



# United Nations Sanctions (Sudan) Regulations 2004

Silvia Cartwright, Governor-General

## Order in Council

At Wellington this 20th day of December 2004

Present:

Her Excellency the Governor-General in Council

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

- (a) on the advice and with the consent of the Executive Council; and
- (b) for the purpose of giving effect to resolution 1556 (2004) of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on 30 July 2004, 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) Regulations 2004.

### 2 Commencement

These regulations come into force on 10 December 2004.

### 3 Interpretation

In these regulations, unless the context otherwise requires,—  
**arms** includes—

- (a) related materiel of all types (for example, weapons, ammunition, military vehicles and equipment, or paramilitary equipment); and
- (b) spare parts for any arms, or for any goods specified in paragraph (a)

**Customs or the Customs and Customs officer** have the same meaning as in section 2(1) of the Customs and Excise Act 1996

**Minister** means the Minister of Foreign Affairs and Trade

**New Zealand** includes Tokelau

**New Zealand aircraft** means any aircraft that is registered or required to be registered in New Zealand under the Civil Aviation Act 1990

**New Zealand ship** means a ship registered in New Zealand, or recognised by the law of New Zealand as a ship belonging to New Zealand

**resolution** means resolution 1556 (2004) of the Security Council of the United Nations

**Sudan** means the Republic of the Sudan.

*Exportation of arms*

**4 Exportation of arms to Sudan prohibited**

- (1) No person may directly or indirectly export arms from New Zealand to Sudan.
- (2) Subclause (1) does not apply to particular goods or to goods of a particular class if the Minister has consented to that exportation of those goods.

Compare: SR 2001/26 r 4

**5 Customs and Excise Act 1996 to apply to prohibited exports**

All provisions of the Customs and Excise Act 1996 with respect to prohibited exports (except section 209) apply with respect to goods whose exportation is prohibited by regulation 4 in all respects as if the exportation of the goods were prohibited under section 56 of that Act.

Compare: SR 2001/26 r 5

**6 Detention of prohibited exports**

A Customs officer may detain any goods he or she suspects on reasonable grounds to be goods whose exportation is prohibited by regulation 4.

Compare: SR 2001/26 r 6

**7 Prohibited exports not to be loaded onto ships or aircraft**

The master of a ship or the pilot in command of an aircraft must not permit to be laden in the ship or aircraft any goods whose exportation is prohibited by regulation 4, knowing that the goods are intended to be exported in contravention of that regulation.

Compare: SR 2001/26 r 7

**8 Power to withhold clearance of ship or aircraft**

The Customs may withhold the clearance of any ship or aircraft so long as there are on board the ship or aircraft any

goods any Customs officer knows to be goods whose exportation is prohibited by regulation 4.

Compare: SR 2001/26 r 8

### *Dealings with arms*

#### **9 Transactions with persons in Sudan in relation to arms prohibited**

- (1) No person in New Zealand, and no New Zealand citizen in any place outside New Zealand, may enter into, or be concerned in, any sale, transfer, carriage, or delivery of, or other dealing with, any of the goods specified in regulation 4, knowing that those goods—
  - (a) are intended to be imported into Sudan; or
  - (b) are to be supplied or delivered to, or to the order of, any person in Sudan.
- (2) Subclause (1) does not apply to particular goods or to goods of a particular class if the Minister has consented to that sale, transfer, carriage, or delivery of, or other dealing with, those goods.

Compare: SR 2001/26 r 9

### *Carriage of arms*

#### **10 Carriage of arms to Sudan prohibited**

- (1) No ship or aircraft may be used for the carriage of any of the goods specified in regulation 4 if the carriage is, or forms part of, the carriage of those goods from any place to Sudan.
- (2) Subclause (1) does not apply if the Minister has consented to that carriage of goods under regulation 4(2) or regulation 9(2).
- (3) In subclause (1), **ship or aircraft** means—
  - (a) any New Zealand ship or New Zealand aircraft;
  - (b) any other ship or aircraft that is, for the time being, chartered to any New Zealand citizen, or to any body incorporated or constituted under the law of New Zealand.
- (4) Subclause (1) does not limit any of regulations 4 to 9.

