



BANGKO SENTRAL NG PILIPINAS

OFFICE OF THE DEPUTY GOVERNOR
SUPERVISION AND EXAMINATION SECTOR

CIRCULAR LETTER NO. CL-2013- 048

To : All Banks and Non-Bank Financial Institutions under BSP Supervision

Subject : Anti-Money Laundering Council (AMLC) Resolution No. 76 dated 12 August 2013

Pursuant to Anti-Money Laundering Council Resolution No. 76 dated 12 August 2013 (copy attached), you are hereby informed that on 12 April 2013, the United Nations Security Council (UNSC) Committee approved the inclusion of **Thomas LUBANGA, Baudoin NGARUYE WA MYAMURO, Mathieu Chui NGUDJOLO, Floribert Ngabu NJABU, Jean-Marie Lugerero RUNIGA, and Bosco NTAGANDA** in the List of Individuals and Entities subject to the measures imposed by paragraph 15 of UNSC Resolution No. 1596 (2005).

Further, you are hereby directed to submit to the Anti-Money Laundering Council reports on suspicious transactions, if any, involving the aforementioned individuals, including all transactions that occurred within the past five (5) years counting from the date of receipt of the Resolution.

For your guidance and strict implementation.


NESTOR A. ESPENILLA, JR.
Deputy Governor

20 September 2013

Att.: A/S



Anti-Money Laundering Council

Bangko Sentral ng Pilipinas Complex
Manila, Philippines

RESOLUTION NO. 76 Series of 2013

In its Memorandum dated 29 July 2013, the AMLC Secretariat (AMLCS) reported to the Council that:

The Anti-Money Laundering Council (AMLC) received from Mr. Jesus R.S. Domingo, Assistant Secretary, Office of the United Nations and Other International Organizations, Department of Foreign Affairs, a letter furnishing it a copy of Note No. SCA/1/13(04) from the chairperson of the United Nations Security Council (UNSC) Committee¹, established pursuant to UNSC Resolution No. 1533 (2004) concerning the Democratic Republic of the Congo (DRC). The Note pertains to the Committee's 12 April 2013 update on seven (7) entries in the List of Individuals and Entities subject to the measure imposed by paragraph 15 of UNSC Resolution No. 1596 (2005).

The details of the updates are as follows:

For Thomas LUBANGA, under the field "Passport/Identifying information", the following sentence was added: "Convicted by the ICC in March 2012 and sentenced to 14 years in prison. Has appealed the court's ruling."

For Baudoin NGARUYE WA MYAMURO, under the field "Date of birth/Place of birth", was added: "April 1, 1978, Bibwe, DRC". Under the field "Passport/Identifying information", the following details were added: "Current address: Rubavu/Mudende, Rwanda; Rank: Bde Gen; Entered the Republic of Rwanda on 16/03/2013 at Gasizi / Rubavu."

For Mathieu Chui NGUDJOLO, under the field "Passport/Identifying information", the following elements were added: "Acquitted of all charges by the ICC in December 2012."

¹ Created pursuant to the UNSC Resolution No. 1533 (2004) and tasked to, among others, implement and monitor compliance with UNSC Resolution No. 1493, which was strengthened by UNSC Resolution Nos. 1533, 1596, 1649, 1768, 1771, and 1799 imposing asset freeze, among other things, to armed groups operating in North and South Kivu and in Ituri, and to groups not party to the Global and All-Inclusive Agreement on the Transition in the Democratic Republic of the Congo.

After being released from custody, was detained by Dutch authorities, and has filed a claim for asylum in the Netherlands."

For Floribert Ngabu NJABU, under the field "Passport/Identifying information", was added: "Applied for asylum in the Netherlands in May 2011. In October 2012, a Dutch court denied his asylum claim; the case is currently on appeal."

