



**United Nations Sanctions
(Democratic Republic of the
Congo) Amendment Regulations
2008**

Anand Satyanand, Governor-General

Order in Council

At Wellington this 20th day of October 2008

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 2 of the United Nations Act 1946, His Excellency the Governor-General, acting—

- (a) on the advice and with the consent of the Executive Council; and
 - (b) for the purposes of giving effect to resolution 1807 (2008) of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on 31 March 2008, calling upon the Government of New Zealand and all other member States of the United Nations to apply in respect of the Democratic Republic of the Congo the measures set out in that resolution,—
- makes the following regulations.

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Regulations

- 1 Title**

These regulations are the United Nations Sanctions (Democratic Republic of the Congo) Amendment Regulations 2008.
- 2 Commencement**

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

3 Principal regulations amended

These regulations amend the United Nations Sanctions (Democratic Republic of the Congo) Regulations 2004.

4 Interpretation

Regulation 3 is amended by inserting the following definitions in their appropriate alphabetical order:

“**committee** means the committee established under paragraph 8 of resolution 1533 of the Security Council of the United Nations

“**designated person** means a person designated under paragraph 13 of resolution 1596 or paragraph 2 of resolution 1649 or paragraph 13 of resolution 1807 of the Security Council of the United Nations

“**MONUC** means the United Nations mission in the DRC”.

5 Exportation of arms to DRC prohibited

Regulation 4 is amended by adding the following subclause:

“(3) Subclause (1) does not apply to—

“(a) arms, related materiel, and technical assistance intended solely for the support of, or use by,—

“(i) MONUC; or

“(ii) the interim multinational force deployed in Bunia; or

“(iii) the integrated Congolese army and police forces; or

“(iv) the Government of the DRC; or

“(b) non-lethal military equipment and related technical assistance—

“(i) that is intended solely for self-protection or humanitarian aid; and

“(ii) the supply of which has been approved in advance by the committee; or

“(c) protective clothing (including flak jackets and military helmets) temporarily exported to the DRC by the following persons for their personal use in that country:

“(i) United Nations personnel:

“(ii) representatives of the media, humanitarian and development workers, and associated personnel.”

6 Transactions with persons in DRC in relation to arms prohibited

Regulation 9(2) is amended by adding “, or to goods to which regulation 4(3) applies”.

7 Carriage of arms to DRC prohibited

Regulation 10(2) is amended by adding “, or if regulation 4(3) applies to the goods”.

8 Provision to DRC of assistance, advice, or training relating to military activities prohibited

(1) Regulation 12(1) is amended by omitting “assistance” and substituting “financial or other assistance, financial resources, financial services”.

(2) Regulation 12 is amended by revoking subclauses (2) and (3) and substituting the following subclauses:

“(2) The financial or other assistance, financial resources, financial services, advice, or training referred to in subclause (1) includes, without limitation, any financial or other assistance, financial resources, financial services, technical advice, or training relating to the provision, manufacture, maintenance, or use of arms.

“(3) Subclause (1) does not apply if the Minister has consented to the provision of the financial or other assistance, financial resources, financial services, technical advice, or training, or if regulation 4(3) applies to the provision of the assistance, resources, services, advice, or training.

“(4) For the purposes of this regulation, **financial services** includes investment, brokering, and related services.”

9 New headings and regulations 12A to 12D inserted

The following headings and regulations are inserted after regulation 12:

*“Prohibition on dealings in assets, money,
or securities of, or derived from property of,
designated persons*

**“12A Prohibition on dealings in assets, money, or securities of,
or derived from property of, designated persons**

- “(1) No person may knowingly transfer, pay for, sell, assign, dispose of, or otherwise deal with any asset, money, or security—
- “(a) that is owned or controlled, directly or indirectly, by a designated person or a person or entity acting on behalf, or at the direction, of a designated person; and
 - “(b) that is located in New Zealand.
- “(2) Subclause (1) does not apply if the Minister has consented to that transfer, sale, assignment, or disposal of, payment for, or other dealing with the asset, money, or security.
- “(3) It is a defence to a prosecution under this regulation in respect of any asset, money, or security derived or generated from any asset, money, or security of the kind specified in subclause (1)(a) (a **restricted item**) if the defendant proves that he or she received the asset, money, or security in good faith, at a time when he or she did not know it was a restricted item or derived or generated from a restricted item.

“12B Prohibition on sending funds, etc, to designated persons

- “(1) No person in New Zealand, and no New Zealand citizen in any place outside New Zealand, may knowingly send, transfer, or deliver, or knowingly cause to be sent, transferred, or delivered, whether directly or indirectly, any asset, money, or security—
- “(a) to a designated person or a person or entity acting on behalf, or at the direction, of a designated person; or
 - “(b) for the benefit of a designated person or a person or entity acting on behalf, or at the direction, of a designated person.
- “(2) Subclause (1) does not apply if the Minister has consented to that sending, transfer, or delivery of the asset, money, or security.

“12C Exceptions to regulations 12A and 12B

- “(1) Nothing in regulation 12A(1) or 12B(1) applies to any dealing authorised by a consent under subclause (2).
- “(2) The Minister may consent to any dealing with any asset, money, or security if the Minister is satisfied that the dealing—
 - “(a) is necessary for basic expenses within the meaning of paragraph 12(a) of resolution 1807 of the Security Council of the United Nations and is authorised under that paragraph; or
 - “(b) is necessary for extraordinary expenses within the meaning of paragraph 12(b) of that resolution and is authorised under that paragraph; or
 - “(c) is authorised under paragraph 12(c) of that resolution (which relates to assets, money, or securities subject to judicial, administrative, or arbitral liens or judgments).

“Entry and transit of designated persons

“12D Designated person to enter New Zealand only if consistent with determinations of Security Council

- “(1) No person who is a designated person may enter New Zealand, or transit through New Zealand, if the entry or transit would be contrary to a determination of the Security Council made under Article 41 of the Charter of the United Nations.
- “(2) Subclause (1) does not apply so as to prevent a designated person from entering or transiting through New Zealand if—
 - “(a) the committee has determined that the travel is justified on the grounds of humanitarian need, including religious obligations; or
 - “(b) the committee has concluded that the travel would otherwise further the objectives of the Security Council’s resolutions.
- “(3) Subclause (1) does not apply to a designated person who is a New Zealand citizen.
- “(4) A permit or visa may be granted or issued, under the Immigration Act 1987, to a designated person only on the advice of the Secretary of Foreign Affairs and Trade that the permit or visa is consistent with subclause (1).

“(5) This regulation operates in addition to the requirements of the Immigration Act 1987 and of any regulations made under that Act.”

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on the 28th day after the date of their notification in the *Gazette*, give effect to the Security Council resolutions 1596, 1649, and 1807 calling upon the Government of New Zealand and all other member States of the United Nations to apply in respect of the Democratic Republic of the Congo the measures set out in those resolutions.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 23 October 2008.

These regulations are administered by the Ministry of Foreign Affairs and Trade.
