

LEGISLATIVE COUNCIL BRIEF

United Nations Sanctions Ordinance (Chapter 537)

UNITED NATIONS SANCTIONS (DEMOCRATIC REPUBLIC OF THE CONGO) REGULATION 2016

INTRODUCTION

A At the meeting of the Executive Council on 11 October 2016, the Council advised and the Chief Executive (“the CE”) ordered that the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2016 (“the 2016 Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (“the Ordinance”). The 2016 Regulation was gazetted on 14 October 2016 and came into operation 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 Ministry of Foreign Affairs of the People's Republic of China (“MFA”) to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In August 2016, the CE received an instruction from the MFA requesting the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement UNSC Resolution (“UNSCR”) 2293. The 2016 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 the Democratic Republic of the Congo (“DR Congo”)

3. The UNSC has adopted several resolutions imposing or renewing sanctions against DR Congo since 2003. These sanctions included –

- (a) prohibition against the 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, subject to certain exceptions (*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 pursuant to paragraph 8 of UNSCR 1533 (“the Committee”), provided that nothing in paragraph 9 of UNSCR 1807 shall obligate a State to refuse entry of its own nationals into its territory and subject to certain exceptions (*paragraphs 9 and 10 of UNSCR 1807 refer*); and
- (c) freezing of funds, other financial assets and economic resources owned or controlled by persons or entities 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, subject to certain exceptions (*paragraphs 11 and 12 of UNSCR 1807 refer*).

4. Pursuant to the instructions of the MFA, the HKSAR implemented the above sanction measures through making regulations under the Ordinance, the most recent one being the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2015 (Cap. 537BN) (“the 2015 Regulation”). The 2015 Regulation expired at midnight on 1 July 2016.

UNSCR 2293

D 5. Determining that the situation in DR Congo continues to constitute a threat to international peace and security in the region, the UNSC adopted UNSCR 2293, at Annex D, on 23 June 2016, which decided, inter alia –

- (a) to renew until 1 July 2017 the measures on arms imposed by paragraph 1 of UNSCR 1807, subject to the exceptions set out in paragraph 3 of UNSCR 2293 and reaffirmed the provisions of paragraphs 2 and 5 of UNSCR 1807 (*paragraphs 1 to 3 of UNSCR 2293 refer*); and
- (b) to renew until 1 July 2017 the financial and travel measures imposed by paragraphs 9 and 11 of UNSCR 1807, subject to the exceptions set out in paragraph 10 of UNSCR 2078¹ and reaffirmed the provisions of paragraphs 10 and 12 of UNSCR 1807 (*paragraphs 5 and 6 of UNSCR 2293 refer*).

6. The implementation of UNSCR 2293 is relevant to the HKSAR's compliance with the relevant recommendation promulgated by the Financial Action Task Force on combating the financing of terrorism.

THE 2016 REGULATION

7. The 2016 Regulation, at Annex A, seeks to implement the sanctions against DR Congo as renewed by UNSCR 2293. The main provisions of the 2016 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;

¹ Paragraph 10 of UNSCR 2078 provides that the measures imposed by paragraph 9 of UNSCR 1807 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; or
- (d) where such entry or transit is necessary for the fulfilment of judicial process.

- (c) **section 5**, which provides for the prohibitions against making available to certain persons or entities 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) **section 7**, which provides for the exceptions to the prohibition against the entry into or transit through the HKSAR by certain persons;
- (f) **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 funds or other financial assets or economic resources, or dealing with funds or other financial assets or economic resources of certain persons or entities;
- (g) **section 30**, which provides that the Chief Executive may by notice published in the Gazette specify a person or an entity designated by the Committee as a relevant person or a relevant entity for the purpose of the financial sanctions under the 2016 Regulation; and
- (h) **section 32**, which provides that the 2016 Regulation will expire at midnight on 1 July 2017.

E A marked-up version showing changes when compared against the 2015 Regulation is at Annex E for easy reference by Members.

IMPLICATIONS OF THE PROPOSAL

8. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The 2016 Regulation will not affect the current binding effect of the Ordinance. It has no financial, economic, productivity, environmental, sustainability, family or gender implications. Additional work arising from the enforcement of the 2016 Regulation, if any, will be absorbed by the relevant departments with existing resources.

PUBLICITY

9. A press release was issued on 14 October 2016 when the 2016 Regulation was published in the Gazette.

INFORMATION ON DR CONGO AND RELATIONS WITH THE HKSAR

10. For information on DR Congo, background of the sanctions imposed against the country by the UNSC as well as its bilateral trade relations with the HKSAR, please refer to Annex F.

F

ADVICE SOUGHT

11. Members are invited to note the implementation of the UNSCR 2293 in the HKSAR by the 2016 Regulation.

Commerce and Economic Development Bureau
October 2016

L.N. 157 of 2016

**United Nations Sanctions (Democratic Republic of the
Congo) Regulation 2016****Contents**

| Section | Page |
|--|-------|
| Part 1 | |
| Preliminary | |
| 1. Interpretation | B3043 |
| Part 2 | |
| Prohibitions | |
| 2. Prohibition against supply, sale or transfer of certain goods | B3049 |
| 3. Prohibition against carriage of certain goods | B3051 |
| 4. Prohibition against provision of certain assistance, advice or training | B3057 |
| 5. Prohibition against making available funds, etc. or dealing with funds, etc. | B3059 |
| 6. Prohibition against entry or transit by certain persons | B3063 |
| 7. Exceptions to prohibition against entry or transit by certain persons | B3065 |

