



Charter of the United Nations (Sanctions) Amendment Regulations 2006 (No. 1)¹

Select Legislative Instrument 2006 No. 299

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Charter of the United Nations Act 1945*.

Dated 16 November 2006

P. M. JEFFERY
Governor-General

By His Excellency's Command

ALEXANDER DOWNER
Minister for Foreign Affairs

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1 Name of Regulations

These Regulations are the *Charter of the United Nations (Sanctions) Amendment Regulations 2006 (No. 1)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Charter of the United Nations (Sanctions — Cote d'Ivoire) Regulations 2005*

Schedule 1 amends the *Charter of the United Nations (Sanctions — Cote d'Ivoire) Regulations 2005*.

4 Amendment of *Charter of the United Nations (Sanctions — Democratic Republic of the Congo) Regulations 2005*

Schedule 2 amends the *Charter of the United Nations (Sanctions — Democratic Republic of the Congo) Regulations 2005*.

5 Amendment of *Charter of the United Nations (Sanctions — Liberia) Regulations 2002*

Schedule 3 amends the *Charter of the United Nations (Sanctions — Liberia) Regulations 2002*.

6 Amendment of *Charter of the United Nations (Sanctions — Sierra Leone) Regulations 1997*

Schedule 4 amends the *Charter of the United Nations (Sanctions — Sierra Leone) Regulations 1997*.

7 **Amendment of *Charter of the United Nations (Sanctions — Sudan) Regulations 2005***

Schedule 5 amends the *Charter of the United Nations (Sanctions — Sudan) Regulations 2005*.

8 **Amendment of *Iraq (Reconstruction and Repeal of Sanctions) Regulations 2003***

Schedule 6 amends the *Iraq (Reconstruction and Repeal of Sanctions) Regulations 2003*.

9 ***Charter of the United Nations (Sanctions — Rwanda) Regulations 1994 — Repeal***

The *Charter of the United Nations (Sanctions — Rwanda) Regulations 1994* are repealed.

Schedule 1 **Amendments of *Charter of the United Nations (Sanctions — Cote d'Ivoire) Regulations 2005***

(regulation 3)

[1] Regulation 3

substitute

3 Object

The object of these Regulations is to assist in giving effect to Resolution 1572 and Resolution 1643 by:

- (a) restricting the supply of arms and related matériel, and the provision of assistance, advice and training related to military activities to Cote d'Ivoire; and
- (b) preventing rough diamonds being imported into Australia from Cote d'Ivoire; and
- (c) preventing a person:
 - (i) from using or dealing with assets owned or controlled by a designated person or entity; and
 - (ii) from making any asset available to a designated person or entity.

[2] Regulation 5, before definition of *Australian aircraft*

insert

Act means the *Charter of the United Nations Act 1945*.

arms or related matériel includes:

- (a) weapons; and
- (b) ammunition; and
- (c) military vehicles and equipment; and

(d) spare parts and accessories for the things mentioned in paragraphs (a) to (c); and

(e) paramilitary equipment.

Note Paramilitary equipment includes parts and accessories designed or adapted for use in, or with, paramilitary equipment mentioned in paragraphs (a) to (e) of the definition of *paramilitary equipment* (see paragraph (f) of that definition).

asset means an asset described in the definition of *asset* in section 14 of the Act.

[3] Regulation 5, after definition of *Committee*

insert

designated entity means an entity designated by the Committee under paragraph 11 of Resolution 1572.

designated person means a person designated by the Committee under paragraph 9 of Resolution 1572.

Note For a list of designated persons and designated entities, see the Department of Foreign Affairs and Trade (www.dfat.gov.au).

[4] Regulation 5, after definition of *engage in conduct*

insert

excluded asset means an asset (if any) that, under paragraph 12 of Resolution 1572, is not an asset to which paragraph 11 of Resolution 1572 applies.

freezable asset means an asset in Australia (other than an excluded asset) that is owned or controlled, directly or indirectly, by a designated person, or held by a designated entity.

[5] Regulation 5, after definition of *Linas-Marcoussis Agreement*

insert

paramilitary equipment means any of the following:

(a) batons, clubs, riot sticks and similar devices of a kind used for law enforcement purposes;

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- (b) body armour, including:
 - (i) bullet-resistant apparel; and
 - (ii) bullet-resistant pads; and
 - (iii) protective helmets;
 - (c) handcuffs, leg irons and other devices used for restraining prisoners;
 - (d) riot protection shields;
 - (e) whips;
 - (f) parts and accessories designed or adapted for use in, or with, equipment mentioned in paragraphs (a) to (e).

[6] Regulation 5, after definition of *Resolution 1572*

insert

Resolution 1643 means Resolution 1643 (2005) of the Security Council of the United Nations, adopted on 15 December 2005.

[7] Subregulation 7 (1)

omit

a person or body

insert

any recipient

[8] Subregulation 7 (2)

omit

Subregulation (1)

insert

Subject to subregulations (3) and (4), subregulation (1)

[9] Paragraph 7 (2) (d)

omit

, as notified in advance to the Committee

[10] Paragraph 7 (2) (e)

omit

, and the supply is approved in advance by the Committee

[11] Subregulation 7 (2), note

omit

[12] After subregulation 7 (2)

insert

- (3) For paragraphs (2) (b) and (e), the sale or supply must be approved in advance by the Committee.
- (4) For paragraph (2) (d), the sale or supply must be notified in advance to the Committee.
- (5) Strict liability applies to the circumstances mentioned in subregulations (3) and (4).

