

**LEGISLATIVE COUNCIL BRIEF**  
United Nations Sanctions Ordinance  
(Chapter 537)

**UNITED NATIONS SANCTIONS  
(DEMOCRATIC REPUBLIC OF THE CONGO)  
REGULATION 2019 (AMENDMENT) REGULATION 2021**

**INTRODUCTION**

A At the meeting of the Executive Council on 21 September 2021, the Council ADVISED and the Chief Executive (“the CE”) ORDERED that the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2019 (Amendment) Regulation 2021 (“the Amendment Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (“the Ordinance”). The Amendment Regulation was gazetted on 24 September 2021 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 the instructions of 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”). The MFA issued instructions in July 2021 for the Hong Kong Special Administrative Region (“HKSAR”) to implement UNSC Resolution (“UNSCR”) 2582 (at Annex B) in respect of the Democratic Republic of the Congo (“DR Congo”)<sup>1</sup>. The Amendment Regulation was made pursuant to the instructions.

<sup>1</sup> [https://www.mfa.gov.cn/web/wjb\\_673085/zfxxgk\\_674865/gknrlb/jytz/t1889294.shtml](https://www.mfa.gov.cn/web/wjb_673085/zfxxgk_674865/gknrlb/jytz/t1889294.shtml)

### **Sanctions against DR Congo**

3. Since 2003, the UNSC has adopted several UNSCRs imposing or renewing time-limited sanctions against DR Congo for its active involvement in military activities that caused instability in the region. All states are to implement the following sanction measures –

- (a) **Arms Embargo** – 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 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;
- (b) **Travel Ban** – to prevent the entry into or transit through their territories by persons designated by the UNSC Committee established pursuant to paragraph 8 of UNSCR 1533 (“the Committee”), subject to certain exceptions; and
- (c) **Financial Sanctions** – to immediately freeze the funds, other financial assets and economic resources which are on their territories, and are owned or controlled by persons or entities designated by the Committee; and to 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, persons or entities designated by the Committee, subject to certain exceptions.

The above sanction measures are time-limited and have been amended and renewed several times by the UNSC.

4. Pursuant to the instructions of the MFA, the sanction measures in respect of DR Congo are implemented in the HKSAR by the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2019 (“the 2019 Regulation”). The provisions implementing the time-limited sanction measures and related exemptions were in force until midnight on 1 July 2021.

## **UNSCR 2582**

5. Determining that the situation in DR Congo continued to constitute a threat to international peace and security in the region, the UNSC, by adopting UNSCR 2582 on 29 June 2021, decided, *inter alia*, to renew until 1 July 2022 the measures as set out in paragraphs 1 to 6 of UNSCR 2293<sup>2</sup>, including its reaffirmations therein.

## **THE AMENDMENT REGULATION**

6. The Amendment Regulation, at Annex A, seeks to implement the sanction measures in respect of DR Congo as renewed by UNSCR 2582. The main provision of the Amendment Regulation is **section 2(2)**, which adds section 2(4) to the 2019 Regulation to provide that sections 3, 4, 5, 6, 7, 9, 10 and 11 of the 2019 Regulation are in force during the period from the commencement of the Amendment Regulation until midnight on 1 July 2022.

7. A marked-up version showing the amendments made to the 2019 Regulation is at Annex C for easy reference by Members.

C

## **IMPLICATIONS OF THE PROPOSAL**

8. The Amendment Regulation is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the current binding effect of the Ordinance. It has no financial, civil service, economic, productivity, environmental, sustainability, family or gender implications. Additional work arising from the enforcement of the 2019 Regulation as amended by the Amendment Regulation, if any, will be absorbed by the relevant departments with existing resources.

## **PUBLICITY**

9. A press release was issued on 24 September 2021, the day the Amendment Regulation was published in the Gazette. A spokesperson is available to answer media and public enquiries.

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<sup>2</sup> [https://undocs.org/en/S/RES/2293\(2016\)](https://undocs.org/en/S/RES/2293(2016))

## **INFORMATION ON DR CONGO AND RELATIONS WITH THE HKSAR**

D 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 D.