| Section | Page |
|--|-------|
| Part 3 | |
| Licences | |
| 8. Licence for supply, sale, transfer or carriage of certain goods | B3067 |
| 9. Licence for provision of certain assistance, advice or training | B3069 |
| 10. Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities | B3071 |
| 11. Provision of false information or documents for purpose of obtaining licences | B3077 |
| Part 4 | |
| Things Done outside HKSAR | |
| 12. Licence or permission granted by authorities of places outside HKSAR | B3079 |
| Part 5 | |
| Enforcement of Regulation | |
| Division 1—Investigation, etc. of Suspected Ships | |
| 13. Investigation of suspected ships | B3081 |
| 14. Offences by charterer, operator or master of ship | B3085 |
| 15. Power of authorized officers to enter and detain ships | B3085 |

| Section | Page |
|---|-------|
| Division 2—Investigation, etc. of Suspected Aircraft | |
| 16. Investigation of suspected aircraft | B3087 |
| 17. Offences by charterer, operator or pilot in command of aircraft | B3089 |
| 18. Power of authorized officers to enter and detain aircraft | B3091 |
| Division 3—Investigation, etc. of Suspected Vehicles | |
| 19. Investigation of suspected vehicles | B3093 |
| 20. Offences by operator or driver of vehicle | B3095 |
| 21. Power of authorized officers to enter and detain vehicles | B3095 |
| Division 4—Proof of Identity | |
| 22. Production of proof of identity | B3097 |
| Part 6 | |
| Evidence | |
| 23. Power of magistrate or judge to grant warrant | B3099 |
| 24. Detention of documents, cargoes or articles seized | B3101 |
| Part 7 | |
| Disclosure of Information or Documents | |
| 25. Disclosure of information or documents | B3103 |
| Part 8 | |
| Other Offences and Miscellaneous Matters | |
| 26. Liability of persons other than principal offenders | B3107 |

| Section | Page |
|--|-------|
| 27. Offences in relation to obstruction of authorized persons, etc. | B3107 |
| 28. Offences in relation to evasion of this Regulation | B3107 |
| 29. Consent and time limit for proceedings | B3109 |
| 30. Specification of relevant person or relevant entity by Chief Executive | B3109 |
| 31. Exercise of powers of Chief Executive | B3109 |
| Part 9 | |
| Duration | |
| 32. Duration | B3113 |

United Nations Sanctions (Democratic Republic of the Congo) Regulation 2016

(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;

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

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

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

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

Resolution 2293 (《第2293號決議》) means Resolution 2293 (2016) adopted by the Security Council on 23 June 2016;

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

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) for a ship registered in the HKSAR—the charterer, the operator and the master of the ship;
 - (b) for 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) for an aircraft registered in the HKSAR—the charterer, the operator and the pilot in command of the aircraft;
- (d) for 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) for 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 belonging to, or owned or controlled 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 belonging to, or owned or controlled 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 belonging to, or owned or controlled 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 belonging to, or owned or controlled 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 person designated by the Committee under paragraph 7 of Resolution 2293.

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 or transit 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 by a person returning to the territory of the State of his or her nationality;
- (d) the Committee has authorized the relevant transit by a person participating in efforts to bring to justice perpetrators of grave violations of human rights or international humanitarian law; or
- (e) the relevant entry or transit is necessary for the fulfilment of a judicial process.

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 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 Stabilization 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;
 - (e) the prohibited goods are intended solely for the support of or use by the African Union-Regional Task Force;
 - (f) the supply or sale of the prohibited goods is approved in advance by the Committee.
- (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 are as follows—

- (a) the assistance, advice or training is provided to the Government of the Democratic Republic of the Congo;
- (b) the assistance or training is technical assistance or training intended solely for the support of or use by the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo;
- (c) the assistance or training is technical assistance or training related to non-lethal military equipment intended solely for humanitarian or protective use;
- (d) the assistance, advice or training is intended solely for the support of or use by the African Union-Regional Task Force;
- (e) the assistance or provision of personnel is approved in advance by the Committee.

- (3) If the Chief Executive is satisfied that the requirement in subsection (2)(a) or (c) 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 belonging to, or owned or controlled by, a relevant person or a relevant entity.

(2) The requirements 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 belonging to, or owned or controlled 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.
-

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 section 3(2) 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 a person or an entity designated by the Committee under paragraph 7 of Resolution 2293.

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.
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Part 9

Duration

32. Duration

This Regulation expires at midnight on 1 July 2017.

C. Y. LEUNG
Chief Executive

11 October 2016

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution 2293 (2016) as adopted by the Security Council of the United Nations on 23 June 2016 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 belonging to, or owned or controlled 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 2016**

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 August 2016 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution 2293 of the Security Council of the United Nations, and that the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2016 was made in pursuance of that instruction.

Dated this 11th day of October 2016

A handwritten signature in black ink, appearing to read 'Carrie Lam', is positioned above the printed name and title.

(Mrs Carrie Lam)
Chief Secretary for Administration

United Nations

S/RES/1807 (2008)



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.

