SUMMARY OBSERVATIONS

(1) ECONOMIC ENVIRONMENT

1. The structural reforms implemented by the Democratic Republic of the Congo (DRC) have enabled the country to begin recovering from economic stagnation brought on by its numerous armed conflicts during the 1990s. Its economy has grown steadily at an average rate of 6 per cent per annum over the period 2001-2009, largely outpacing population growth (3 per cent). The globally restrictive monetary policy pursued by the Central Bank of the Congo made it possible to reduce inflation from 511.2 per cent in 2000 to 4.3 per cent in 2003, though by 2009 it had again edged up to 46.3 per cent. As to the budget, increased government revenue has made it possible to reduce the public deficit, even surpluses being recorded in some years in spite of the increase in expenditure, for the most part current spending.

2. The DRC finally reached the completion point under the Heavily Indebted Poor Countries (HIPC) Initiative in July 2010 and has consequently been able to obtain debt relief worth some US$12.3 billion, of which 11.1 billion under the Enhanced HIPC Initiative and 1.2 billion under the Multilateral Debt Relief Initiative (MDRI). The financing of social projects with the funds thus freed up and the building of road and rail infrastructure now in progress should help to revitalize the economy and generate employment.

3. In spite of the country's numerous strong points, such as its vast territory, favourable climate and fertile soil, and abundant forest, lake and mining resources, including petroleum, the DRC remains a least developed country, with a per capita GDP of US$182 in 2008. The limited development of its potential is bound up, *inter alia*, with a business climate hardly conducive to investment because of serious infrastructure problems of all kinds; corruption, and complex and overpriced administrative procedures; the vast number of uncoordinated taxes the overall level of which remains very high; the high cost of and difficult access to credit; and a poorly functioning judicial system. According to the World Bank's Doing Business 2010 rankings, the DRC stands 182nd amongst 183 countries and according to Transparency International's Corruption Perceptions Index 2008 ranks 171st amongst 180 countries.

4. Agriculture is still the leading economic activity in the DRC (75 per cent of the economically active population and over 40 per cent of GDP in 2009), followed by services (30 per cent of GDP), mining, and a largely underdeveloped manufacturing sector. The DRC still has a very large informal sector (some 20 per cent of GDP), chiefly owing to a relatively unattractive business climate and very high unemployment. This appreciable share of informal activity partly accounts for the discrepancy between formal per capita income and the observed standard of living of the population, chiefly in urban centres.

5. With a goods and services trade to GDP ratio of almost 130 per cent, the DRC is highly dependent on the outside world. Its principal imports include foodstuffs, fuels, transport equipment and electrical and non-electrical machinery, and come mainly from the European Union (EU), South Africa, China and Zambia. Its exports are poorly diversified and are still confined to primary (mining) products, chiefly cobalt, copper, diamonds and petroleum. In 2008, mining accounted for 78 per cent of total exports in value terms as against 28 per cent in 2000. The DRC's main export markets are the EU (chiefly Belgium) China, Zambia and the United States. Apart from Zambia and South Africa, official trade with other African countries is still negligible, despite regional preferential agreements to which the DRC is a signatory. Informal cross-border trade is nonetheless substantial. The DRC is a net importer of services and has recorded a spectacular increase in imports and less remarkable growth in exports.

(2) TRADE AND INVESTMENT REGIMES

6. The Constitution of the DRC adopted on 18 February 2006 enshrines the primacy of international treaties and agreements over domestic law. The Constitution prevails over all other domestic legal instruments. Government policies, including trade policy, are formulated and implemented by means of these instruments. The direction and formulation of trade policy falls within the purview of the Ministry responsible for trade, in conjunction with the ministries in charge of finance (for customs matters amongst others) and those responsible for sectoral policies. The private sector participates on an ad hoc basis through the Foreign Trade Facilitation Committee.

7. Having been pinpointed as a key sector in the country's economic orientation, trade is intended to play a major role in the DRC's Growth and Poverty Reduction Strategy. Accordingly, trade policy aims to promote trade, in particular by diversifying manufacturing exports, increasing domestic food production in order to reduce food imports, and consolidating the traditional markets of the DRC and its participation in the multilateral trading system. Measures are being taken or are planned to improve the business climate and attract the investment needed to boost domestic production.