Note For *strict liability*, see subsection 6.1 of the *Criminal Code*.

[13] Subregulation 8 (2), note

omit

[14] After subregulation 8 (2)

insert

- (3) Strict liability applies to the circumstance that a provision of assistance, advice or training is approved in advance by the Committee.

Note For *strict liability*, see subsection 6.1 of the *Criminal Code*.

[15] After regulation 8

insert in Part 2

8A Prohibition on importation of rough diamonds

A person must not engage in conduct that assists, or results in:

- (a) rough diamonds being imported into Australia from Cote d'Ivoire, whether or not the rough diamonds originated in Cote d'Ivoire; or
- (b) rough diamonds that originated in Cote d'Ivoire being imported into Australia from a third country.

Penalty: 50 penalty units.

[16] Subregulation 9 (3)

omit

Subregulations (1) and (2)

insert

Subject to subregulations (4) and (5), subregulations (1) and (2)

[17] Paragraph 9 (3) (d)

omit

, as notified in advance to the Committee

[18] Paragraph 9 (3) (e)

omit

, and the supply is approved in advance by the Committee

[19] Subregulation 9 (3), note

omit

[20] After subregulation 9 (3)

insert

- (4) For paragraphs (3) (b) and (e), the sale or supply must be approved in advance by the Committee.
- (5) For paragraph (3) (d), the sale or supply must be notified in advance to the Committee.
- (6) Strict liability applies to the circumstances mentioned in subregulations (4) and (5).

Note For *strict liability*, see subsection 6.1 of the *Criminal Code*.

[21] After Part 3

insert

Part 4

Freezable assets and restriction on movement of assets to designated persons and designated entities

10 Offence — dealing with freezable assets

- (1) A person commits an offence if:
 - (a) the person holds a freezable asset; and
 - (b) the person:
 - (i) uses or deals with the freezable asset; or
 - (ii) allows the freezable asset to be used or dealt with; or
 - (iii) facilitates the use of the freezable asset or dealing with the freezable asset; and
 - (c) the use or dealing is not in accordance with a notice under regulation 12.

Penalty: 50 penalty units.

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- (2) Strict liability applies to the circumstance that the use or dealing is not in accordance with a notice under regulation 12.

Note For *strict liability*, see subsection 6.1 of the *Criminal Code*.

- (3) It is a defence if the person proves that the use or dealing was solely for the purpose of preserving the value of the freezable asset.

Note A defendant bears an evidential burden in relation to the matters set out in subregulation (2) (see section 13.3 of the *Criminal Code*).

- (4) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction — category A) applies to an offence against subregulation (1).

11 Offence — giving an asset to a designated person or designated entity

- (1) A person commits an offence if:
- (a) the person, directly or indirectly, makes an asset available to a designated person or designated entity; and
 - (b) the making available of the asset is not in accordance with a notice under regulation 12.

Penalty: 50 penalty units.

- (2) Strict liability applies to the circumstance that the making available of the asset is not in accordance with a notice under regulation 12

Note For *strict liability*, see subsection 6.1 of the *Criminal Code*.

- (3) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction — category A) applies to an offence against subregulation (1).

12 Authorised dealings

- (1) The owner or holder of a freezable asset may apply in writing to the Minister for permission to use or deal with the freezable asset in a specified way.

- (2) The owner or holder of an asset may apply in writing to the Minister for permission to make the asset available to a designated person or designated entity specified in the application.
- (3) The Minister may, by written notice:
 - (a) permit a freezable asset specified in the notice to be used or dealt with in a specified way; or
 - (b) permit an asset specified in the notice to be made available to a designated person or designated entity specified in the notice.
- (4) The Minister may issue such a notice on his or her own initiative or upon application under subregulation (1) or (2).
- (5) The notice may be subject to conditions, and may be expressed to apply from a date before the notice is given.
- (6) The notice must be given to the owner or holder of the asset as soon as practicable after it is made.
- (7) A notice that is given by the Minister on the basis of false or misleading information is taken to have no effect.
- (8) The Minister may delegate the Minister's powers and functions under this regulation (other than this power of delegation) to:
 - (a) the Secretary of the Department; or
 - (b) an SES employee, or acting SES employee, in the Department.
- (9) The delegation must be in writing.
- (10) The delegate must comply with any directions of the Minister in exercising powers or functions under the delegation.

Schedule 2 **Amendments of *Charter of the United Nations (Sanctions — Democratic Republic of the Congo) Regulations 2005***
(regulation 4)

[1] Regulation 3

substitute

3 Object

The object of these Regulations is to assist in giving effect to Resolution 1493, Resolution 1533 and Resolution 1596 by:

- (a) restricting the supply of arms and related matériel, and the provision of assistance, advice and training related to military activities to Democratic Republic of the Congo; and
- (b) preventing a person:
 - (i) from using or dealing with assets owned or controlled by a designated person or entity; and
 - (ii) from making any asset available to a designated person or entity.

[2] Regulation 5, before definition of *Australian aircraft*

insert

Act means the *Charter of the United Nations Act 1945*.

arms or related matériel includes:

- (a) weapons; and
- (b) ammunition; and
- (c) military vehicles and equipment; and

(d) spare parts and accessories for the things mentioned in paragraphs (a) to (c); and

(e) paramilitary equipment.

