

BANK OF ENGLAND NOTICE

DEMOCRATIC REPUBLIC OF THE CONGO

This Notice draws attention in convenient form to the Order in Council, made under the United Nations Act 1946, which places financial sanctions on the Democratic Republic of the Congo. This Notice provides guidance on certain aspects only of the Order in Council and should be read alongside the Order in Council.

HM Treasury has appointed the Bank of England to act as its agent for the purposes of administering the financial sanctions against the Democratic Republic of the Congo. Accordingly, certain powers have been delegated by HM Treasury to the Bank of England.

INTRODUCTION

1. The Democratic Republic of the Congo (United Nations Measures) Order 2005, (Statutory Instrument 2005 No. 1517), referred to below as 'the Order', came into force on 9 June 2005. The Order gives effect in the UK to United Nations Security Council Resolution 1596 (2005).
2. The Order applies to any person within the United Kingdom and to any person elsewhere who:-
 - a) is a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person; or
 - b) is a body incorporated or constituted under the law of any part of the United Kingdom.

The Order therefore applies to banks, financial institutions, charitable organisations and non-governmental organisations, in the United Kingdom or established under UK Law. The Order does not apply to subsidiaries operating wholly outside the United Kingdom and which do not have legal personality under UK Law.

3. Article 3 of the Order provides that:

Any person who, except under the authority of a licence granted by the Treasury, makes funds available to or for the benefit of a designated person or any person acting on behalf of a designated person is guilty of an offence.

Definition of funds

4. For the purposes of the Order "funds" means financial assets, economic benefits and economic resources of any kind, including (but not limited to):
 - (i) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders and other payment instruments;
 - (ii) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
 - (iii) securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivative contracts);
 - (iv) interest, dividends or other income on or value accruing from or generated by assets;
 - (v) credit, rights of set-off, guarantees, performance bonds or other financial commitments;
 - (vi) letters of credit, bills of lading, bills of sale;
 - (vii) documents evidencing an interest in funds or financial resources;

- (viii) any other instrument of export financing.

Definition of designated person

- 5. "Designated person" means an individual or entity designated by the Sanctions Committee - the Committee of the Security Council of the United Nations established by paragraph 8 of resolution 1533 (2004) adopted on 12 March 2004.

European Community Regulation

- 6. The European Community has adopted Council Regulation (EC) No 1183/2005 of 18 July 2005 which implements UNSCR 1596 at Community level. This EC Regulation will shortly be amended to include the list of names in its Annex 1. Once the names are added to Annex 1, the EC Regulation will have direct effect in the UK, and the following will apply.

EC Regulations and payments to and from targeted accounts

- 7. By virtue of the EC Regulation, funds, financial assets and economic resources (as defined in the EC Regulation) will be frozen.
- 8. In this context, "freezing of funds" means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management.
- 9. No payment or transfer will be able to be made from a targeted account, including to another targeted account, without prior authorisation. This includes the deduction of fees or service charges for routine holding or maintenance of frozen accounts. Loans and other forms of credit should not be made available to the listed persons.

Interest and other payments

- 10. Under the EC Regulation, interest or other earnings on frozen accounts, or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the assets freeze will be able to be added to frozen accounts provided that any such interest, other earnings or payments continue to be frozen.
- 11. The prohibition against making funds or economic resources available will not prevent the crediting of frozen accounts by financial or credit institutions that receive funds transferred by third parties to the account of the designated person, provided that any addition to such accounts is also frozen. Financial institutions are required to inform the Bank of England of any such transactions.

Exemptions

12. HM Treasury will be able to authorise the release of certain frozen funds or economic resources or the making available of certain frozen funds or economic resources, if it has determined that the funds or economic resources concerned are:
 - (a) necessary for basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
 - (b) intended exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services;
 - (c) intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources;
13. HM Treasury will be able to authorise the release of certain frozen funds or economic resources or the making available of certain frozen funds or economic resources, if it has determined that the funds or economic resources are necessary for extraordinary expenses, and provided that HM Treasury has notified the grounds on which it considers that a specific authorisation should be granted, to the Sanctions Committee and that the determination has been approved by that Committee.
14. HM Treasury will also be able to authorise the release of certain frozen funds or economic resources, if the following conditions are met:
 - (a) the funds or economic resources are subject of a judicial, administrative or arbitral lien established prior to 18 April 2005 or of a judicial, administrative or arbitral judgment rendered prior to that date;
 - (b) the funds or economic resources will be used exclusively to satisfy claims secured by such a lien or recognised as valid in such a judgment, within the limits set by applicable laws and regulations governing the rights of persons having such claims;
 - (c) the lien or judgment is not for the benefit of a designated person;
 - (d) the lien or judgement is not contrary to public policy;
 - (e) HM Treasury has notified the lien or judgment to the Sanctions Committee.

Provision of information

15. All relevant institutions in the UK are required to inform the Bank of England of all funds that they have frozen in accordance with the Order. They must also provide the Bank of England with all relevant information necessary for ensuring compliance with the Order.