8. The DRC is an original Member of the WTO and grants at least Most-Favoured-Nation (MFN) treatment to all its trading partners. It does not participate in any WTO plurilateral agreement but does have observer status in the Committee on Government Procurement. The DRC's participation in the multilateral trading system remains limited, having submitted only eight notifications or communications to the WTO between 2004 and April 2010. The DRC has received technical assistance from the WTO and other international organizations. Yet owing to social and political conflicts, technical assistance activities have declined markedly. Therefore the country still has considerable needs in that regard, including under the Aid-for-Trade initiative.

9. The DRC also participates in several regional agreements, namely the African Union (AU), the Economic Community of Central African States (ECCAS), the Common Market for Eastern and Southern Africa (COMESA), the Southern African Development Community (SADC), and the Economic Community of the Great Lakes Countries (CEPGL). Over and above the costs involved, participation in numerous agreements could lead to a lack of coherence in the conduct of the DRC's trade policy.

10. A new code was adopted in 2002 to facilitate and encourage domestic and foreign investment in spheres of activity which are key to the country's economic development, namely infrastructure improvement, economic utilization of natural resources, and the establishment of a sound industrial base. The Code provides for a single regime the scope of which excludes mining and hydrocarbons, banking, insurance and reinsurance, defence and arms, as well as certain commercial activities, these sectors being governed by specific laws. The Ministry in charge of planning is responsible for public and private investment policy and promotion, through the National Investment Promotion Agency (ANAPI) in particular. As a single window, ANAPI is expected to help remove administrative barriers and facilitate investment approval procedures. The Code grants tax, parafiscal and customs benefits to investors.

(3) TRADE POLICY INSTRUMENTS

11. The DRC's applied MFN tariff is entirely *ad valorem* and comprises four rates (zero, 5 per cent, 10 per cent, and 20 per cent). The simple average tariff is 11.3 per cent. Agricultural and non-agricultural products (WTO definition) are subject to virtually the same average levels of nominal protection, which are 11.2 and 11.3 per cent respectively. The overall positive tariff escalation masks disparities at a more disaggregated level.

Indeed, tariff escalation is positive in the textiles and clothing, paper, articles of paper, printing and publishing, and chemical industries, which denotes a fairly high level of effective protection that is unlikely to boost international market competitiveness. In contrast, tariff escalation is mixed in the other industries, an indication that the tariff structure is pushing up production costs.

12. The DRC has bound all its tariff lines at ceiling rates, the simple average of which is 96.2 per cent, or 98.1 per cent for agricultural products and 95.9 per cent for non-agricultural products. Other duties and taxes are bound at zero, but imports are subject to a large number of taxes that are unrequited or whose proportions far exceed the utility of the services rendered. However, in keeping with the principle of national treatment, the main internal taxes are levied on imports and domestic products alike. Moreover, despite the creation of single windows for imports and exports, several other institutions are still operating outside that framework, thereby prolonging the time required for administrative formalities and increasing their cost. Preshipment inspection is mandatory for imports of US$2,500 or more, and the corresponding fees (0.75 per cent of the c.i.f. value, with a minimum charge of US$100) are borne by the importer. The DRC has never made use of contingency measures, for which it has no legislation.

13. The DRC is finding it difficult to implement its 2003 legislation based on the WTO Customs Valuation Agreement and utilizes reference values provided by BIVAC. Setting up the national system of standardization, technical regulations and accreditation is proving problematic, and this raises questions about the validity and relevance of the various control procedures being conducted, including at the border, by a myriad of institutions with overlapping activities; all imports and exports as well as domestic market products are subject to systematic checks. Imported vegetables and vegetable products must be accompanied by a phytosanitary certificate and imported animal and animal products by a sanitary certificate, both issued in the country of origin.

14. Export duties are levied on green coffee; minerals and mineral concentrates; mineral oils; electric power; logs; edged timber; fresh water; and scrap metal. In principle, these duties are applied to certain products in order to encourage the local processing of natural resources. Nevertheless, a large quantity of mineral ores and logs is being exported with no prior processing of any kind. The DRC has no government structure responsible for export promotion, nor does it have any export financing mechanism.

15. The new 2010 code on government procurement promotes transparency and favours the use of bidding, but provides for national and regional preferences. The DRC has just launched a programme to reform State-owned enterprises, which initially covers restructuring alone, with privatization expected to take place in the next phase. The DRC has no system of competition. The prices of some goods and services deemed to be "strategic" are subject to regulation. Intellectual property is in principle regulated by laws but their enforcement is still limited, and this gives rise to numerous infringements. A new law is reportedly being prepared in order to bring domestic legislation into line with the relevant WTO and WIPO provisions.