**Commerce and Economic Development Bureau  
September 2021**

United Nations Sanctions (Democratic Republic of the Congo) Regulation 2019  
(Amendment) Regulation 2021

L.N. 229 of 2021  
B5629

Section 1

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**L.N. 229 of 2021**

**United Nations Sanctions (Democratic Republic of the  
Congo) Regulation 2019 (Amendment) Regulation 2021**

(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)

**1. United Nations Sanctions (Democratic Republic of the Congo)  
Regulation 2019 amended**

The United Nations Sanctions (Democratic Republic of the  
Congo) Regulation 2019 (Cap. 537 sub. leg. CJ) is amended as  
set out in section 2.

**2. Section 2 amended (limited duration of certain provisions)**

(1) Section 2(3), after “2020”—

**Add**

“(L.N. 164 of 2020)”.

(2) After section 2(3)—

**Add**

“(4) Sections 3, 4, 5, 6, 7, 9, 10 and 11 are in force during  
the period from the commencement of the United  
Nations Sanctions (Democratic Republic of the  
Congo) Regulation 2019 (Amendment) Regulation  
2021 until midnight on 1 July 2022.”.

United Nations Sanctions (Democratic Republic of the Congo) Regulation 2019  
(Amendment) Regulation 2021

L.N. 229 of 2021  
B5631

Carrie LAM  
Chief Executive

21 September 2021

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### Explanatory Note

This Regulation amends the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2019 (Cap. 537 sub. leg. CJ) (*principal Regulation*) to give effect to certain decisions in Resolution 2582 (2021) adopted by the Security Council of the United Nations on 29 June 2021.

2. Section 2(2) of this Regulation amends section 2 of the principal Regulation to provide that sections 3, 4, 5, 6, 7, 9, 10 and 11 of the principal Regulation (*relevant provisions*) are in force until midnight on 1 July 2022.
3. The relevant provisions relate to 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.



# Security Council

Distr.: General  
29 June 2021

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## Resolution 2582 (2021)

**Adopted by the Security Council at its 8807th meeting, on  
29 June 2021**

*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,

*Taking note* of the final report (S/2021/560) 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), 2198 (2015), 2293 (2016), 2360 (2017) 2424 (2018), 2478 (2019) and 2528 (2020),

*Expressing concern* at the continued presence of domestic and foreign armed groups in Eastern DRC and the suffering they impose on the civilian population of the country, including from human rights abuses, *further expressing concern* at the continued illegal exploitation and trade of natural resources, which enable these armed groups to operate, *welcoming* the diplomatic engagement undertaken by the States of the region to foster peace and reconciliation in the region, *calling on* all signatory States to fully implement their commitments per the Peace and Security Framework for the DRC and the Region,

*Reiterating* the need for the Government of the DRC to swiftly and fully investigate the killing of the two members of the Group of Experts and the four Congolese nationals accompanying them and bring those responsible to justice, *welcoming* the work of the United Nations team, known as the Follow-On Mechanism, deployed to assist the Congolese authorities in their investigations, in agreement with the Congolese authorities, and *further welcoming* their continued cooperation,

*Stressing* the importance of enhancing the safe and effective management, storage and security of stockpiles of weapons and ammunition, including to reduce the risk of diversion to armed groups of source materials for improvised explosive devices,



*Stressing* that the measures imposed by this resolution are not intended to have adverse humanitarian consequences for the civilian population of the DRC,

*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,

1. *Decides* to renew until 1 July 2022 the measures as set out in paragraphs 1 to 6 of resolution [2293 \(2016\)](#), including its reaffirmations therein;

2. *Reaffirms* that measures described in paragraph 5 of resolution [2293 \(2016\)](#) shall apply to individuals and entities as designated by the Committee, as set forth in paragraph 7 of resolution [2293 \(2016\)](#) and paragraph 3 of resolution [2360 \(2017\)](#);

3. *Decides* that the measures referred to in paragraph 2 above shall also apply to individuals and entities as designated by the Committee for planning, directing, sponsoring or participating in attacks against medical personnel or humanitarian personnel;

4. *Demands* that States ensure that all measures taken by them to implement this resolution comply with their obligations under international law, including international humanitarian law, international human rights law and international refugee law, as applicable;

5. *Decides* to extend until 1 August 2022 the mandate of the Group of Experts, as set forth in paragraph 6 of Resolution 2360, *expresses its intention* to review the mandate and take appropriate action regarding the further extension no later than 1 July 2022, 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;