United Nations

S/RES/2293 (2016)

**Security Council**Distr.: General
23 June 2016

Resolution 2293 (2016)**Adopted by the Security Council at its 7725th meeting, on
23 June 2016***The Security Council,**Recalling* its previous resolutions and the statements of its President concerning the Democratic Republic of the Congo (DRC),*Reaffirming* its strong commitment to the sovereignty, independence, unity and territorial integrity of the DRC as well as all States in the region and emphasizing the need to respect fully the principles of non-interference, good neighbourliness and regional cooperation,*Stressing* the primary responsibility of the Government of the DRC for ensuring security in its territory and protecting its populations with respect for the rule of law, human rights and international humanitarian law,*Taking note* of the interim report (S/2015/797) and the final report (S/2016/466) of the Group of Experts on the DRC (“the Group of Experts”) established pursuant to resolution 1533 (2004) and extended pursuant to resolutions 1807 (2008), 1857 (2008), 1896 (2009), 1952 (2010), 2021 (2011), 2078 (2012), 2136 (2014) and 2198 (2015), *noting* the finding that the linkage between armed groups, criminal networks and illegal exploitation of natural resources contributes to the insecurity in eastern DRC, and *taking note* of their recommendations,*Recalling* the strategic importance of the implementation of the Peace, Security and Cooperation (PSC) Framework for the DRC and the region, and *reiterating* its call to all signatories to fulfil promptly, fully and in good faith their respective commitments under this agreement in order to address the root causes of conflict and put an end to recurring cycles of violence,*Recalling* the commitments under the PSC Framework by all States of the region not to interfere in the internal affairs of neighbouring countries, and to neither tolerate nor provide assistance or support of any kind to armed groups, and *reiterating* its strong condemnation of any and all internal or external support to armed groups active in the region, including through financial, logistical or military support,*Reiterating* its deep concern regarding the security and humanitarian crisis in eastern DRC due to ongoing military activities of foreign and domestic armed

16-10629 (E)



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groups and the smuggling of Congolese natural resources, in particular gold and ivory, *stressing* the importance of neutralizing all armed groups, including the Democratic Forces for the Liberation of Rwanda (FDLR), the Allied Democratic Forces (ADF), the Lord's Resistance Army (LRA), and all other armed groups in the DRC, in line with resolution 2277 (2016),

Reiterating that the durable neutralization of the FDLR remains essential in bringing stability to and protecting civilians of the DRC and the Great Lakes region, *recalling* that the FDLR is a group under United Nations sanctions whose leaders and members include perpetrators of the 1994 genocide against the Tutsi in Rwanda, during which Hutu and others who opposed the genocide were also killed, and have continued to promote and commit ethnically based and other killings in Rwanda and in the DRC, *noting* the reported military operations undertaken by the Congolese Armed Forces (FARDC) in 2015 and 2016 which have resulted in some destabilization of the FDLR, *expressing concern* that these operations have been carried out simultaneously with Congolese Mai Mai groups, *welcoming* the initial resumption of cooperation of the FARDC with the United Nations Organization Stabilization Mission in the DRC (MONUSCO), and *calling for* the full resumption of cooperation and joint operations, in accordance with MONUSCO's mandate,

Condemning the brutal killings of more than 500 civilians in the Beni area since October 2014, *expressing deep concern* regarding the continued threat posed by armed groups, in particular the ADF, and the persistence of violence in this region, *further expressing concern* at reports of collaboration between elements of the FARDC and armed groups at a local level, in particular recent reports of individual officers of the FARDC playing a role in the insecurity in the region of Beni, *calling for* investigations in order to ensure that those responsible are held to account, *noting* the commitment expressed by the Government of the DRC in its letter of 15 June 2016 (S/2016/542),

Reaffirming the importance of completing the permanent demobilization of the former 23 March Movement (M23) combatants, *stressing* the importance of ensuring that its ex-combatants do not regroup or join other armed groups, and *calling for* the acceleration of the implementation of the Nairobi Declarations and of the Disarmament, Demobilisation, Repatriation, Reintegration and Resettlement (DDRRR) of M23 ex-combatants, including by overcoming obstacles to repatriation, in coordination with the regional States concerned,

Condemning the illicit flow of weapons within and into the DRC, including their recirculation to and between armed groups, in violation of resolutions 1533 (2004), 1807 (2008), 1857 (2008), 1896 (2009), 1952 (2010), 2021 (2011), 2078 (2012), 2136 (2014) and 2198 (2015), and *declaring* its determination to continue to monitor closely the implementation of the arms embargo and other measures set out by its resolutions concerning the DRC,

Acknowledging in this respect the important contribution the Council-mandated arms embargo makes to countering the illicit transfer of small arms and light weapons in the DRC, and in supporting post-conflict peacebuilding, disarmament, demobilization and reintegration of ex-combatants and security sector reform,

Underlining that the transparent and effective management of its natural resources and ending illegal smuggling and trafficking of such resources are critical

for the DRC's sustainable peace and security, *expressing concern* at the illegal exploitation and trafficking of natural resources by armed groups, and the negative impact of armed conflict on protected natural areas, *commending* the efforts of the DRC park rangers and others who seek to protect such areas, *encouraging* the Government of the DRC to continue efforts to safeguard these areas, and *stressing* its full respect for the sovereignty of the Government of the DRC over its natural resources and its responsibility to effectively manage these resources in this regard,

Recalling the linkage between the illegal exploitation of natural resources, including poaching and illegal trafficking of wildlife, 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, and encouraging the continuation of the regional efforts of the International Conference of the Great Lakes Region (ICGLR) and the governments involved against the illegal exploitation of natural resources, and *stressing*, in this regard, the importance of regional cooperation and deepening economic integration with special consideration for the exploitation of natural resources,

