EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 283

Issued by the Authority of the Minister for Foreign Affairs

Charter of the United Nations Act 1945


The purpose of the Regulations is to implement Australia’s obligations under United Nations Security Council Resolution (UNSCR) 1718, adopted on 14 October 2006, to impose a range of sanctions against the Democratic People’s Republic of Korea (DPRK). UNSCR 1718 was adopted under Article 41 of Chapter VII of the Charter of the United Nations, and the measures are binding on Australia pursuant to Article 25.

Under UNSCR 1718, Australia must take necessary measures to prevent the direct or indirect supply, sale or transfer to the DPRK of certain conventional military goods, items related to the DPRK’s nuclear, weapons of mass destruction or ballistic missile programmes, and luxury goods. The resolution requires Australia to prevent any transfers to the DPRK of technical training, advice, services or assistance related to specified items. The resolution also requires Australia to prohibit the procurement of specified items from the DPRK. The prohibitions apply extraterritorially, including to Australian nationals abroad, and the use of Australian vessels and aircraft.

UNSCR 1718 further requires Australia to freeze the funds, other financial assets and economic resources that are owned or controlled by persons or entities designated by the Security Council as providing support for the DPRK’s nuclear, weapons of mass destruction and ballistic missile programmes. The Resolution also requires Australia to prevent the transfer of any funds, financial assets or economic resources to or for the benefit of such designated persons or entities.

Australia generally implements territorial aspects of trade sanctions via specific regulation under the Customs (Prohibited Imports) Regulations 1956 and the Customs (Prohibited Exports) Regulations 1958, which are administered by the Australian Customs Service. These proposed Regulations are the subject of a separate memorandum, to be considered concurrently with proposed Regulations under the Charter of the United Nations Act 1945. Travel restrictions are implemented under the Migration Act and associated regulations, administered by the Department of Immigration and Multicultural Affairs.

The Regulations ensure that those aspects of the sanctions imposed by UNSCR 1718 which cannot be implemented under existing regulations are adequately implemented into domestic law. The Regulations include extraterritorial aspects of the sanctions and would provide scope for the Minister for Foreign Affairs to authorise exceptions to the application of financial sanctions in accordance with UNSCR 1718.
The relevant United Nations Security Council Resolutions can be found on the UN website (www.un.org). Australia has an obligation under Article 25 of the United Nations Charter to carry out decisions of the Security Council. All relevant Commonwealth Government Departments were consulted prior to the drafting of these Regulations.