For Jean-Marie Lugerero RUNIGA, the following Alias was added: Jean-Marie Rugerero; as well as the "Date of birth/Place of birth": September 9, 1966, Bukavu, DRC. The field "Passport/Identifying information" was also updated, adding the following information: "Current address: Rubavu / Mudende, Rwanda; M23 President; Entered the Republic of Rwanda on 16 March 2013, at Gasizi / Rubavu."

For Bosco NTAGANDA, the following details were inserted under the field "Passport/Identifying information": "Entered Rwanda in March 2013 and voluntarily surrendered to ICC officials in Kigali on March 22. Transferred to the ICC in The Hague, where he was read the charges against him in an initial appearance hearing on March 26."

For Innocent ZIMURINDA, the following information was added under the field "Date of birth/Place of birth": "March 16, 1972, Masisi, DRC". Under the field "Passport/Identifying information", were added the following details: "Current address: Rubavu / Mudende, Rwanda; M23 Bde Comd; Rank: Colonel; Entered the Republic of Rwanda on 16 March 2013, at Gasizi / Rubavu."

Innocent ZIMURINDA was the subject of AMLC Resolution No. 40-A dated 3 May 2011 directing covered persons (previously covered institutions) under the supervision of the Bangko Sentral ng Pilipinas, Insurance Commission and Securities and Exchange Commission to submit suspicious transaction reports involving him, if any, including all transactions that occurred within the past five (5) years counted from the date of receipt thereof. To date, however, the AMLC has yet to receive a suspicious transaction report involving Innocent ZIMURINDA.

The rest of the said individuals, on the other hand, were not subject of any Resolution of the AMLC.

The UNSC Resolution No. 1596 adopted on 18 April 2005 provides that:

The Security Council,

X X X

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, Ituri and the Orientale Province, which perpetuate a climate of insecurity in the whole region,

X X X

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

1. Reaffirms the measures established by paragraph 20 of resolution 1493, dated 28 July 2003, and extended until 31 July 2005 by resolution 1552, dated 27 July 2004, decides that these measure shall from now on apply to any recipient in the territory of the Democratic Republic of the Congo, and reiterates that assistance includes financing and financial assistance related to military activities;

X X X

15. 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 owned or controlled, directly or indirectly, by persons designated by the Committee pursuant to paragraph 13 above, or that are held by entities owned or controlled, directly or indirectly, by any persons acting on their behalf or at their direction, as designated by the Committee, and 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;

X X X.

The preamble of the relevant UNSC Resolution No. 1896 issued on 30 November 2009 provides:

The Security Council,

X X X

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

*Expressing concern about the **support received by armed groups operating in the eastern part of the Democratic Republic of the Congo from Regional and international networks.***

In like manner, the preamble of UNSC Resolution No. 2078 issued on 28 November 2012, which extends to 1 February 2014 the assets freezing mandate under UNSC Resolution No. 1596 (2005), provides:

The Security Council,

x x x,

Reiterating its strong condemnation of any and all external support to the M23, including through troop reinforcement, tactical advice and the supply of equipment, and expressing deep concern at reports and allegations indicating that such support continues to be provided to the M23,

Condemning the continuing illicit flow of weapons within and into the DRC in violation of resolutions 1533 (2004), 1807 (2008), 1857 (2008), 1896 (2009), 1952 (2010), and 2021 (2011) 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,

x x x

*Noting with great concern the persistence of serious human rights abuses and 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 child soldiers** committed by the M23 and other armed groups,*

x x x.

The foregoing and other relevant UNSC Resolutions seek to assist the DRC against certain groups² whose activities involved public armed uprising for political ends,

² Armed groups in the Democratic Republic of Congo:

to compel the government to agree on certain demands. These activities include indiscriminate killings of civilians.

To be sure, the circumstances of the said uprising are similar to Terrorism under Section 3 of the Human Security Act. Similarly, the indiscriminate killings and summary executions of civilians qualify the crime to murder as defined under Paragraph 1, Article 248 of the RPC. Both acts are similar/analogous to the predicate crimes of terrorism and murder pursuant to Section 3(i) 34 of the Anti-Money Laundering Act of 2001 (AMLA), as amended.