Noting the Group of Experts' findings that there have been positive efforts related to the minerals trade and traceability schemes but that gold remains a serious challenge, *recalling* the ICGLR's Lusaka Declaration of the Special Session to Fight Illegal Exploitation of Natural Resources in the Great Lakes Region and its call for industry due diligence, *commending* the ICGLR's commitment and progress on this issue and *underscoring* that it is critical for regional governments and trading centres, particularly those involved in gold refining and the gold trade to intensify efforts to increase vigilance against smuggling and reduce practices that could undermine the DRC and ICGLR's regional efforts,

Noting with concern reports indicating the continued involvement of armed groups, as well as some elements of the FARDC, in the illegal minerals trade, the illegal production and trade of charcoal and wood, and wildlife poaching and trafficking,

Noting with great concern the persistence of serious human rights abuses and international humanitarian law violations against civilians in the eastern part of the DRC, including summary executions, sexual and gender-based violence and large scale recruitment and use of children committed by armed groups,

Stressing the crucial importance of a peaceful and credible electoral cycle, in accordance with the Constitution, for stabilization and consolidation of constitutional democracy in the DRC, *expressing deep concern* at increased restrictions of the political space in the DRC, in particular recent arrests and detention of members of the political opposition and of civil society, as well as restrictions of fundamental freedoms such as the freedom of expression and opinion, and *recalling* the need for an open, inclusive and peaceful political dialogue among all stakeholders focused on the holding of elections, while ensuring the protection of fundamental freedoms and human rights, paving the way for peaceful, credible, inclusive, transparent and timely elections in the DRC, particularly presidential and legislative elections by November 2016, in accordance with the Constitution, while respecting the African Charter on Democracy, Elections and Governance,

Remaining deeply concerned by reports of an increase in serious human rights and international humanitarian law violations committed by some members of the

FARDC, the National Intelligence Agency, the Republican Guard and Congolese National Police (PNC), *urging* all parties to refrain from violence and provocation as well as to respect human rights, and *emphasizing* that the Government of the DRC must comply with the principle of proportionality in the use of force,

Recalling the importance of fighting against impunity within all ranks of its security forces, and *stressing the need* for the Government of the DRC to continue its efforts in this regard and to ensure the professionalism of its security forces,

Calling for all those responsible for violations of international humanitarian law and violations or abuses of human rights including those involving violence or abuses against children and acts of sexual and gender-based violence, to be swiftly apprehended, brought to justice and held accountable,

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, also *recalling* the conclusions of the Security Council Working Group on Children and Armed Conflict pertaining to the parties in armed conflict of the DRC (S/AC.51/2014/3) adopted on 18 September 2014,

Welcoming the efforts of the Government of the DRC, including the Presidential Adviser on Sexual Violence and the Recruitment of Children, to cooperate with the Special Representative of the Secretary-General for Children and Armed Conflict, the Special Representative of the Secretary-General on Sexual Violence, and MONUSCO, to implement the action plan to prevent and end the recruitment and use of children and sexual violence by the FARDC, and to combat impunity for conflict-related sexual violence, including sexual violence committed by the FARDC,

Noting the critical importance of effective implementation of the sanctions regime, including the key role that neighbouring States, as well as regional and subregional organizations, can play in this regard and *encouraging* efforts to further enhance cooperation,

Underlining the fundamental importance of timely and detailed notifications to the Committee concerning arms, ammunition and training as set out in section 11 of the Guidelines of the Committee,

Determining that the situation in the DRC continues to constitute a threat to international peace and security in the region,

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

Sanctions regime

1. *Decides* to renew until 1 July 2017 the measures on arms imposed by paragraph 1 of resolution 1807 (2008) and *reaffirms* the provisions of paragraph 5 of that resolution;

2. *Reaffirms* that according to paragraph 2 of resolution 1807 (2008), these measures 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 DRC;

3. *Decides* that the measures imposed by paragraph 1 shall not apply to:

(a) Supplies of arms and related materiel, as well as assistance, advice or training, intended solely for the support of or use by MONUSCO or the African Union-Regional Task Force;

(b) Protective clothing, including flak jackets and military helmets, temporarily exported to the DRC 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 of resolution 1807 (2008);

(d) Other sales and or supply of arms and related materiel, or provision of assistance or personnel, as approved in advance by the Committee;

4. *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;

5. *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 resolution 1807 (2008) in relation to those measures;

6. *Decides* that the measures imposed by paragraph 9 of resolution 1807 (2008) shall not apply as per the criteria set out in paragraph 10 of resolution 2078 (2012);

7. *Decides* that the measures referred to in paragraph 5 above shall apply to individuals and entities as designated by the Committee for engaging in or providing support for acts that undermine the peace, stability or security of the DRC, and *decides* that such acts include:

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

(b) being political and military leaders of foreign armed groups operating in the DRC who impede the disarmament and the voluntary repatriation or resettlement of combatants belonging to those groups;

(c) being political and military leaders of Congolese militias, including those receiving support from outside the DRC, who impede the participation of their combatants in disarmament, demobilization and reintegration processes;

(d) recruiting or using children in armed conflict in the DRC in violation of applicable international law;

(e) planning, directing, or committing acts in the DRC that constitute human rights violations or abuses or violations of international humanitarian law, as applicable, including those acts involving the targeting of civilians, including killing and maiming, rape and other sexual violence, abduction, forced displacement, and attacks on schools and hospitals;

(f) obstructing the access to or the distribution of humanitarian assistance in the DRC;

(g) supporting individuals or entities, including armed groups or criminal networks, involved in destabilizing activities in the DRC through the illicit exploitation or trade of natural resources, including gold or wildlife as well as wildlife products;

(h) acting on behalf of or at the direction of a designated individual or entity, or acting on behalf of or at the direction of an entity owned or controlled by a designated individual or entity;

(i) planning, directing, sponsoring or participating in attacks against MONUSCO peacekeepers or United Nations personnel;

(j) providing financial, material, or technological support for, or goods or services to, a designated individual or entity.