Note Paramilitary equipment includes parts and accessories designed or adapted for use in, or with, paramilitary equipment mentioned in paragraphs (a) to (e) of the definition of *paramilitary equipment* (see paragraph (f) of that definition).

asset means an asset described in the definition of *asset* in section 14 of the Act.

[3] Regulation 5, after definition of *Australian ship*

insert

Committee means the Committee established under paragraph 8 of Resolution 1533.

designated entity means an entity designated by the Committee under paragraph 15 of Resolution 1596.

designated person means a person designated by the Committee under paragraph 13 of Resolution 1596.

Note For a list of designated persons and designated entities, see the Department of Foreign Affairs and Trade (www.dfat.gov.au).

[4] Regulation 5, after definition of *engage in conduct*

insert

excluded asset means an asset (if any) that, under paragraph 16 of Resolution 1596, is not an asset to which paragraph 15 of Resolution 1596 applies.

freezable asset means an asset in Australia (other than an excluded asset) that is owned or controlled, directly or indirectly, by a designated person, or held by a designated entity.

integration has the same meaning as in Resolution 1596.

[5] Regulation 5, after definition of *MONUC*

insert

paramilitary equipment means any of the following:

- (a) batons, clubs, riot sticks and similar devices of a kind used for law enforcement purposes;
- (b) body armour, including:
 - (i) bullet-resistant apparel; and
 - (ii) bullet-resistant pads; and
 - (iii) protective helmets;
- (c) handcuffs, leg irons and other devices used for restraining prisoners;
- (d) riot protection shields;
- (e) whips;
- (f) parts and accessories designed or adapted for use in, or with, equipment mentioned in paragraphs (a) to (e).

[6] Regulation 5, after definition of *Resolution 1493*

insert

Resolution 1533 means Resolution 1533 (2004) of the Security Council of the United Nations, adopted on 12 March 2004.

Resolution 1596 means Resolution 1596 (2005) of the Security Council of the United Nations, adopted on 18 April 2005.

[7] Regulations 7 and 8

substitute

7 Restriction on sale of arms etc

- (1) A person must not engage in conduct that assists, or results in, the sale or supply of arms or related matériel to any recipient in the territory of the Democratic Republic of the Congo.

Penalty: 50 penalty units.

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- (2) Subregulation (1) does not apply in relation to:
- (a) a sale or supply to the Government of the Democratic Republic of the Congo for the use of units of the army and police of the Democratic Republic of the Congo, if:
 - (i) those units:
 - (A) have completed the process of their integration; or
 - (B) operate under the command of the *état-major intégré* of the Armed Forces or of the National Police of the Democratic Republic of the Congo; or
 - (C) are in the process of their integration, in the territory of the Democratic Republic of the Congo outside the provinces of North Kivu and South Kivu and the Ituri district; and
 - (ii) the sale or supply is made to a receiving site as designated by the Government of National Unity and Transition in coordination with MONUC; and
 - (iii) the sale or supply is notified in advance to the Committee; or
 - (b) a sale or supply to MONUC; or
 - (c) a sale or supply of non-lethal military equipment intended solely for humanitarian or protective use if the sale or supply is:
 - (i) made to a receiving site as designated by the Government of National Unity and Transition in coordination with MONUC; and
 - (ii) notified in advance to the Committee.
- (3) For paragraphs (2) (a) and (c), strict liability applies to the circumstance that a sale or supply is notified in advance to the Committee.

Note For *strict liability*, see subsection 6.1 of the *Criminal Code*.

8 Restriction on provision of technical assistance etc

- (1) A person must not engage in conduct that assists, or results in, the provision of assistance (including financing and financial assistance), advice or training relating to military activities to any recipient in the territory of the Democratic Republic of the Congo.

Penalty: 50 penalty units.

- (2) Subregulation (1) does not apply in relation to:
- (a) the provision of assistance, advice or training to the Government of the Democratic Republic of the Congo for the use of units of the army and police of the Democratic Republic of the Congo, if:
 - (i) those units:
 - (A) have completed the process of their integration; or
 - (B) operate under the command of the *état-major intégré* of the Armed Forces or of the National Police of the Democratic Republic of the Congo; or
 - (C) are in the process of their integration, in the territory of the Democratic Republic of the Congo outside the provinces of North Kivu and South Kivu and the Ituri district; and
 - (ii) the provision of the assistance, advice or training is notified in advance to the Committee; or
 - (b) the provision of assistance, advice or training to MONUC; or
 - (c) the provision of assistance, advice or training:
 - (i) relating to non-lethal military equipment intended solely for humanitarian or protective use; and
 - (ii) the provision of which is notified in advance to the Committee.
- (3) For paragraphs (2) (a) and (c), strict liability applies to the circumstance that a provision is notified in advance to the Committee.

Note For **strict liability**, see subsection 6.1 of the *Criminal Code*.

[8] Regulation 9

substitute

9 Use of Australian aircraft and ships for supply of arms etc

- (1) The owner, pilot in command or operator of an Australian aircraft must not allow the aircraft to be used in a way that assists, or results in, the sale or supply of arms or related matériel to any recipient in the territory of the Democratic Republic of the Congo.

Penalty: 50 penalty units.

- (2) The owner, master or operator of an Australian ship must not allow the aircraft to be used in a way that assists, or results in, the sale or supply of arms or related matériel to any recipient in the territory of the Democratic Republic of the Congo.