6. *Calls* for enhanced cooperation between all States, particularly those in the region, and the Group of Experts and *requests* the Group of Experts to provide to the Council, after discussion with the Committee, a mid-term report no later than 30 December 2021, and a final report no later than 15 June 2022, as well as submit monthly updates to the Committee, except in the months where the mid-term and final reports are due;

7. *Reaffirms* the reporting provisions as set out in resolutions [2360 \(2017\)](#) and [2478 \(2019\)](#);

8. *Recalls* the Guidelines of the Committee for the Conduct of its Work as adopted by the Committee on 6 August 2010, and *calls on* Member states to use, as appropriate, the procedures and criteria therein, including on the issues of listing and delisting and *recalls* resolution [1730 \(2006\)](#) in that regard;

9. *Recalls* the Secretary General's commitment that the United Nations will do everything possible to ensure that the perpetrators of the killing of the two members of the Group of Experts and the four Congolese nationals accompanying them are brought to justice and *stresses* the importance of a continued deployment by the Secretary General of the Follow-on Mechanism, currently comprising a senior United Nations official, four technical experts and support staff, to the Democratic Republic of the Congo to assist with the national investigation, within existing resources;

10. *Decides* to remain seized of the matter.



# United Nations Sanctions (Democratic Republic of the Congo) Regulation 2019

(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—

***arms or related materiel*** (軍火或相關物資) includes—

- (a) any weapon, ammunition, military vehicle, military equipment or paramilitary equipment; and
- (b) any spare part for any item specified in paragraph (a);

***assistance*** (協助) means any assistance, advice or training, including financing and financial assistance;

***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 (2004) adopted by the Security Council on 12 March 2004;

**economic assets** (經濟資產) means any funds or other financial assets or economic resources;

**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;
- (g) documents evidencing an interest in funds or financial resources; and
- (h) any other instrument of export financing;

**Hong Kong person** (香港人) means—

- (a) a person who is both a Hong Kong permanent resident and a Chinese national; or
- (b) a body incorporated or constituted under the law of the HKSAR;

- licence** (特許) means a licence granted under Part 3;
- master** (船長), in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;
- mode of transport** (運輸工具) means a ship, aircraft or vehicle;
- operator** (營運人), in relation to a mode of transport, means the person for the time being having the management of the mode of transport;
- person in DRC** (身處剛果人士) means a person operating in the territory of the Democratic Republic of the Congo;
- pilot in command** (機長), in relation to an aircraft, means the pilot designated by the operator or owner, as appropriate, as being—
- (a) in charge of the aircraft (without being under the direction of any other pilot in the aircraft); and
  - (b) 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 named in the list published under section 29(1);
- relevant person** (有關人士) means an individual named in the list published under section 29(1);
- Resolution 1807** (《第 1807 號決議》) means Resolution 1807 (2008) adopted by the Security Council on 31 March 2008;
- responsible person** (負責人) means—
- (a) for a ship—the charterer, operator or master of the ship;
  - (b) for an aircraft—the charterer, operator or pilot in command of the aircraft; or
  - (c) for a vehicle—the operator or driver of the vehicle;
- Secretary** (局長) means the Secretary for Commerce and Economic Development;

**Security Council** (安理會) means the Security Council of the United Nations;

**supply** (供應) means supply, sale or transfer.

## 2. Limited duration of certain provisions

- (1) A reference to a provision in a subsection of this section is a reference to the provision as in force from time to time during the period mentioned in the subsection.
- (2) Sections 3, 4, 5, 6, 7, 9, 10 and 11 are in force during the period from the commencement of the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2019 (Cap. 537 sub. leg. CJ) until midnight on 1 July 2020.
- (3) Sections 3, 4, 5, 6, 7, 9, 10 and 11 are in force during the period from the commencement of the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2019 (Amendment) Regulation 2020 (L.N. 164 of 2020) until midnight on 1 July 2021.

(4) Sections 3, 4, 5, 6, 7, 9, 10 and 11 are in force during the period from the commencement of the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2019 (Amendment) Regulation 2021 until midnight on 1 July 2022.

