



United Nations Sanctions (Sudan) Amendment Regulations 2008

Anand Satyanand, Governor-General

Order in Council

At Wellington this 20th day of October 2008

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 2 of the United Nations Act 1946, His Excellency the Governor-General,—

- (a) acting on the advice and with the consent of the Executive Council; and
- (b) for the purpose of giving effect to resolution 1591 (2005) of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on 29 March 2005, calling upon the Government of New Zealand and all other member States of the United Nations to apply in respect of Sudan the measures set out in that resolution,—

makes the following regulations.

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Regulations

- 1 Title**
These regulations are the United Nations Sanctions (Sudan) Amendment Regulations 2008.
- 2 Commencement**
These regulations come into force on the 28th day after the date of their notification in the *Gazette*.
- 3 Principal regulations amended**
These regulations amend the United Nations Sanctions (Sudan) Regulations 2004.
- 4 Interpretation**
Regulation 3 is amended by inserting the following definitions in their appropriate alphabetical order:

“**Committee** means the Committee established by paragraph 3 of resolution 1591 (2005) of the Security Council of the United Nations

“**designated person** means persons or entities designated by the Committee in accordance with paragraph 3(c) of resolution 1591 (2005) of the Security Council of the United Nations”.

5 Exportation of arms to Sudan prohibited

Regulation 4 is amended by adding the following subclause:

“(3) Subclause (1) does not apply to—

- “(a) supplies and related technical training and assistance provided to monitoring, verification, or peace support operations, including such operations led by regional organisations, that are authorised by the United Nations or are operating with the consent of the relevant parties; or
- “(b) non-lethal military equipment intended solely for humanitarian, human rights monitoring, or protective use, and related technical training and assistance; or
- “(c) protective clothing (including flak jackets and military helmets) for the personal use of United Nations personnel, human rights monitors, representatives of the media, and humanitarian and development workers and associated personnel.”

6 Transactions with persons in Sudan in relation to arms prohibited

Regulation 9 is amended by revoking subclause (2) and substituting the following subclause:

“(2) Subclause (1) does not apply to particular goods or to goods of a particular class if—

- “(a) the Minister has consented to that sale, transfer, carriage, or delivery of, or other dealing with, those goods; or
- “(b) regulation 4(3) applies to the goods.”

7 Carriage of arms to Sudan prohibited

Regulation 10 is amended by revoking subclause (2) and substituting the following subclause:

- “(2) Subclause (1) does not apply if—
- “(a) the Minister has consented to that carriage of goods under regulation (4)(2) or regulation (9)(2); or
 - “(b) regulation 4(3) applies to the goods.”

8 Provision to Sudan of technical training or assistance relating to arms prohibited

Regulation 12 is amended by revoking subclause (2) and substituting the following subclause:

- “(2) Subclause (1) does not apply if—
- “(a) the Minister has consented to that provision of the training or assistance; or
 - “(b) regulation 4(3) applies to the training or assistance.”

9 New regulations 13A to 13D inserted

The following headings and regulations are inserted after regulation 13:

“Funds, etc, of or for designated persons, etc

“13A Prohibition on dealings in assets, money, or securities of, or derived from property of, designated persons

- “(1) No person may knowingly transfer, pay for, sell, assign, dispose of, or otherwise deal with any asset, money, or security—
- “(a) that is owned or controlled, directly or indirectly, by a designated person or a person or entity acting on behalf, or at the direction, of a designated person; and
 - “(b) that is located in New Zealand at or after 29 March 2005.
- “(2) It is a defence to a prosecution under this regulation in respect of any asset, money, or security derived or generated from any asset, money, or security of the kind specified in subclause (1)(a) (a **restricted item**) if the defendant proves that he or she received the asset, money, or security in good faith, at a time when he or she did not know that it was a restricted item or derived or generated from a restricted item.

“13B Prohibition on sending funds, etc, to designated persons

No person in New Zealand, and no New Zealand citizen in any place outside New Zealand, may knowingly send, trans-

fer, or deliver, or knowingly cause to be sent, transferred, or delivered, whether directly or indirectly, any asset, money, or security—

- “(a) to a designated person or a person or entity acting on behalf, or at the direction, of a designated person; or
- “(b) for the benefit of a designated person or a person or entity acting on behalf, or at the direction, of a designated person.

“13C Exceptions to regulations 13A and 13B

- “(1) Nothing in regulation 13A(1) or 13B applies to any dealing authorised by a consent under subclause (2).
- “(2) The Minister may consent to any dealing with any asset, money, or security if the Minister is satisfied that the dealing—
 - “(a) is necessary for basic expenses within the meaning of paragraph 3(g)(i) of resolution 1591 (2005) of the Security Council of the United Nations and is authorised under that paragraph; or
 - “(b) is necessary for extraordinary expenses within the meaning of paragraph 3(g)(ii) of resolution 1591 (2005) of the Security Council of the United Nations and is authorised under that paragraph; or
 - “(c) is authorised under paragraph 3(g)(iii) of resolution 1591 (2005) of the Security Council of the United Nations (which relates to assets, money, or securities subject to judicial, administrative, or arbitral liens or judgments).

“Entry and transit of designated persons

“13D Designated persons to enter New Zealand only if consistent with determinations of Security Council

- “(1) No designated person may enter New Zealand, or transit through New Zealand, if the entry or transit would be contrary to a determination of the Security Council made under Article 41 of the Charter of the United Nations.
- “(2) Subclause (1) does not apply to a designated person who is a New Zealand citizen.

- “(3) Subclause (1) does not apply so as to prevent a person from entering or transiting through New Zealand if—
- “(a) the Committee has determined that the travel is justified on the ground of humanitarian need, including religious obligation; or
 - “(b) the Committee has concluded that the travel would otherwise further the objectives of Security Council resolutions relating to Sudan.
- “(4) A permit or visa may be granted or issued, under the Immigration Act 1987, to a designated person only on the advice of the Secretary of Foreign Affairs and Trade that the permit or visa is consistent with subclauses (1) to (3).
- “(5) This regulation operates in addition to the requirements of the Immigration Act 1987 and of any regulations made under that Act.”

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on the 28th day after the date of their notification in the *Gazette*, amend the United Nations Sanctions (Sudan) Regulations 2004 to introduce an asset freeze and a travel ban. These measures are required by resolution 1591 (2005) of the Security Council of the United Nations. The regulations also clarify the exceptions to the arms embargo permitted by resolution 1556 (2004) of the Security Council of the United Nations.

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**United Nations Sanctions (Sudan)
Amendment Regulations 2008**

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 23 October 2008.

These regulations are administered by the Ministry of Foreign Affairs and Trade.