Penalty: 50 penalty units.

- (3) Subregulations (1) and (2) do not apply in relation to:

- (a) a sale or supply to the Government of the Democratic Republic of the Congo for the use of units of the army and police of the Democratic Republic of the Congo, if:
- (i) those units:
 - (A) have completed the process of their integration; or
 - (B) operate under the command of the état-major intégré of the Armed Forces or of the National Police of the Democratic Republic of the Congo; or
 - (C) are in the process of their integration, in the territory of the Democratic Republic of the Congo outside the provinces of North Kivu and South Kivu and the Ituri district; and
 - (ii) the sale or supply is made to a receiving site as designated by the Government of National Unity and Transition in coordination with MONUC; and

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- (iii) the sale or supply is notified in advance to the Committee; or
 - (b) a sale or supply to MONUC; or
 - (c) a sale or supply of non-lethal military equipment intended solely for humanitarian or protective use if the sale or supply is:
 - (i) made to a receiving site as designated by the Government of National Unity and Transition in coordination with MONUC; and
 - (ii) notified in advance to the Committee.
- (4) For paragraphs (3) (a) and (c), strict liability applies to the circumstance that a sale or supply is notified in advance to the Committee.

Note For *strict liability*, see subsection 6.1 of the *Criminal Code*.

[9] After Part 3

insert

Part 4 **Freezable assets and
restriction on movement of
assets to designated persons
and designated entities**

10 **Offence — dealing with freezable assets**

- (1) A person commits an offence if:
 - (a) the person holds a freezable asset; and
 - (b) the person:
 - (i) uses or deals with the freezable asset; or
 - (ii) allows the freezable asset to be used or dealt with; or
 - (iii) facilitates the use of the freezable asset or dealing with the freezable asset; and

-
- (c) the use or dealing is not in accordance with a notice under regulation 12.

Penalty: 50 penalty units.

- (2) Strict liability applies to the circumstance that the use or dealing is not in accordance with a notice under regulation 12.

Note For *strict liability*, see subsection 6.1 of the *Criminal Code*.

- (3) It is a defence if the person proves that the use or dealing was solely for the purpose of preserving the value of the freezable asset.

Note A defendant bears an evidential burden in relation to the matters set out in subregulation (3) (see section 13.3 of the *Criminal Code*).

- (4) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction — category A) applies to an offence against subregulation (1).

11 Offence — giving an asset to a designated person or designated entity

- (1) A person commits an offence if:
- (a) the person, directly or indirectly, makes an asset available to a designated person or designated entity; and
 - (b) the making available of the asset is not in accordance with a notice under regulation 12.

Penalty: 50 penalty units.

- (2) Strict liability applies to the circumstance that the making available of the asset is not in accordance with a notice under regulation 12

Note For *strict liability*, see subsection 6.1 of the *Criminal Code*.

- (3) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction — category A) applies to an offence against subregulation (1).

12 Authorised dealings

- (1) The owner or holder of a freezable asset may apply in writing to the Minister for permission to use or deal with the freezable asset in a specified way.
- (2) The owner or holder of an asset may apply in writing to the Minister for permission to make the asset available to a designated person or designated entity specified in the application.
- (3) The Minister may, by written notice:
 - (a) permit a freezable asset specified in the notice to be used or dealt with in a specified way; or
 - (b) permit an asset specified in the notice to be made available to a designated person or designated entity specified in the notice.
- (4) The Minister may issue such a notice on his or her own initiative or upon application under subregulation (1) or (2).
- (5) The notice may be subject to conditions, and may be expressed to apply from a date before the notice is given.
- (6) The notice must be given to the owner or holder of the asset as soon as practicable after it is made.
- (7) A notice that is given by the Minister on the basis of false or misleading information is taken to have no effect.
- (8) The Minister may delegate the Minister's powers and functions under this regulation (other than this power of delegation) to:
 - (a) the Secretary of the Department; or
 - (b) an SES employee, or acting SES employee, in the Department.
- (9) The delegation must be in writing.
- (10) The delegate must comply with any directions of the Minister in exercising powers or functions under the delegation.

Schedule 3 **Amendments of *Charter of the United Nations (Sanctions — Liberia) Regulations 2002***

(regulation 5)

[1] Regulation 5

omit

[2] Regulation 6, before definition of Act

insert

In these Regulations:

[3] Regulation 6, definition of *arms or related materiel*

substitute

arms or related matériel includes:

- (a) weapons; and
- (b) ammunition; and
- (c) military vehicles and equipment; and
- (d) spare parts and accessories for the things mentioned in paragraphs (a) to (c); and
- (e) paramilitary equipment.

Note Paramilitary equipment includes parts and accessories designed or adapted for use in, or with, paramilitary equipment mentioned in paragraphs (a) to (e) of the definition of *paramilitary equipment* (see paragraph (f) of that definition).

[4] Regulation 6, definition of *freezable asset*

substitute

freezable asset means an asset in Australia (other than an excluded asset) that is owned or controlled, directly or indirectly, by a designated person, or held by a designated entity.

[5] Regulations 8 and 9

substitute

8 Restriction on sale of arms etc

- (1) A person must not engage in conduct that assists, or results in, the sale or supply of arms or related matériel to any recipient in Liberia.

Penalty: 50 penalty units.