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## Part 2

### Prohibitions

#### 3. Supply of goods prohibited

- (1) This section applies to—
  - (a) a person acting in the HKSAR; and
  - (b) a Hong Kong person acting outside the HKSAR.
- (2) Except under the authority of a licence granted under section 9(1)(a), a person must not supply, or agree to supply, directly or indirectly, or do any act likely to promote the supply of, any prohibited goods—
  - (a) to a person in DRC or to the order of a person in DRC; or
  - (b) to a destination for the purpose of delivery or transfer, directly or indirectly, to a person in DRC or to the order of a person in DRC.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
  - (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
  - (b) on conviction on indictment—to a fine and to imprisonment for 7 years.
- (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—
    - (i) to a person in DRC or to the order of a person in DRC; or

- (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to a person in DRC or to the order of a person in DRC.

#### **4. Carriage of goods prohibited**

- (1) This section applies to—
  - (a) a ship that is registered in the HKSAR, or is in the HKSAR;
  - (b) an aircraft that is registered in the HKSAR, or is in the HKSAR;
  - (c) any other ship or aircraft that is for the time being chartered to a Hong Kong person or a person who is in the HKSAR; and
  - (d) a vehicle in the HKSAR.
- (2) Without limiting section 3, except under the authority of a licence granted under section 9(1)(b), a mode of transport must not be used for the carriage of any prohibited goods if the carriage is, or forms part of, a carriage—
  - (a) to a person in DRC or to the order of a person in DRC; or
  - (b) to a destination for the purpose of delivery or transfer, directly or indirectly, to a person in DRC or to the order of a person in DRC.
- (3) Subsection (2) does not apply if—
  - (a) the carriage of the prohibited goods is performed in the course of the supply of the prohibited goods; and
  - (b) the supply is authorized by a licence granted under section 9(1)(a).
- (4) If a mode of transport is used in contravention of subsection (2), each of the following persons commits an offence—

- (a) for a ship registered in the HKSAR—the responsible persons for the ship;
  - (b) for any other ship—
    - (i) the charterer of the ship if the charterer is a Hong Kong person, or is in the HKSAR;
    - (ii) the operator of the ship if the operator is a Hong Kong person, or is in the HKSAR; and
    - (iii) the master of the ship if the master is both a Hong Kong permanent resident and a Chinese national, or is in the HKSAR;
  - (c) for an aircraft registered in the HKSAR—the responsible persons for the aircraft;
  - (d) for any other aircraft—
    - (i) the charterer of the aircraft if the charterer is a Hong Kong person, or is in the HKSAR;
    - (ii) the operator of the aircraft if the operator is a Hong Kong person, or is in the HKSAR; and
    - (iii) the pilot in command of the aircraft if the pilot in command is both a Hong Kong permanent resident and a Chinese national, or is in the HKSAR;
  - (e) for a vehicle—the responsible persons for the vehicle.
- (5) A person who commits an offence under subsection (4) is liable—
- (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
  - (b) on conviction on indictment—to a fine and to imprisonment for 7 years.
- (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 a person in DRC or to the order of a person in DRC; or
  - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to a person in DRC or to the order of a person in DRC.

## **5. Provision of assistance prohibited**

- (1) This section applies to—
  - (a) a person acting in the HKSAR; and
  - (b) a Hong Kong person acting outside the HKSAR.
- (2) Except under the authority of a licence granted under section 10(1), a person must not directly or indirectly provide to a person in DRC any assistance related to military activities.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
  - (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
  - (b) on conviction on indictment—to a fine and to imprisonment for 7 years.
- (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 was, or was to be, provided to a person in DRC; or
  - (b) that the assistance related to military activities.



**6. Making available or dealing with economic assets prohibited**

- (1) This section applies to—
  - (a) a person acting in the HKSAR; and
  - (b) a Hong Kong person acting outside the HKSAR.
- (2) Except under the authority of a licence granted under section 11(1)—
  - (a) a person must not directly or indirectly make available any economic assets to, or for the benefit of, a relevant person or a relevant entity; and
  - (b) a person must not directly or indirectly deal with any economic assets belonging to, or directly or indirectly owned or controlled by, a relevant person or a relevant entity (including, if the person is a relevant person or a relevant entity, the economic assets belonging to, or directly or indirectly owned or controlled by, the person).
- (3) A person who contravenes subsection (2) commits an offence and is liable—
  - (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
  - (b) on conviction on indictment—to a fine and to imprisonment for 7 years.
- (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) for a contravention of subsection (2)(a)—that the economic assets were, or were to be, made available to, or for the benefit of, a relevant person or a relevant entity; or
  - (b) for a contravention of subsection (2)(b)—that the person was dealing with economic assets belonging to, or

directly or indirectly 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 directly or indirectly 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.