Group of Experts

8. *Decides* to extend until 1 August 2017 the mandate of the Group of Experts, *expresses its intention* to review the mandate and take appropriate action regarding the further extension no later than 1 July 2017, and *requests* the Secretary-General to take the necessary administrative measures as expeditiously as possible to re-establish the Group of Experts, in consultation with the Committee, drawing, as appropriate, on the expertise of the members of the Group established pursuant to previous resolutions;

9. *Requests* the Group of Experts to fulfil its mandate as consolidated below, and to provide to the Council, after discussion with the Committee, a mid-term report no later than 30 December 2016, and a final report no later than 15 June 2017, as well as submit monthly updates to the Committee, except in the months where the mid-term and final reports are due:

(a) assist the Committee in carrying out its mandate, including through providing the Committee with information relevant to the potential designation of individuals and entities who may be engaging in the activities described in paragraph 7 of this resolution;

(b) gather, examine and analyse information regarding the implementation, with a focus on incidents of non-compliance, of the measures decided in this resolution;

(c) consider and recommend, where appropriate, ways of improving the capabilities of Member States, in particular those in the region, to ensure the measures imposed by this resolution are effectively implemented;

(d) gather, examine and analyse information regarding the regional and international support networks to armed groups and criminal networks in the DRC;

(e) gather, examine and analyse information regarding the supply, sale or transfer of arms, related materiel and related military assistance, including through illicit trafficking networks and the transfer of arms and related materiel to armed groups from the DRC security forces;

(f) gather, examine and analyse information regarding perpetrators of serious violations of international humanitarian law and human rights violations and abuses, including those within the security forces, in the DRC,

(g) evaluate the impact of minerals traceability referred to in paragraph 24 of this resolution and continue collaboration with other forums;

(h) assist the Committee in refining and updating information on the list of individuals and entities subject to the measures imposed by this resolution, including through the provision of identifying information and additional information for the publicly-available narrative summary of reasons for listing;

10. *Expresses* its full support to the Group of Experts and calls for enhanced cooperation between all States, particularly those in the region, MONUSCO, relevant UN bodies and the Group of Experts, *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 and *reiterates* its demand that all parties and all States ensure the safety of its members and its support staff, and that all parties and all States, including the DRC and countries of the region, provide unhindered and immediate access, in particular to persons, documents and sites the Group of Experts deems relevant to the execution of its mandate;

11. *Calls upon* the Group of Experts to cooperate actively with other Panels or Groups of Experts established by the Security Council, as relevant to the implementation of its mandate;

Armed groups

12. *Strongly condemns* all armed groups operating in the region and their violations of international humanitarian law as well as other applicable international law, and abuses of human rights including attacks on the civilian population, MONUSCO peacekeepers and humanitarian actors, summary executions, sexual and gender-based violence and large scale recruitment and use of children, and *reiterates* that those responsible will be held accountable;

13. *Demands* that the FDLR, the ADF, the LRA and all other armed groups operating in the DRC cease immediately all forms of violence and other destabilizing activities, including the exploitation of natural resources, and that their members immediately and permanently disband, lay down their arms, and liberate and demobilize all children from their ranks;

National and Regional Commitments

14. *Welcomes* the progress made to date by the Government of the DRC on ending the recruitment and use of children in armed conflict, *urges* the Government of the DRC to continue the full implementation and dissemination throughout the military chain of command, including in remote areas, of its commitments made in the action plan signed with the United Nations, and for the protection of girls and boys from sexual violence, and further *calls upon* the Government of the DRC to ensure that children are not detained on charges related to association with armed groups;

15. *Welcomes* efforts made by the Government of the DRC to combat and prevent sexual violence in conflict, including progress made in the fight against impunity, and *calls on* the Government of DRC to further pursue its action plan commitments to end sexual violence and violations committed by its armed forces and continue efforts in that regard, noting that failure to do so may result in the FARDC being named again in future Secretary-General's reports on sexual violence;

16. *Stresses* the importance of the Government of the DRC actively seeking to hold accountable those responsible for war crimes and crimes against humanity in the country and of regional cooperation to this end, including through its ongoing cooperation with the International Criminal Court, *encourages* MONUSCO to use its existing authority to assist the government of the DRC in this regard, and *calls on* all signatories of the PSC Framework to continue to implement their commitments and cooperate fully with one another and the Government of the DRC, as well as MONUSCO to this end;

17. *Recalls* that there should be no impunity for any of those responsible for violations of international humanitarian law and violations and abuses of human rights in the DRC and the region, and, in this regard, *urges* the DRC, all countries in the region and other concerned UN Member States to bring perpetrators to justice and hold them accountable, including those within the security sector;

18. *Calls on* the Government of the DRC to continue to enhance stockpile security, accountability and management of arms and ammunition, with the assistance of international partners, to address ongoing reports of diversion to armed groups, as necessary and requested, and to urgently implement a national weapons marking program, in particular for state-owned firearms, in line with the standards established by the Nairobi Protocol and the Regional Centre on Small Arms;