Application and enquiries

16. Applications and enquiries concerning this Notice should be addressed to the Bank of England, Threadneedle Street, London, EC2R 8AH and marked for the attention of the Financial Sanctions Unit (FSU). Enquiries may also be made by facsimile transmission (020 7601 4309), by telephone (020 7601 4768/5811/4783/4328) or by email (sanctions.unit@bankofengland.co.uk).

BANK OF ENGLAND
2 November 2005

2 November 2005

DEMOCRATIC REPUBLIC OF THE CONGO (DRC)

Individuals

1. BWAMBALE, Frank, Kakolele

AKA: (1) BWAMBALE, Frank, Kakorere

(2) KAKORERE, Frank

Other information: Former RCD-ML leader.

2. KAKWAVU BUKANDE, Jérôme

AKA: KAKWAVU, Jérôme

Nationality: Congolese

Other information: Former President of UCD/FAPC. Given the rank of General in the FARDC in December 2004. Also referred to as "Commandant Jérôme".

3. KATANGA, Germain

Nationality: Congolese

Position: FRPI chief

Other information: Appointed General in the FARDC in December 2004. Under house arrest in Kinshasa from March 2005 for FRPI involvement in human rights abuses.

4. LUBANGA, Thomas

POB: Ituri

Nationality: Congolese

Position: President of the UPC/L

Other information: Arrested in Kinshasa from March 2005 for UPC/L involvement in human rights abuses violations.

5. MANDRO, Khawa, Panga

DOB: 20/08/1973

POB: Bunia

AKA: (1) KARIM, Yves, Andoul

(2) MANDRO, Kawa

(3) MANDRO, Kawa, Panga

(4) PANGA, Kawa

Nationality: Congolese

Other information: Former President of PUSIC. Also referred to as "Chief Kahwa" and "Kawa". In prison in Bunia since 2004/2005 for sabotage of the Ituri peace process.

6. MPANO, Douglas

Nationality: Congolese

Address: Goma

Position: Manager of the Compagnie Aérienne des Grands Lacs and of Great Lakes Business Company.

7. MUDACUMURA, Sylvestre

AKA: BERNARD, Mupenzi

Nationality: Rwandan

Position: FDLR Commander

Other information: Also referred to as “General Major Mupenzi” and “Radja”.

8. MURWANASHYAKA, Ignace

Title: Dr

AKA: IGNACE

Nationality: Rwandan

Address: Germany

Position: President of FDLR.

9. MUTEBUTSI, Jules

POB: South Kivu

AKA: (1) MUTEBUSI, Jules

(2) MUTEBUZI, Jules

Nationality: Congolese

Other information: Former FARDC Deputy Military Regional Commander of 10th MR in April 2004. Also referred to as “Colonel Mutebutsi”. Currently detained in Rwanda.

10. NGUDJOLO, Matthieu, Cui

AKA: NGUDJOLO, Cui

Position: FNI Chief of Staff

Other information: Former Chief of Staff of the FRPI. Also referred to as “Colonel” or “General”. Arrested by MONUC in Bunia in October 2003.

11. NJABU, Floribert, Ngabu

AKA: (1) NDJABU, Floribert

(2) NDJABU, Floribert, Ngabu

(3) NJABU, Floribert

Position: President of the FNI

Other information: Arrested and placed under house arrest in Kinshasa from March 2005 for FNI involvement in human rights abuses.

12. NKUNDA, Laurent

DOB: 06/02/1967

POB: Rutshuru, North Kivu

AKA: (1) BATWARE, Laurent, Nkunda, Mahoro

(2) BWATARE, Laurent, Nkunda

(3) NKUNDABATWARE, Laurent

Nationality: Congolese

Other information: Former RCD-G General. Also referred to as "General Nkunda". Currently unlocated. Sightings in Rwanda and Goma.

13. NYAKUNI, James

Nationality: Ugandan

Other information: Trade partnership with "Commandant Jérôme" (Jérôme Kakwavu Bukande), particularly smuggling across DRC/Uganda border.

14. OZIA MAZIO, Dieudonné

DOB: 06/06/1949

POB: Ariwara, Democratic Republic of the Congo

AKA: MAZIO, Ozia

Nationality: Congolese

Position: President of FEC in Aru territory

Other information: Also referred to as "Omari" and "Mr Omari". Financial schemes with "Commandant Jérôme" (Jérôme Kakwavu Bukande) and FAPC and smuggling across the DRC/Uganda border.

15. TAGANDA, Bosco

AKA: (1) NTAGANDA, Bosco

(2) NTAGENDA, Bosco

Nationality: Congolese

Position: UPC/L military commander

Other information: Also referred to as "Terminator" and "Major".

Entity

1. TOUS POUR LA PAIX ET LE DEVELOPPMENT

AKA: TPD

Address: Goma, North Kivu

Other information: NGO.