## 7. Entry or transit of persons prohibited

- (1) A specified person must not enter or transit through the HKSAR.
- (2) However, subsection (1) does not apply to a case in respect of which—

- (a) the relevant entry or transit is necessary for the fulfilment of a judicial process;
  - (b) the Committee has determined that the relevant entry or transit is justified on the ground of humanitarian need, including religious obligation;
  - (c) 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;
  - (d) the Committee has authorized the relevant transit by a person returning to the territory of the State of his or her nationality; or
  - (e) 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.
- (3) 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.
- (4) This section does not apply to a person having the right of abode or the right to land in the HKSAR.
- (5) In this section—
- specified person* (指明人士) means an individual designated by the Committee for the purposes of paragraph 9 of Resolution 1807.

**8. Acts done outside HKSAR with permission granted outside HKSAR not prohibited**

This Part does not apply if—

- (a) it otherwise prohibits a person from doing an act in a place outside the HKSAR except under the authority of a licence; and
  - (b) the person does the act in the place with permission granted in accordance with a law in force in the place (being a law substantially corresponding to the relevant provisions of this Regulation).
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## **Part 3**

### **Licences**

#### **9. Licence for supply or carriage of goods**

- (1) If, on application, the Chief Executive is satisfied that one or more of the requirements in subsection (2) are met, the Chief Executive must grant, as appropriate—
  - (a) a licence for the supply of, or the doing of an act likely to promote the supply of, prohibited goods—
    - (i) to a person in DRC or to the order of a person in DRC; or
    - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to a person in DRC or to the order of a person in DRC; or
  - (b) a licence for the carriage of prohibited goods that is, or forms part of, a carriage—
    - (i) to a person in DRC or to the order of a person in DRC; or
    - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to a person in DRC or to the order of a person in DRC.
- (2) The requirements are as follows—
  - (a) it is a supply 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 intended solely for the support of or use by the African Union-Regional Task Force;

- (d) the prohibited goods are protective clothing (including flak 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;
  - (e) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use;
  - (f) either of the following—
    - (i) for a licence referred to in subsection (1)(a)—the supply of the prohibited goods is approved in advance by the Committee;
    - (ii) for a licence referred to in subsection (1)(b)—
      - (A) the carriage of the prohibited goods is performed in the course of the supply of the prohibited goods; and
      - (B) the supply is approved in advance by the Committee.
- (3) However, if the Chief Executive is satisfied that the requirement in subsection (2)(a) or (e) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the proposed supply or carriage of the prohibited goods to which the application for the licence relates.

#### **10. Licence for provision of assistance**

- (1) If, on application, the Chief Executive is satisfied that one or more of the requirements in subsection (2) are met, the Chief Executive must grant a licence for the provision, to a person in DRC, of assistance related to military activities.
- (2) The requirements are as follows—

- (a) the assistance is provided to the Government of the Democratic Republic of the Congo;
  - (b) the assistance is 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 is intended solely for the support of or use by the African Union-Regional Task Force;
  - (d) the assistance is technical assistance or training related to non-lethal military equipment intended solely for humanitarian or protective use;
  - (e) the provision of assistance or personnel is approved in advance by the Committee.
- (3) However, if the Chief Executive is satisfied that the requirement in subsection (2)(a) or (d) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the proposed provision of the assistance to which the application for the licence relates.

## **11. Licence for making available or dealing with economic assets**

- (1) If, on application, the Chief Executive is satisfied that one or more of the requirements in subsection (2) are met, the Chief Executive must grant, as appropriate, a licence for—
- (a) making available economic assets to, or for the benefit of, a relevant person or a relevant entity; or
  - (b) dealing with economic assets belonging to, or directly or indirectly owned or controlled by, a relevant person or a relevant entity.
- (2) The requirements are as follows—
- (a) the economic assets 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 economic assets belonging to, or directly or indirectly owned or controlled by, a relevant person or a relevant entity;
- (b) the economic assets are necessary for extraordinary expenses;
  - (c) the economic assets are—
    - (i) 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 relevant person or a relevant entity; and
    - (ii) to be used to satisfy the lien or judgment.
- (3) However, if the Chief Executive is satisfied that the requirement in subsection (2)(a) is met, the Chief Executive—
- (a) must cause the Committee to be notified of the intention to grant the licence; and
  - (b) must grant the licence in the absence of a negative decision by the Committee within 4 working days of the notification.
- (4) Also, if the Chief Executive is satisfied that the requirement in subsection (2)(b) is met, the Chief Executive—
- (a) must cause the Committee to be notified of the intention to grant the licence; and



(b) must not, unless the Committee approves, grant the licence.