- (2) Subregulation (1) does not apply to:
- (a) a sale or supply that is intended solely for the support of, or use by UNMIL; or
 - (b) a sale or supply that is:
 - (i) intended solely for the support of, or use in, an international training and reform programme for the Liberian armed forces and police; and
 - (ii) approved in advance by the Committee; or
 - (c) a sale or supply of non-lethal military equipment that is:
 - (i) intended solely for humanitarian or protective purposes; and
 - (ii) approved in advance by the Committee; or
 - (d) a sale or supply of protective clothing that is intended to be worn only by:
 - (i) a member of the personnel of the United Nations; or
 - (ii) a representative of the media; or
 - (iii) a humanitarian or development worker or an associated person; or
 - (e) a limited supply of weapons or ammunition that is:
 - (i) intended for use by members of the Government of Liberia police and security forces who have been vetted and trained since the inception of UNMIL; and
 - (ii) approved in advance by the Committee.
- (3) For paragraphs (2) (b), (c) and (e), strict liability applies to the circumstance that a sale or supply is approved in advance by the Committee.

Note For *strict liability*, see subsection 6.1 of the *Criminal Code*.

9 Restriction on provision of technical assistance etc

- (1) A person must not engage in conduct that assists, or results in, the provision to any person in Liberia of technical training or other assistance in relation to the provision, manufacture, maintenance or use of arms or related matériel.

Penalty: 50 penalty units.

- (2) Subregulation (1) does not apply if:
- (a) the provision of training or assistance is intended solely for the support of, or use by, UNMIL; or
 - (b) the provision of training or assistance:
 - (i) is intended solely for the support of, or use in, an international training and reform programme for the Liberian armed forces and police; and
 - (ii) is approved in advance by the Committee; or
 - (c) the provision of training or assistance:
 - (i) relates to non-lethal military equipment intended solely for humanitarian or protective purposes; and
 - (ii) is approved in advance by the Committee.
 - (d) the provision of training or assistance:
 - (i) relates to a limited supply of weapons or ammunition that is intended for use by members of the Government of Liberia police and security forces who have been vetted and trained since the inception of UNMIL; and
 - (ii) is approved in advance by the Committee.
- (3) For paragraphs (2) (b), (c) and (d), strict liability applies to the circumstance that a provision is approved in advance by the Committee.

Note For *strict liability*, see subsection 6.1 of the *Criminal Code*.

[6] Regulation 10

substitute

10 Prohibition on importation of rough diamonds

A person must not engage in conduct that assists, or results in:

- (a) rough diamonds being imported into Australia from Liberia, whether or not the rough diamonds originated in Liberia; or
- (b) rough diamonds that originated in Liberia being imported into Australia from a third country.

Penalty: 50 penalty units.

[7] Regulation 11

substitute

11 Use of aircraft for transfer of arms and related matériel

- (1) The owner, pilot in command or operator of an Australian aircraft must not allow the aircraft to be used in a way that assists, or results in, the sale or supply of arms or related matériel to any recipient in Liberia.

Penalty: 50 penalty units.

- (2) Subregulation (1) does not apply to:
 - (a) a sale or supply that is intended solely for the support of, or use by UNMIL; or
 - (b) a sale or supply that is:
 - (i) intended solely for the support of, or use in, an international training and reform programme for the Liberian armed forces and police; and
 - (ii) approved in advance by the Committee; or
 - (c) a sale or supply of non-lethal military equipment that is:
 - (i) intended solely for humanitarian or protective purposes; and

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- (ii) approved in advance by the Committee; or
 - (d) a sale or supply of protective clothing that is intended to be worn only by:
 - (i) a member of the personnel of the United Nations; or
 - (ii) a representative of the media; or
 - (iii) a humanitarian or development worker or an associated person; or
 - (e) a limited supply of weapons or ammunition that is:
 - (i) intended for use by members of the Government of Liberia police and security forces who have been vetted and trained since the inception of UNMIL; and
 - (ii) approved in advance by the Committee.
 - (3) For paragraphs (2) (b), (c) and (e), strict liability applies to the circumstance that a sale or supply is approved in advance by the Committee.

Note For *strict liability*, see subsection 6.1 of the *Criminal Code*.

[8] Regulation 14

substitute

14 Use of ships for transfer of arms and related matériel

- (1) The owner, master or operator of an Australian ship must not allow the ship to be used in a way that assists, or results in, the sale or supply of arms or related matériel to any recipient in Liberia.
- (2) Subregulation (1) does not apply to:
 - (a) a sale or supply that is intended solely for the support of, or use by UNMIL; or
 - (b) a sale or supply that is:
 - (i) intended solely for the support of, or use in, an international training and reform programme for the Liberian armed forces and police; and
 - (ii) approved in advance by the Committee; or

-
- (c) a sale or supply of non-lethal military equipment that is:
- (i) intended solely for humanitarian or protective purposes; and
 - (ii) approved in advance by the Committee; or
- (d) a sale or supply of protective clothing that is intended to be worn only by:
- (i) a member of the personnel of the United Nations; or
 - (ii) a representative of the media; or
 - (iii) a humanitarian or development worker or an associated person; or
- (e) a limited supply of weapons or ammunition that is:
- (i) intended for use by members of the Government of Liberia police and security forces who have been vetted and trained since the inception of UNMIL; and
 - (ii) approved in advance by the Committee.
- (3) For paragraphs (2) (b), (c) and (e), strict liability applies to the circumstance that a sale or supply is approved in advance by the Committee.