19. *Emphasizes* the primary responsibility of the Government of the DRC to reinforce State authority and governance in eastern DRC, including through effective security sector reform to allow army, police and justice sector reform, and to end impunity for violations and abuses of human rights and violations of international humanitarian law, and *urges* the Government of the DRC to increase efforts in this regard, in accordance with its national commitments under the PSC Framework;

20. *Urges* the Government of the DRC as well as all relevant parties to ensure an environment conducive to a free, fair, credible, inclusive, transparent, peaceful and timely electoral process, in accordance with the Congolese Constitution, and *recalls* paragraphs 7, 8, 9 and 10 of resolution 2277 (2016);

21. *Calls upon* all States, especially those in the region, to take effective steps to ensure that there is no support, in or from their territories, for armed groups in, or travelling through, the DRC, stressing the need to address the networks of support, the recruitment and use of child soldiers, financing and recruitment of armed groups active in the DRC, as well as the need to address the ongoing collaboration between FARDC elements and armed groups at a local level, and *calls upon* all States to take steps to hold accountable, where appropriate, leaders and members of the FDLR and other armed groups residing in their countries;

Natural Resources

22. *Further encourages* the continuation of efforts by the Government of the DRC to address issues of illegal exploitation and smuggling of natural resources, including holding accountable those elements of the FARDC which participate in the illicit trade of natural resources, particularly gold and wildlife products;

23. *Stresses* the need to undertake further efforts to cut off financing for armed groups involved in destabilizing activities through the illicit trade of natural resources, including gold or wildlife products;

24. *Welcomes* in this regard the measures taken by the Congolese Government to implement the due diligence guidelines on the supply chain of minerals, as defined by the Group of Experts and the Organization for Economic Cooperation and Development (OECD), *recognizes* the Congolese Government's efforts to implement minerals traceability schemes, and *calls on* all States to assist the DRC, the ICGLR and the countries in the Great Lakes region to develop a responsible minerals trade;

25. *Welcomes* measures taken by the Governments in the region to implement the Group of Experts due diligence guidelines, including adopting the Regional Certification Mechanism of the ICGLR into their national legislation, in accordance with OECD Guidance and international practice, *requests* the extension of the certification process to other Member States in the region, and *calls on* all States, particularly those in the region, to continue to raise awareness of the due diligence guidelines, including by urging importers, processing industries, including gold refiners, and consumers of Congolese mineral products to exercise due diligence in accordance with paragraph 19 of resolution 1952 (2010);

26. *Encourages* the ICGLR and ICGLR Member States to work closely with the industry schemes currently operating in the DRC to ensure sustainability, transparency, and accountability of operations, and further *recognizes* and *encourages* the DRC government's continued support for the establishment of traceability and diligence systems to allow for the export of artisanal gold;

27. *Continues to encourage* the ICGLR to put in place the necessary technical capacity required to support Member States in their fight against the illegal exploitation of natural resources, *notes* that some ICGLR Member States have made significant progress, and *recommends* all Member States to fully implement the regional certification scheme and report mineral trade statistics in accordance with paragraph 19 of resolution 1952 (2010);

28. *Encourages* all States to continue efforts to end the illicit trade in natural resources, in particular in the gold sector, and to hold those complicit in the illicit trade accountable, as part of broader efforts to ensure that the illicit trade in natural resources is not benefiting sanctioned entities, armed groups or criminal networks, including those with members in the FARDC;

29. *Reaffirms* the provisions of paragraphs 7 to 9 of resolution 2021 (2011) and *calls upon* the DRC and States in the Great Lakes region to cooperate at the regional level to investigate and combat regional criminal networks and armed groups involved in the illegal exploitation of natural resources, including wildlife poaching and trafficking, and require their customs authorities to strengthen their control on exports and imports of minerals from the DRC;

Role of MONUSCO

30. *Recalls* the mandate of MONUSCO as outlined in resolution 2277 (2016), in particular in paragraph 31 underlining the importance of enhanced political and conflict-related analysis, including by collecting and analysing information on the criminal networks which support the armed groups, paragraph 36 (ii) regarding the monitoring of the implementation of the arms embargo, and paragraph 36 (iii) on mining activities;

31. *Encourages* timely information exchange between MONUSCO and the Group of Experts in line with paragraph 43 of resolution 2277 (2016), and *requests* MONUSCO to assist the Committee and the Group of Experts, within its capabilities;

Sanctions Committee, Reporting and Review

32. *Calls upon* all States, particularly those in the region and those in which individuals and entities designated pursuant to paragraph 7 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, 4, and 5 and recommended in paragraph 8 of resolution 1952 (2010);

33. *Emphasizes* the importance for the Committee of holding regular consultations with concerned Member States, as may be necessary, in order to ensure full implementation of the measures set forth in this resolution;

34. *Requests* the Committee to report orally, through its Chair, at least once per year to the Council, on the state of the overall work of the Committee, including alongside the Special Representative of the Secretary-General for the DRC on the situation in the DRC as appropriate, and encourages the Chair to hold regular briefings for all interested Member States;

35. *Requests* the Committee to identify possible cases of non-compliance with the measures pursuant to paragraphs 1, 4 and 5 above and to determine the appropriate course of action on each case, and *requests* the Chair, in regular reports to the Council pursuant to paragraph 34 of this resolution, to provide progress reports on the Committee's work on this issue;

36. *Requests* the Special Representative of the Secretary-General for Children and Armed Conflict and the Special Representative for Sexual Violence in Conflict to continue sharing relevant information with the Committee in accordance with paragraph 7 of resolution 1960 (2010) and paragraph 9 of resolution 1998 (2011);

