

EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 324

Charter of the United Nations Act 1945

Charter of the United Nations (Sanctions — Côte d'Ivoire) Amendment Regulations 2010 (No. 1)

The purpose of the Regulations is to amend the *Charter of the United Nations (Sanctions — Côte d'Ivoire) Regulations 2008* (the Principal Regulations), which were made on 10 April 2008 (repealing the *Charter of the United Nations (Sanctions — Côte d'Ivoire) Regulations 2005*) to implement United Nations Security Council (UNSC) sanctions in relation to Côte d'Ivoire.

Section 6 of the *Charter of the United Nations Act 1945* (the Act) provides, in part, that the Governor-General may make regulations for, and in relation to, giving effect to decisions that the UNSC has made under Chapter VII of the Charter of the United Nations (the Charter) that Article 25 of the Charter requires Australia to carry out, in so far as those decisions require Australia to apply measures not involving the use of armed force.

The Principal Regulations give effect in Australia to obligations arising from UNSC resolutions 1643 (15 October 2005) and 1572 (15 November 2004) to prevent the unauthorised supply, sale or transfer, directly or indirectly, to Côte d'Ivoire of arms and related matériel, subject to specified exceptions.

On 15 October 2010, the UNSC adopted resolution 1946, which provides in paragraph 5 that the arms embargo will not apply to supplies of non-lethal equipment intended solely to enable the Ivorian security force to use only appropriate and proportionate force while maintaining public order. Paragraph 5 further provides that any such supplies must be approved in advance by the Sanctions Committee, established by paragraph 14 of UNSC resolution 1572 (2004). Accordingly, the Regulations amend the Principal Regulations to allow the Minister for Foreign Affairs to grant a permit to make a sanctioned supply if the sanctioned supply fulfils these requirements.

The Attorney-General's Department was consulted during the preparation of the Regulations. Interdepartmental and industry consultations were undertaken during the preparation of the Principal Regulations. Public consultations on the implementation of regulations made under the Act are conducted annually. No specific public consultation was undertaken in relation to the Regulations and the Principal Regulations as they implement Australia's international legal obligations arising from decisions of the UNSC.

Resolutions 1643, 1572 and 1946 were adopted under Article 41 of Chapter VII of the Charter and the measures are binding on Australia pursuant to Article 25 of that Charter. The relevant UNSC resolutions can be found on the UN website (www.un.org).

Details of the Regulations are set out in the Attachment.

Details of the *Charter of the United Nations (Sanctions — Côte d'Ivoire) Amendment Regulations 2010 (No. 1)*

Regulation 1 – Name of the Regulations

Regulation 1 provides that the name of the Regulations is the *Charter of the United Nations (Sanctions — Côte d'Ivoire) Amendment Regulations 2010 (No. 1)*.

Regulation 2 – Commencement

Regulation 2 provides that the Regulations commence on the day after they are registered.

Regulation 3 – Amendment of *Charter of the United Nations (Sanctions — Côte d'Ivoire) Regulations 2008*

Regulation 3 provides that Schedule 1 amends the *Charter of the United Nations (Sanctions — Côte d'Ivoire) Regulations 2008*.

Schedule 1 – Amendments

[1] Paragraph 10 (2) (d)

Item [1] incorporates the existing text of subregulation 10 (3), which relates solely to paragraph 10 (2) (d), into the text of paragraph 10 (2) (d) itself. The new paragraph 10 (2) (d) thus describes a supply of goods that: (i) is temporarily exported to Côte d'Ivoire for the use of a State that is taking action in accordance with international law solely and directly to facilitate the evacuation of its nationals and those for whom it has consular responsibility in Côte d'Ivoire; and (ii) is notified in advance to the Committee.

[2] Subparagraph 10 (2) (e) (ii)

Item [2] omits 'Committee.' and inserts 'Committee; or' to allow for item [3].

[3] After paragraph 10 (2) (e)

Item [3] inserts a new paragraph 10 (2) (f) to expand the circumstances in which the Minister may, on application, grant a permit authorising the making of a sanctioned supply, to reflect paragraph 5 of resolution 1946, to include a supply of non-lethal military equipment that: (i) is intended solely to enable Ivorian security forces to use only appropriate and proportionate force while maintaining public order; and (ii) is approved in advance by the Committee.

[4] Subregulations 10 (3) and (4)

Item [4] changes the numbering of existing subregulation 10 (4) to be subregulation 10 (3), as a result of the incorporation of existing subregulation 10 (3) into paragraph 10 (2) (d) as described in item [1] above.