(4) SECTORAL POLICIES

16. The DRC has the potential for diversification needed for its various economic sectors to make a fairly substantial contribution to GDP. Agriculture is favoured by a variety of natural advantages such as vast areas of very fertile land and a climate that lends itself to a diverse range of crops. Agriculture is still the leading sector in the poverty reduction strategy owing to its labour intensity and its role in food security (subsistence farming) and as a supplier of inputs to local industries. However, development of the sector remains hampered by the numerous factors mentioned above as

constraints on investment in the DRC, where farming practices are generally still outdated.

17. Following the removal of subsidies and price support measures in 2002, border measures became the main trade policy instruments applied to Congolese agriculture. The average tariff in the sector (ISIC Rev.2 definition) is 10 per cent. However, agricultural imports are subject to a multitude of other levies and taxes and to cumbersome formalities, all of which encourages fraud and reduces the level of protection that the authorities believe they are providing for domestic producers.

18. The chief manufacturing branches consist of a few small agrifood, chemical, beverage, tobacco, textile, forestry product and capital equipment industries. The manufacturing sector's low level of competitiveness is attributable, *inter alia*, to outdated means and methods of production and high factor costs. The principal trade measures applied to the sector consist of protective rates that vary somewhat irregularly from one branch of production to another, with an average rate of 11.4 per cent and rates ranging from 10 to 20 per cent in the more important industries - food products, beverages, tobacco, wood and wood products - not to mention other levies and taxes, as well as various import and export controls. Moreover, the tariff structure does very little to boost product competitiveness or attract investment in the sector.

19. The DRC has several types of mineral and energy resources. Mining and quarrying products (copper, cobalt, gold, diamonds, coltan, etc.) constitute the main source of government revenue and the bulk of exports in value terms. The adoption of the Mining Code in 2002 and the DRC's 2008 application to join the Extractive Industries Transparency Initiative (EITI) are some of the actions taken to attract new investors to the sector. Mining permits are subject to a fixed issuing fee; royalties based on the surface area being worked; a variable-rate extraction tax depending on the nature of the substances being mined; an *ad valorem* tax; and a multitude of other taxes and charges. The tax burden on the mining sector is around 56 per cent of earnings, to which must generally be added 15 to 25 percentage points in the form of informal payments, i.e. an overall rate of taxation of close to 80 per cent. Mining imports are subject to duty at an average rate of 7.1 per cent for the extractive industries and 15.6 per cent for non-metallic mineral products, with a 5 per cent floor and a 20 per cent ceiling, not to mention other import duties and taxes. These different factors, coupled with export taxes and the various forms of red tape, are limiting the competitiveness of these export products. The aim of boosting exports of processed mineral products is thus being frustrated, the more so since there is no structure or organization for this purpose in the DRC.

20. The share of services in GDP has been increasing steadily since 2000, reflecting a measure of dynamism in the sector. Most of the restrictions on trade in services have been abolished. However, the State monopoly is being maintained in the provision of services such as water and electricity, fixed telephony and some postal services. Telecommunications services, including mobile telephony, have vastly expanded since they were liberalized in the DRC, and this has benefited the entire economy. In addition to the difficulties associated with the provision of services such as transport, where costs remain high, and electricity, which is subject to power cuts (though with declining frequency), constraints on access to credit are hampering the performance of the rest of the economy, including tourism, where the DRC's potential remains largely untapped.

21. The DRC's banking system is relatively small compared to the size of the country and its population. Most banking operations consist of deposit taking and short-term financing, and this represents one of the greatest obstacles to the development of small and medium-size enterprises in particular. The number of bank accounts is still very low - some 300,000 for an estimated

population of around 70 million. The banking subsector is still well below par, which partly impedes its capacity to help finance the country's development. Furthermore, the National Insurance Company (SONAS) holds a monopoly on the insurance market. With an annual turnover of US$45 million in 2009 and some 2,222 employees, the performance of SONAS is far from encouraging, despite its monopoly. Opening the market to competition, as in the case of the banking subsector, would provide incentive to develop competitiveness and improve performance in the provision of insurance services in the DRC.

22. The DRC has undertaken GATS commitments in a number of services branches - construction and related engineering services, communications services, business services, education services, tourism and travel-related services, and recreational, cultural and sporting services. Some of these branches are being opened up almost completely and others only partially. The extension of the DRC's multilateral commitments to all services categories that have already been liberalized should shore up the credibility of the reforms introduced, improve the predictability and transparency of the systems concerned and help attract the much needed capital for the DRC to realize its immense potential.