Compare: SR 2001/26 r 10

**11 Liability of owner, charterer, master, or pilot in command**

- (1) If any ship or aircraft is used in contravention of regulation 10, each of the following persons is guilty of an offence against these regulations:
  - (a) in the case of a New Zealand ship or New Zealand aircraft, the owner and the master of the ship or, as the case requires, the owner and the pilot in command of the aircraft;
  - (b) in the case of any other ship or aircraft, the charterer of the ship or aircraft and, if the master of the ship or pilot in command of the aircraft is a New Zealand citizen, the master or pilot in command.
- (2) However, it is a defence to any such offence if the person concerned proves that he or she did not know and had no reason to suppose—
  - (a) that the goods carried on the ship or aircraft were or included arms; or
  - (b) that the carriage of the arms was, or formed part of, the carriage of goods from any place to Sudan.
- (3) In this regulation, **owner** and **charterer**, in relation to a ship, include any person acting as the agent of the owner or, as the case requires, the agent of the charterer.

Compare: SR 2001/26 r 11

*Provision of technical training or assistance relating to arms***12 Provision to Sudan of technical training or assistance relating to arms prohibited**

- (1) No person in New Zealand, and no New Zealand citizen in any place outside New Zealand, may provide to, or at the request of, any person in Sudan any technical training or assistance relating to the provision, manufacture, maintenance, or use of any arms.
- (2) Subclause (1) does not apply if the Minister has consented to that provision of the training or assistance.

Compare: SR 2001/26 r 12

*Minister's consent***13 Preconditions to Minister's consent**

Before consenting to an activity under regulation 4(2), 9(2), or 12(2), the Minister must be satisfied that the activity—

- (a) is not inconsistent with the measures set out in paragraphs 7 and 8 of the resolution; or
- (b) is, under paragraph 9 of the resolution, an activity to which those measures do not apply.

*Miscellaneous provisions***14 Offences**

Every person commits an offence against these regulations, and is liable accordingly under section 3 of the United Nations Act 1946, who acts in contravention of or fails to comply in any respect with any of the provisions of these regulations.

Compare: SR 2001/26 r 18

**15 Attorney-General's consent and certificate in certain cases**

If an offence against these regulations is alleged to have been committed outside New Zealand, a prosecution for the offence may not be commenced without—

- (a) the Attorney-General's consent; and
- (b) the Attorney-General's certificate that it is expedient that the proceedings be commenced.

Compare: SR 2001/26 r 19

**16 Customs and Excise Act 1996 not affected**

These regulations do not affect the operation of the Customs and Excise Act 1996.

Compare: SR 2001/26 r 20

Diane Morcom,  
Clerk of the Executive Council.

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### 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 10 December 2004, give effect to resolution 1556 (2004) of the Security Council of the United Nations adopted on 30 July 2004 calling for the imposition of sanctions in respect of the Republic of the Sudan (**Sudan**).

These regulations prohibit—

- the exportation from New Zealand to Sudan of arms, which includes not only related materiel of all types (for example weapons, ammunition, military vehicles and equipment, or paramilitary equipment), but also spare parts for any arms, or for any related materiel; and
- a person in New Zealand, or a New Zealand citizen outside New Zealand, from—
  - entering into, or being concerned in, any sale, transfer, carriage, or delivery of, or other dealing with any arms if he or she knows that the arms are destined for Sudan; and
  - providing to, or at the request of, any person in Sudan, any technical training or assistance relating to the provision, manufacture, maintenance, or use of any arms; and
- the carriage of any prohibited goods on any New Zealand ship or New Zealand aircraft if the carriage is, or forms part of, carriage to any destination in Sudan.

The prohibitions do not apply to an activity if the Minister of Foreign Affairs and Trade consents to that activity. Before consenting to an activity the Minister of Foreign Affairs and Trade must be satisfied that the activity is not inconsistent with resolution 1556 (2004) of the Security Council of the United Nations.

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

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