37. *Decides* that, when appropriate and no later than 1 July 2017, 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 DRC, in particular progress in security sector reform and in disarming, demobilizing, repatriating, resettling and reintegrating, as appropriate, Congolese and foreign armed groups, with a particular focus on children among them, and compliance with this resolution;

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

United Nations Sanctions (Democratic Republic of the Congo) Regulation 2016

Contents

| Section | Page |
|---|------|
| Part 1 | |
| Preliminary | |
| 1. Interpretation..... | 1 |
| Part 2 | |
| Prohibitions | |
| 2. Prohibition against supply, sale or transfer of certain goods | 4 |
| 3. Prohibition against carriage of certain goods..... | 5 |
| 4. Prohibition against provision of certain assistance, advice or training | 8 |
| 5. Prohibition against making available funds, etc. or dealing with funds, etc..... | 9 |
| 6. Prohibition against entry or transit by certain persons | 11 |
| 7. Exceptions to prohibition against entry or transit by certain persons | 11 |
| Part 3 | |
| Licences | |
| 8. Licence for supply, sale, transfer or carriage of certain goods..... | 13 |

| Section | Page |
|---|------|
| 9. Licence for provision of certain assistance, advice or training | 14 |
| 10. Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities..... | 15 |
| 11. Provision of false information or documents for purpose of obtaining licences | 17 |

Part 4

Things Done outside HKSAR

| | |
|--|----|
| 12. Licence or permission granted by authorities of places outside HKSAR | 19 |
|--|----|

Part 5

Enforcement of Regulation

Division 1—Investigation, etc. of Suspected Ships

| | |
|--|----|
| 13. Investigation of suspected ships..... | 20 |
| 14. Offences by charterer, operator or master of ship..... | 22 |
| 15. Power of authorized officers to enter and detain ships | 22 |

Division 2—Investigation, etc. of Suspected Aircraft

| | |
|--|----|
| 16. Investigation of suspected aircraft | 23 |
| 17. Offences by charterer, operator or pilot in command of aircraft..... | 24 |
| 18. Power of authorized officers to enter and detain aircraft | 24 |

| Section | Page |
|---|--|
| Division 3—Investigation, etc. of Suspected Vehicles | |
| 19. | Investigation of suspected vehicles..... 25 |
| 20. | Offences by operator or driver of vehicle 26 |
| 21. | Power of authorized officers to enter and detain vehicles..... 27 |
| Division 4—Proof of Identity | |
| 22. | Production of proof of identity..... 28 |
| Part 6 | |
| Evidence | |
| 23. | Power of magistrate or judge to grant warrant..... 29 |
| 24. | Detention of documents, cargoes or articles seized 30 |
| Part 7 | |
| Disclosure of Information or Documents | |
| 25. | Disclosure of information or documents..... 31 |
| Part 8 | |
| Other Offences and Miscellaneous Matters | |
| 26. | Liability of persons other than principal offenders 33 |
| 27. | Offences in relation to obstruction of authorized persons, etc. 33 |
| 28. | Offences in relation to evasion of this Regulation 33 |
| 29. | Consent and time limit for proceedings 34 |
| 30. | Specification of relevant person or relevant entity by Chief Executive 34 |

| Section | Page |
|---------|---|
| 31. | Exercise of powers of Chief Executive..... 34 |

Part 9

Duration

| | |
|-----|-------------------|
| 32. | Duration 36 |
|-----|-------------------|

United Nations Sanctions (Democratic Republic of the Congo) Regulation 201~~5~~6

(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;

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

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

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

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

~~***Resolution 2198*** (《第 2198 號決議》) means Resolution 2198 (2015) adopted by the Security Council on 29 January 2015;~~

Resolution 2293 (《第 2293 號決議》) means Resolution 2293 (2016) adopted by the Security Council on 23 June 2016;

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

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) for a ship registered in the HKSAR, ~~—~~the charterer, the operator and the master of the ship;
 - (b) for 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) for an aircraft registered in the HKSAR, ~~the~~ the charterer, the operator and the pilot in command of the aircraft;
- (d) for 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) for a vehicle, ~~the~~ 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 belonging to, or owned or controlled 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 belonging to, or owned or controlled 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 belonging to, or owned or controlled 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 belonging to, or owned or controlled 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 person designated by the Committee under paragraph 57 of Resolution 2198/2293.

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;
 - (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; or
 - (e) the relevant entry or transit is necessary for the fulfilment of a judicial process.
-

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 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 Stabilization 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;
 - (e) the prohibited goods are intended solely for the support of or use by the African Union-Regional Task Force-;
 - (f) the supply or sale of the prohibited goods is approved in advance by the Committee.
- (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 are as follows—

- (a) the assistance, advice or training is provided to the Government of the Democratic Republic of the Congo;
- (b) the assistance or training is technical assistance or training intended solely for the support of or use by the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo;
- (c) the assistance or training is technical assistance or training related to non-lethal military equipment intended solely for humanitarian or protective use;
- (d) the assistance, advice or training is intended solely for the support of or use by the African Union-Regional Task Force-;
- (e) the assistance or provision of personnel is approved in advance by the Committee.

(3) If the Chief Executive is satisfied that the requirement in subsection (2)(a) or (c) 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 belonging to, or owned or controlled by, a relevant person or a relevant entity.
- (2) The requirements 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 belonging to, or owned or controlled 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.