Note For *strict liability*, see subsection 6.1 of the *Criminal Code*.

[9] Subregulation 17 (5)

omit

conditions.

insert

conditions, and may be expressed to apply from a date before the notice is given.

[10] After subregulation 17 (6)

insert

- (6A) A notice that is given by the Minister on the basis of false or misleading information is taken to have no effect.

Schedule 4 **Amendments of *Charter of the United Nations (Sanctions — Sierra Leone) Regulations 1997***

(regulation 6)

[1] **Regulation 3, before definition of *ECOWAS***

insert

arms or related matériel includes:

- (a) weapons; and
- (b) ammunition; and
- (c) military vehicles and equipment; and
- (d) spare parts and accessories for the things mentioned in paragraphs (a) to (c); and
- (e) paramilitary equipment.

Note Paramilitary equipment includes parts and accessories designed or adapted for use in, or with, paramilitary equipment mentioned in paragraphs (a) to (e) of the definition of ***paramilitary equipment*** (see paragraph (f) of that definition).

Committee means the Committee established under paragraph 10 of Resolution 1132.

[2] **Regulation 3, after definition of *ECOWAS***

insert

engage in conduct means do an act or omit to do an act.

paramilitary equipment means any of the following:

- (a) batons, clubs, riot sticks and similar devices of a kind used for law enforcement purposes;
- (b) body armour, including:
 - (i) bullet-resistant apparel; and
 - (ii) bullet-resistant pads; and
 - (iii) protective helmets;

-
- (c) handcuffs, leg irons and other devices used for restraining prisoners;
 - (d) riot protection shields;
 - (e) whips;
 - (f) parts and accessories designed or adapted for use in, or with, equipment mentioned in paragraphs (a) to (e).

[3] Regulation 3, Resolution 1132, paragraph (b)

omit

5 June 1998.

insert

5 June 1998; and

[4] Regulation 3, Resolution 1132, after paragraph (b)

insert

- (c) Resolution 1299 (2000), adopted on 19 May 2000.

[5] Regulation 3, after definition of Resolution 1132

insert

UNAMSIL means the United Nations Mission in Sierra Leone.

[6] Regulation 4

substitute

4 Restriction on sale of arms etc

- (1) A person in Australia, or a citizen of Australia who is outside Australia, must not engage in conduct that assists, or results in, the sale or supply of arms or related matériel to any recipient in Sierra Leone.

Penalty: 50 penalty units.

-
- (2) Subregulation (1) does not apply to:
- (a) the sale or supply of an item to the Government of Sierra Leone if:
 - (i) the item is to be delivered through a point of entry stated in Schedule 1; and
 - (ii) the sale or supply is notified in advance to the Committee; or
 - (b) the sale or supply of an item if:
 - (i) the item is sold or supplied for the sole use in Sierra Leone of:
 - (A) the Military Observer Group of ECOWAS; or
 - (B) the United Nations; and
 - (ii) the sale or supply is notified in advance to the Committee; or
 - (c) the sale or supply of arms and related matériel for the sole use in Sierra Leone of a Member State of the United Nations cooperating with UNAMSIL and the Government of Sierra Leone.
- (3) For paragraphs (2) (a) and (b), strict liability applies to the circumstance that the sale or supply is notified in advance to the Committee.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

[7] Subregulation 5 (1)

omit

in relation to a matter proscribed by regulation 4.

insert

in a way that assists, or results in, the sale or supply of arms or related materiel to a person or body in Sierra Leone.

[8] Subregulation 5 (2)

omit

in relation to a matter proscribed by regulation 4.

insert

in a way that assists, or results in, the sale or supply of arms or related materiel to a person or body in Sierra Leone.

[9] Subregulation 5 (3)

substitute

(3) Subregulations (1) and (2) do not apply to:

(a) the sale or supply of an item to the Government of Sierra Leone if:

- (i) the item is to be delivered through a point of entry stated in Schedule 1; and
- (ii) the sale or supply is notified in advance to the Committee; or

(b) the sale or supply of an item if:

- (i) the item is sold or supplied for the sole use in Sierra Leone of:
 - (A) the Military Observer Group of ECOWAS; or
 - (B) the United Nations; and
- (ii) the sale or supply is notified in advance to the Committee.

(3A) For subregulation (3), strict liability applies to the circumstance that the sale or supply is notified in advance to the Committee.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

[10] Schedule 1, heading

substitute

Schedule 1 Points of entry into Sierra Leone

(subregulations 4 (2) and 5 (3))

Schedule 5 **Amendments of *Charter of the United Nations (Sanctions — Sudan) Regulations 2005***

(regulation 7)

[1] **Regulation 3**

omit everything before paragraph (a), insert

The object of these Regulations is to assist in giving effect to Resolution 1556, Resolution 1591 and Resolution 1672, by:

[2] **Paragraph 3 (b)**

omit

subparagraph (a) (i).

insert

subparagraph (a) (i); and

[3] **After paragraph 3 (b)**

insert

(c) preventing a person:

- (i) from using or dealing with assets owned or controlled by a designated person or entity; and
- (ii) from making any asset available to a designated person or entity.