- (5) Further, if the Chief Executive is satisfied that the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the intention to grant the licence.

**12. Provision of false or misleading 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 or misleading in a material particular commits an offence and is liable—
- (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
  - (b) on conviction on indictment—to a fine and to imprisonment for 2 years.
- (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 or misleading in a material particular commits an offence and is liable—
- (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
  - (b) on conviction on indictment—to a fine and to imprisonment for 2 years.
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## **Part 4**

### **Enforcement**

#### **13. Application of Part 4**

This Part applies if an authorized officer has reason to suspect that a mode of transport to which section 4 applies has been, is being or is about to be used in contravention of section 4(2).

#### **14. Power to board and search modes of transport**

The authorized officer may—

- (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the mode of transport and search it; and
- (b) for the purposes of paragraph (a), use or authorize the use of reasonable force.

#### **15. Power to require information and production of document, cargo or article**

- (1) The authorized officer may require a responsible person for the mode of transport to—
  - (a) provide any information, or produce for inspection any document, relating to the mode of transport, that the officer may specify;
  - (b) for a ship or aircraft—provide any information, or produce for inspection any document, relating to its cargo, that the officer may specify;
  - (c) for a vehicle—provide any information, or produce for inspection any document, relating to any article on it, that the officer may specify; or

- (d) produce for inspection any of its cargo or articles that the officer may specify.
- (2) The power under subsection (1) 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 at which, the information should be provided or the document, cargo or article should be produced for inspection.

## **16. Power to direct movement**

- (1) If the mode of transport is a ship, the authorized officer may do one or more of the following—
  - (a) direct a responsible person for 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 specified;
  - (b) require a responsible person for 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 responsible person is notified by an authorized officer that the ship and its cargo may 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 responsible person is notified by an authorized officer that the ship and its cargo may depart;
    - (iii) if the ship is in another place—
      - (A) to take the ship and any of its cargo to a port specified by an authorized officer; and

- (B) to cause the ship and its cargo to remain in that place until the responsible person 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 by agreement with the responsible person.
- (2) If the mode of transport is an aircraft and the aircraft is in the HKSAR, the authorized officer may require a responsible person for the aircraft to cause the aircraft and any of its cargo to remain in the HKSAR until the responsible person is notified by an authorized officer that the aircraft and its cargo may depart.
- (3) If the mode of transport is a vehicle, the authorized officer may require a responsible person for the vehicle to—
  - (a) take the vehicle and any article on it to a place specified by an authorized officer; and
  - (b) cause the vehicle and the article to remain in that place until the responsible person is notified by an authorized officer that the vehicle and the article may depart.

#### **17. Failure to comply with direction or requirement**

- (1) A responsible person for a mode of transport commits an offence if, without reasonable excuse, the person—
  - (a) disobeys a direction given under section 16(1)(a); or
  - (b) refuses or fails to comply with a requirement made under section 15(1) or 16(1)(b), (2) or (3)—
    - (i) within the time specified by an authorized officer; or
    - (ii) if no time is specified—within a reasonable time.

- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

**18. Provision of false or misleading information or documents**

- (1) A responsible person for a mode of transport commits an offence if the person, in response to a requirement made under section 15(1)—
  - (a) provides or produces to an authorized officer any information or document that the person knows to be false or misleading in a material particular; or
  - (b) recklessly provides or produces to an authorized officer any information or document that is false or misleading in a material particular.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

**19. Power to enter and detain modes of transport**

- (1) Without limiting sections 17 and 18, this section applies if an authorized officer has reason to suspect that a requirement made under section 16(1)(b), (2) or (3) may not be complied with.
- (2) The officer may take any steps that appear to the officer to be necessary to secure compliance with that requirement including, in particular, steps to—
  - (a) enter or authorize the entry on any land or the mode of transport concerned;
  - (b) detain or authorize the detention of the mode of transport, or of (for a ship or aircraft) any of its cargo or (for a vehicle) any article on it; or

- (c) use or authorize the use of reasonable force.
- (3) Subject to subsections (4) and (5), subsection (2) does not authorize the detention of a ship or vehicle for more than 12 hours, or of an aircraft for more than 6 hours.
- (4) 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, or of an aircraft for further periods of not more than 6 hours each.
- (5) The Commissioner may, by order in writing, authorize the detention of a vehicle for further periods of not more than 12 hours each.
- (6) An order under subsection (4) or (5) must state the time from which, and period for which, the order is effective.