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 section 3(2) 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.
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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 a person or an entity designated by the Committee under paragraph ~~57~~ of Resolution ~~21982293~~.

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 1 July 20167.

Chief Executive

20156

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution ~~2198—2293~~ (201~~56~~) as adopted by the Security Council of the United Nations on ~~29 January 2015~~~~23 June 2016~~ 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 belonging to, or owned or controlled by, certain persons or entities; and
- (e) entry into or transit through the HKSAR by certain persons.

**United Nations Sanctions
(Democratic Republic of the Congo) Regulation 2016**

Information on the Democratic Republic of the Congo

Country Background

The Democratic Republic of the Congo (“DR Congo”) is a country in Central Africa, bordered by Angola, Burundi, Central African Republic, Rwanda, South Sudan, Republic of the Congo, Tanzania, Uganda and Zambia¹. It has a total area of 2,344,858 sq. km. and an estimated population of around 79.37 million. Formerly a Belgian colony, DR Congo achieved independence in June 1960 and established the republic government in capital Kinshasa. It is a major producer of cobalt ore, copper and tantalum and had an estimated GDP of US\$38.87 billion (or HK\$303.19 billion) in 2015.²

Sanctions imposed by the United Nations Security Council

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 among different warring factions continued in DR Congo, especially in the East.³ The instability of the state has resulted in extensive poverty and human rights abuses. The Mission of the United Nations Organization in the Democratic Republic of the Congo (renamed as the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo since 1 July 2010) was established in 1999 to monitor the peace process in the state.

3. In view of the security concern arising from the instability of DR Congo, the Security Council of the United Nations (“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. The sanctions measures were subsequently strengthened with the adoption of a series of Resolutions by which the UNSC extended the scope of the arms embargo to the entire territory of DR Congo, and imposed travel ban and financial sanctions.

¹ At present, there is not a definite list of Belt and Road countries, but DR Congo is usually not regarded as one of the countries along the Belt and Road.

² Source: CIA World Factbook at <https://www.cia.gov/library/publications/the-world-factbook/geos/cg.html>

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

4. Since March 2008, with the adoption of Resolution 1807, the arms embargo has been further modified to apply only to all non-governmental entities and individuals operating in DR Congo. The sanction measures against DR Congo were subsequently renewed with the adoption of Resolutions 1857, 1896, 1952, 2021, 2078 and 2198 by the UNSC. On 23 June 2016, the UNSC adopted Resolution 2293 to extend the arms embargo, travel ban and financial sanctions imposed on DR Congo until 1 July 2017.

Trade Relation between Hong Kong and DR Congo

5. In 2015, DR Congo ranked 115th among Hong Kong's trading partners in the world, with a total trade of HK\$305.9 million. Of these, HK\$296.4 million worth of trade were exports to DR Congo, and HK\$9.5 million were imports. Hong Kong's trade with DR Congo are summarised as follows –

| Hong Kong's Trade with DR Congo [Value in HK\$ (in million)] | | |
|---|--------------------|----------------------------------|
| Item | 2015 | 2016 (January – June) |
| (a) Total Exports to DR Congo | 296.4 | 141.4 |
| (i) Domestic exports | 2.1 ⁴ | 0.9 ⁵ |
| (ii) Re-exports | 294.3 ⁶ | 140.4 ⁷ |
| (b) Imports from DR Congo | 9.5 ⁸ | 7.1 ⁹ |
| Total Trade [(a) + (b)] | 305.9 | 148.5 |

In 2015, HK\$302.1 million worth of goods, or 1.0%¹⁰ of the total trade between DR Congo and the Mainland, were routed through Hong Kong. Of these, HK\$8.4 million worth of goods were re-exports of DR Congo origin to the Mainland via Hong Kong. The remaining HK\$293.7 million were re-exports of Mainland origin to DR Congo via Hong Kong.

⁴ In 2015, the main domestic export item to DR Congo is articles of apparel and clothing accessories (98.6%).

⁵ In January – June 2016, the main domestic export item to DR Congo is articles of apparel and clothing accessories (93.7%).

⁶ In 2015, major re-export items to DR Congo include telecommunications and sound recording and reproducing apparatus and equipment (49.9%); and electrical machinery, apparatus and appliances, and electrical parts thereof (39.5%).

⁷ In January – June 2016, major re-export items to DR Congo include electrical machinery, apparatus and appliances, and electrical parts thereof (48.4%); and telecommunications and sound recording and reproducing apparatus and equipment (42.0%).

⁸ In 2015, major import items from DR Congo include fish, crustaceans, molluscs and aquatic invertebrates, and preparations thereof (67.7%); and crude fertilizers, and crude minerals (excluding coal, petroleum and precious stones) (21.1%).

⁹ In January – June 2016, major import items from DR Congo include fish, crustaceans, molluscs and aquatic invertebrates, and preparations thereof (77.6%); and telecommunications and sound recording and reproducing apparatus and equipment (12.2%).

¹⁰ The percentage is an estimate with reference to China's Customs Statistics and Hong Kong Trade Statistics. Since two different sets of data are involved, the calculated percentage is solely indicative.

6. The arms embargo against DR Congo imposed by the UNSC would unlikely affect trade between Hong Kong and DR Congo notably, as the major categories of commodities traded are not related to arms and related materiel. In addition, given the rather small trade volume between the two places, the sanctions imposed by the UNSC against DR Congo would unlikely have any significant effect on Hong Kong's economy.

**Commerce and Economic Development Bureau
September 2016**