[4] **Regulation 5, definition of *arms or related materiel***

substitute

Act means the *Charter of the United Nations Act 1945*.

arms or related matériel includes:

- (a) weapons; and

- (b) ammunition; and
- (c) military vehicles and equipment; and
- (d) spare parts and accessories for the things mentioned in paragraphs (a) to (c); and
- (e) paramilitary equipment.

Note Paramilitary equipment includes parts and accessories designed or adapted for use in, or with, paramilitary equipment mentioned in paragraphs (a) to (e) of the definition of *paramilitary equipment* (see paragraph (f) of that definition).

asset means an asset described in the definition of *asset* in section 14 of the Act.

[5] Regulation 5, after definition of *authorised operation*

insert

Comprehensive Peace Agreement means the peace agreement between Government of Sudan and the Sudan People's Liberation Movement/Army, signed at Nairobi on 9 January 2005.

designated entity means an entity that is owned or controlled, directly or indirectly, by:

- (a) a designated person; or
- (b) a person acting on behalf of, or at the direction of, a designated person.

designated person means a person:

- (a) designated by the Committee under subparagraph 3 (c) of Resolution 1591; or
- (b) specified in Resolution 1672.

Note For a list of designated persons and designated entities, see the Department of Foreign Affairs and Trade (www.dfat.gov.au).

[6] Regulation 5, after definition of *engage in conduct*

insert

excluded asset means an asset (if any) that, under subparagraph 3 (g) of Resolution 1591, is not an asset to which subparagraph 3 (e) of Resolution 1591 applies.

freezable asset means an asset in Australia (other than an excluded asset) that is owned or controlled, directly or indirectly, by a designated person, or held by a designated entity.

[7] Regulation 5, after definition of *non-governmental entity or individual*

insert

N'djamena Ceasefire Agreement means the ceasefire agreement between the Government of Sudan, the Sudan Liberation Movement and the Justice and Equality Movement, signed at N'djamena on 8 April 2004.

[8] Regulation 5, after definition of *protective clothing*

insert

Resolution 1556 means Resolution 1556 (2004) of the Security Council of the United Nations, adopted on 30 July 2004.

Resolution 1591 means Resolution 1591 (2005) of the Security Council of the United Nations, adopted on 29 March 2005.

Resolution 1672 means Resolution 1672 (2006) of the Security Council of the United Nations, adopted on 25 April 2006.

[9] Subregulation 7 (1)

after

related matériel to

insert

a party to the N'djamena Ceasefire Agreement, a belligerent
or

[10] Paragraph 7 (2) (a)

after

authorised operation

insert

or in support of the implementation of the Comprehensive
Peace Agreement

[11] Regulation 7, note

omit

[12] Subregulation 8 (1)

before

a non-governmental entity

insert

a party to the N'djamena Ceasefire Agreement, a belligerent
or

[13] Paragraph 8 (2) (a)

after

authorised operation

insert

or in support of the implementation of the Comprehensive
Peace Agreement

[14] Regulation 8, note

omit

[15] Subregulation 9 (1)

after

related matériel to

insert

a party to the N'djamena Ceasefire Agreement, a belligerent
or

[16] Subregulation 9 (2)

after

related matériel to

insert

a party to the N'djamena Ceasefire Agreement, a belligerent
or

[17] Paragraph 9 (3) (a)

after

authorised operation

insert

or in support of the implementation of the Comprehensive
Peace Agreement

[18] Regulation 9, note

omit

[19] After Part 3*insert***Part 4** **Freezable assets and
restriction on movement of
assets to designated persons
and designated entities****10 Offence — dealing with freezable assets**

- (1) A person commits an offence if:
- (a) the person holds a freezable asset; and
 - (b) the person:
 - (i) uses or deals with the freezable asset; or
 - (ii) allows the freezable asset to be used or dealt with; or
 - (iii) facilitates the use of the freezable asset or dealing with the freezable asset; and
 - (c) the use or dealing is not in accordance with a notice under regulation 12.

Penalty: 50 penalty units.

- (2) Strict liability applies to the circumstance that the use or dealing is not in accordance with a notice under regulation 12.

Note For *strict liability*, see subsection 6.1 of the *Criminal Code*.

- (3) It is a defence if the person proves that the use or dealing was solely for the purpose of preserving the value of the freezable asset.

Note A defendant bears an evidential burden in relation to the matters set out in subregulation (3) (see section 13.3 of the *Criminal Code*).

- (4) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction — category A) applies to an offence against subregulation (1).

11 Offence — giving an asset to a designated person or designated entity

- (1) A person commits an offence if:
 - (a) the person, directly or indirectly, makes an asset available to a designated person or designated entity; and
 - (b) the making available of the asset is not in accordance with a notice under regulation 12.

Penalty: 50 penalty units.

- (2) Strict liability applies to the circumstance that the making available of the asset is not in accordance with a notice under regulation 12

Note For *strict liability*, see subsection 6.1 of the *Criminal Code*.

- (3) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction — category A) applies to an offence against subregulation (1).

12 Authorised dealings

- (1) The owner or holder of a freezable asset may apply in writing to the Minister for permission to use or deal with the freezable asset in a specified way.
- (2) The owner or holder of an asset may apply in writing to the Minister for permission to make the asset available to a designated person or designated entity specified in the application.
- (3) The Minister may, by written notice:
 - (a) permit a freezable asset specified in the notice to be used or dealt with in a specified way; or
 - (b) permit an asset specified in the notice to be made available to a designated person or designated entity specified in the notice.
- (4) The Minister may issue such a notice on his or her own initiative or upon application under subregulation (1) or (2).
- (5) The notice may be subject to conditions, and may be expressed to apply from a date before the notice is given.