**20. Production of proof of identity**

Before or on exercising a power conferred by this Part, an authorized officer must, if requested by any person, produce proof of the officer's identity to the person for inspection.

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## Part 5

### Evidence

#### 21. Interpretation of Part 5

In this Part—

*premises* (處所) includes any place and, in particular, includes—

- (a) any mode of transport or offshore structure; and
- (b) any tent or movable structure;

*seized property* (被檢取財產) means anything seized under section 22(3).

#### 22. 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, evidence in relation to the commission of the offence.
- (2) A warrant granted under subsection (1) may authorize an authorized officer, together with any other person named in the warrant, at any time within 1 month from the date of the warrant, to—
  - (a) enter the premises specified in the information; and
  - (b) search the premises.
- (3) A person authorized by a warrant to search any premises may exercise any or all of the following powers—

- (a) the power to 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;
  - (b) the power to seize and detain anything found—
    - (i) on the premises; or
    - (ii) 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) the power to take in relation to anything seized under paragraph (b) any other steps that may appear necessary for preserving the thing 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, the person may use any force that is reasonably necessary for the purpose.

**23. Detention of seized property**

- (1) Seized property may not be detained for more than 3 months.
  - (2) However, if seized property is relevant to an offence under this Regulation, and proceedings for the offence have begun, it may be detained until the completion of those proceedings.
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## Part 6

### Disclosure of Information or Documents

#### 24. 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 require 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 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; and
  - (b) 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.
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## **Part 7**

### **Other Offences and Miscellaneous Matters**

#### **25. Liability of persons other than principal offenders**

- (1) If—
  - (a) the person convicted of an offence under this Regulation is a body corporate; and
  - (b) 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 also guilty of the offence.
- (2) If—
  - (a) the person convicted of an offence under this Regulation is a firm; and
  - (b) 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 other person concerned in the management of the firm,  
the partner or other person is also guilty of the offence.

#### **26. 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.

## 27. Offences in relation to evasion of this Regulation

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

- (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
- (b) on conviction on indictment—to a fine and to imprisonment for 2 years.

## 28. Consent and deadline for prosecution

- (1) A prosecution for an offence under this Regulation may only be started by or with the consent of the Secretary for Justice.
- (2) A prosecution for a summary offence under this Regulation that is alleged to have been committed by a person outside the HKSAR may only be started before the end of 12 months beginning on the date on which the person first enters the HKSAR after the alleged commission of the offence.

**Note—**

This replaces the time limit under section 26 of the Magistrates Ordinance (Cap. 227).

- (3) In this section—

*summary offence* (簡易程序罪行) means an offence triable summarily only.

## 29. Publication of list of individuals and entities by Secretary

- (1) The Secretary may publish on the website of the Commerce and Economic Development Bureau (*CEDB*) a list of individuals and entities for the purposes of the definitions of *relevant person* and *relevant entity* in section 1.

- (2) The Secretary may include in the list the name of an individual or entity designated by the Committee for the purposes of paragraph 11 of Resolution 1807.
- (3) The list may also contain other information that the Secretary considers appropriate.
- (4) The Secretary may remove the name of an individual or entity from the list if the individual or entity is no longer designated by the Committee for the purposes of paragraph 11 of Resolution 1807.
- (5) If a list is published under subsection (1), the Secretary is to make a copy of the list available for inspection by the public free of charge at the office of the Secretary during normal office hours.
- (6) In any legal proceedings, a document purporting to be a copy of a list referred to in subsection (1) printed from the website of the CEDB—
  - (a) is admissible in evidence on production without further proof; and
  - (b) unless the contrary is proved, is evidence of the information contained in the list.

### **30. 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 subdelegate it to another person or class or description of person.
- (3) A delegation or authorization under subsection (1) or (2) may be subject to any restriction or condition the Chief Executive considers appropriate.

