In 2009, the main domestic exports item to DR Congo is clothing (99.9%).

⁵ In 2010, the main domestic exports item to DR Congo is clothing (99.0%). In 2009, the significant increase in domestic exports was caused by a substantial increase in exports of clothing. A reverse in the demand for the same product attributed to the decrease in 2010.

⁶ In 2009, re-exports items to DR Congo include clothing (36.3%); electrical machinery and apparatus (22.5%); telecommunications equipment (11.3%); textiles (9.1%); and parts and accessories of office machines and computers (4.3%).

⁷ In 2010, re-export items to DR Congo include clothing (36.0%); electrical machinery and apparatus (26.7%); and telecommunications equipment (11.2%).

⁸ In 2009, imports items from DR Congo include wood in the rough (68.3%); non-ferrous base metal waste and scrap (23.2%); and wood (simply worked) (4.5%).

⁹ In 2010, imports items from DR Congo include non-ferrous base metal waste and scrap (24.1%); civil engineering and contractors' plant and equipment (23.9%); and fuel wood (excluding wood waste) and wood charcoal (16.4%). The increase in imports in 2009 stemmed from the increase in demand for wood in the rough and non-ferrous base metal and scrap. As for the decrease in 2010, it was caused by the reverse in demand for the same items.

In 2010, HK\$136.7 million worth of goods, or 0.6% of the total trade between DR Congo and the Mainland, were routed through Hong Kong. Of these, HK\$66.4 million worth of goods were re-exports from DR Congo to Mainland. The remaining HK\$70.3 million were re-exports of Mainland origin to DR Congo via Hong Kong.

6. The current arms embargo, travel ban and financial sanctions against DR Congo imposed by the UNSC would unlikely affect the trade between Hong Kong and DR Congo adversely, as the major categories of commodities traded are not related to arms and related materials. In addition, given the rather small trade volume between the two places, the United Nations sanctions against DR Congo would unlikely have any effect on the economy of Hong Kong.

**Commerce and Economic Development Bureau
March 2011**