- (6) The notice must be given to the owner or holder of the asset as soon as practicable after it is made.
- (7) A notice that is given by the Minister on the basis of false or misleading information is taken to have no effect.
- (8) The Minister may delegate the Minister's powers and functions under this regulation (other than this power of delegation) to:
 - (a) the Secretary of the Department; or
 - (b) an SES employee, or acting SES employee, in the Department.
- (9) The delegation must be in writing.
- (10) The delegate must comply with any directions of the Minister in exercising powers or functions under the delegation.

Schedule 6 **Amendments of Iraq**
(Reconstruction and Repeal of
Sanctions) Regulations 2003

(regulation 8)

[1] Regulation 1

substitute

1 Name of Regulations

These Regulations are the *Charter of the United Nations (Sanctions — Iraq) Regulations 2006*.

[2] Regulation 3, before definition of asset

insert

arms or related matériel includes:

- (a) weapons; and
- (b) ammunition; and
- (c) military vehicles and equipment; and
- (d) spare parts and accessories for the things mentioned in paragraphs (a) to (c); and
- (e) paramilitary equipment.

Note Paramilitary equipment includes parts and accessories designed or adapted for use in, or with, paramilitary equipment mentioned in paragraphs (a) to (e) of the definition of *paramilitary equipment* (see paragraph (f) of that definition).

[3] Regulation 3, after definition of asset

insert

Australian aircraft means an aircraft registered in Australia under the *Civil Aviation Act 1988*.

Australian ship means a ship registered in Australia under the *Shipping Registration Act 1981*.

[4] Regulation 3, after definition of *Charter Act*

insert

Committee means the committee established under paragraph 1 of Resolution 1518.

engage in conduct means do an act or omit to do an act.

[5] regulation 3, definition of *government asset*, subparagraph (b) (iv)

after

(iii);

insert

or

[6] Regulation 3, definition of *government asset*, after subparagraph (b) (iv)

insert

(v) a person or entity listed by the Committee; or

(vi) a person acting on behalf of, or at the direction of, a body or person mentioned in subparagraph (v);

[7] Regulation 3, after definition of *item of cultural property*

insert

multinational force has the same meaning as in Resolution 1546.

paramilitary equipment means any of the following:

(a) batons, clubs, riot sticks and similar devices of a kind used for law enforcement purposes;

(b) body armour, including:

(i) bullet-resistant apparel; and

-
- (ii) bullet-resistant pads; and
 - (iii) protective helmets;
 - (c) handcuffs, leg irons and other devices used for restraining prisoners;
 - (d) riot protection shields;
 - (e) whips;
 - (f) parts and accessories designed or adapted for use in, or with, equipment mentioned in paragraphs (a) to (e).

[8] Regulation 3, after definition of *previous government of Iraq*

insert

protective clothing includes protective military jackets and helmets.

[9] Regulation 3, definition of Resolution 661

omit

United Nations.

insert

United Nations, adopted on 6 August 1990.

[10] Regulation 3, definition of Resolution 1483

omit

United Nations.

insert

United Nations, adopted on 22 May 2003.

[11] Regulation 3, after definition of *Resolution 1483*

insert

Resolution 1518 means Resolution 1518 (2003) of the Security Council of the United Nations, adopted on 24 November 2003.

Resolution 1546 means Resolution 1546 (2004) of the Security Council of the United Nations, adopted on 8 June 2004.

[12] Regulation 5

after

These Regulations

insert

, except regulation 9C,

[13] Regulation 6

omit

[14] After Part 2

insert

Part 2A Restriction on supply of arms etc

9A Restriction on sale of arms etc

- (1) A person must not engage in conduct that assists, or results in, the sale or supply of arms or related materiel to any recipient in Iraq.

Penalty: 50 penalty units.

- (2) Subregulation (1) does not apply in relation to the sale or supply of an item to:
- (a) the Government of Iraq; or
 - (b) the multinational force.

9B Restriction on provision of technical assistance etc

- (1) A person must not engage in conduct that assists, or results in, the provision of assistance, advice or training relating to military activities to any recipient in Iraq.

Penalty: 50 penalty units.

- (2) Subregulation (1) does not apply in relation to the provision of assistance, advice or training to:
- (a) the Government of Iraq; or
 - (b) the multinational force.

9C Use of Australian aircraft and ships for supply of arms etc

- (1) The owner, pilot in command or operator of an Australian aircraft must not allow the aircraft to be used in a way that assists, or results in, the sale or supply of arms or related materiel to any recipient in Iraq.

Penalty: 50 penalty units.

- (2) The owner, master or operator of an Australian ship must not allow the ship to be used in a way that assists or results in, the sale or supply of arms or related materiel to any recipient in Iraq.

Penalty: 50 penalty units.

- (3) Subregulations (1) and (2) do not apply in relation to the sale or supply of an item to:
- (a) the Government of Iraq; or
 - (b) the multinational force.

[15] Subregulation 12 (5)

omit

conditions.

insert

conditions, and may be expressed to apply from a date before the notice is given.

[16] After subregulation 12 (6)

insert

- (6A) A notice that is given by the Minister on the basis of false or misleading information is taken to have no effect.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.