**31. Exercise of powers of Secretary**

- (1) The Secretary may delegate any of the Secretary's powers or functions under this Regulation to any person or class or description of person.
  - (2) A delegation under subsection (1) may be subject to any restriction or condition the Secretary considers appropriate.
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**United Nations Sanctions  
(Democratic Republic of the Congo) Regulation 2019  
(Amendment) Regulation 2021**

**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 Zambia. It has a total area of 2,344,858 sq. km. and an estimated population of around 89.6 million. It is a major producer of cobalt ore, copper and tantalum and had an estimated GDP of US\$47.15 billion (or HK\$366.61 billion) in 2018<sup>Note 1</sup>.

2. Formerly a Belgian colony, DR Congo achieved independence in June 1960 and established the republic government in capital Kinshasa.

**Sanctions imposed by the United Nations Security Council**

3. 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. Despite the ceasefire, fightings continued in DR Congo which resulted in extensive poverty and human rights abuses.

4. 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 scope of the arms embargo was subsequently extended to the entire territory of DR Congo. Travel ban and financial sanctions were also imposed against certain persons and entities.

5. 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 renewed several times with the adoption of a number of Resolutions. On 29 June 2021, the UNSC adopted Resolution 2582 to extend the arms embargo, travel ban and financial sanctions imposed on DR Congo until 1 July 2022.

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<sup>Note 1</sup> Source: World Statistics Pocket Book published by United Nations Statistics Division at <https://unstats.un.org/unsd/publications/pocketbook/files/world-stats-pocketbook-2020.pdf>

## **Trade Relation between Hong Kong and DR Congo**

6. In 2020, DR Congo ranked 102<sup>nd</sup> among Hong Kong's trading partners in the world, with a total trade of HK\$429.3 million. Of these, HK\$424.7 million worth of trade were exports to DR Congo, and HK\$4.5 million were imports. Hong Kong's trade with DR Congo are summarised as follows –

<b>Hong Kong's Trade with DR Congo [Value in HK\$ (in million)]</b> <sup>Note 2</sup>		
<b>Item</b>	<b>2020</b>	<b>2021 (January – June)</b>
<b>(a) Total Exports to DR Congo</b>	<b>424.7</b>	<b>305.0</b>
<i>(i) Domestic exports</i>	<i>2.3</i> <sup>Note 3</sup>	<i>1.1</i> <sup>Note 4</sup>
<i>(ii) Re-exports</i>	<i>422.5</i> <sup>Note 5</sup>	<i>303.9</i> <sup>Note 6</sup>
<b>(b) Imports from DR Congo</b>	<b>4.5</b> <sup>Note 7</sup>	<b>0.5</b> <sup>Note 8</sup>
<b>Total Trade [(a) + (b)]</b>	<b>429.3</b>	<b>305.5</b>

7. In 2020, HK\$2.1 million worth of goods were re-exports of DR Congo origin to the Mainland via Hong Kong, and HK\$421.5 million were re-exports of Mainland origin to DR Congo via Hong Kong <sup>Note 9</sup>.

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

## **Commerce and Economic Development Bureau September 2021**

<sup>Note 2</sup> Due to rounding of figures, the sub-items may not add up to the total.

<sup>Note 3</sup> In 2020, Hong Kong's major domestic export item to DR Congo were articles of plastics (39.6%).

<sup>Note 4</sup> In the first six months of 2021, Hong Kong's major domestic export items to DR Congo were articles of plastics (78.2%).

<sup>Note 5</sup> In 2020, Hong Kong's major re-export items to DR Congo were telecommunications and sound recording and reproducing apparatus and equipment (85.7%).

<sup>Note 6</sup> In the first six months of 2021, Hong Kong's major re-export items to DR Congo were telecommunications and sound recording and reproducing apparatus and equipment (87.1%).

<sup>Note 7</sup> In 2020, Hong Kong's major import items from DR Congo were fish, crustaceans, molluscs and aquatic invertebrates, and preparations thereof (97.3%).

<sup>Note 8</sup> In the first six months of 2021, Hong Kong's major import items from DR Congo were fish, crustaceans, molluscs and aquatic invertebrates, and preparations thereof (92.5%).

<sup>Note 9</sup> The total of HK\$423.6 million worth of goods were equivalent to 0.6% of the total trade between DR Congo and the Mainland. The percentage is an estimate with reference to China's Customs Statistics and Hong Kong Trade Statistics. It is solely indicative since two different sets of data are involved.