Section 7(1) of the AMLA, as amended, provides:

SEC. 7. Creation of Anti-Money Laundering Council (AMLC) - The Anti-Money Laundering Council is hereby created and shall be composed of the Governor of the Bangko Sentral ng Pilipinas as chairman, the Commissioner of the Insurance Commission and the Chairman of the Securities and Exchange Commission as members. The AMLC shall act unanimously in the discharge of its functions as defined hereunder:

(1) to require and receive covered or suspicious transaction reports from covered institutions;

x x x.

Rule 13.g.2 of the Revised Implementing Rules and Regulations of the AMLA, as amended, provides:

Rule 13.g.2. Authority to Assist the United Nations and other International Organizations and Foreign States. – The AMLC is authorized under Section 7 (8) and 13 (b) and (d) of the AMLA to receive and take action in respect of any request of foreign states for assistance in their own anti-money laundering operations. It is also authorized under Section 7 (7) of the AMLA to cooperate with the National Government and/or take appropriate action in respect of conventions, resolutions and other directives of the United Nations (UN), the UN Security Council, and other international organizations of which the Philippines is a

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- a. **March 23 Movement or M23** is an armed group of soldiers who deserted from the Armed Forces of the Democratic Republic of the Congo (FARDC) following a mutiny in April 2012;
 - b. **Democratic Forces for the Liberation of Rwanda (FDLR)** is one of the most powerful armed groups operating in eastern Congo;
 - c. **Allied Democratic Forces** is a Ugandan Muslim rebel group with limited activities in DRC;
 - d. **Mai Mai** is a loosely grouped collection of Congolese militia operating in eastern Congo;
 - e. **Coalition of Congolese Patriotic Resistance (PARECO)**;
 - f. **The Lord's Resistance Army (LRA)**.

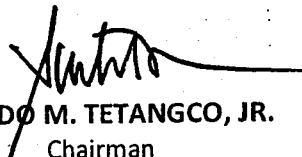
member. However, the AMLC may refuse to comply with any such request, convention, resolution or directive where the action sought therein contravenes the provision of the Constitution or the execution thereof is likely to prejudice the national interest of the Philippines.

The inclusion of **Thomas LUBANGA; Baudoin NGARUYE WA MYAMURO; Mathieu Chui NGUDJOLO; Floribert Ngabu NJABU, Jean-Marie Lugerero RUNIGA, Bosco NTAGANDA, and Innocent ZIMURINDA** in the List of Individuals and Entities subject to the measures imposed by paragraph 15 of UNSC Resolution No. 1596 (2005) requires a cooperative act among United Nations members. Accordingly, as a charter member of the United Nations, the Philippines, through the AMLC, must actively support the actions required under the subject UNSC Resolutions.

The Council resolved to:

- (1) Inform all covered persons of the aforementioned update in the entry pertaining to Innocent ZIMURINDA;
- (2) Direct all covered persons to submit to the Anti-Money Laundering Council reports on suspicious transactions, if any, involving Thomas LUBANGA, Baudoin NGARUYE WA MYAMURO, Mathieu Chui NGUDJOLO, Floribert Ngabu NJABU, Jean-Marie Lugerero RUNIGA, and Bosco NTAGANDA, including all transactions that occurred within the past five (5) years counting from the date of receipt of this Resolution; and
- (3) Request the Supervising Authorities to disseminate copies of this Resolution to all covered persons under their respective jurisdictions.

12 August 2013, Manila, Philippines.


AMANDO M. TETANGCO, JR.

Chairman

(Governor, Bangko Sentral ng Pilipinas)


TERESITA J. HERBOSA

Member

(Chairman, Securities and Exchange Commission)


EMMANUELE F. DOOC

Member

(Commissioner, Insurance Commission)