

EXPLANATORY STATEMENT
Select Legislative Instrument 2006 No. 302

Issued by the Authority of the Minister for Foreign Affairs

Charter of the United Nations Act 1945

Charter of the United Nations (Sanctions – Somalia) Regulations 2006

The purpose of the Regulations is to implement Australia's obligations under United Nations Security Council Resolution (UNSCR) 733 adopted on 23 January 1992, UNSCR 751 adopted on 24 April 1992, UNSCR 1356 adopted on 19 June 2001, UNSCR 1425 adopted on 22 July 2002 and UNSCR 1474 adopted on 8 April 2003. These Resolutions were adopted by the Security Council 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 the above Resolutions, Australia, as a UN Member State, must take necessary measures to prevent the sale of arms or related matériel to Somalia and to prevent the assistance (including financing and financial assistance), advice or training relating to military activities to any recipient in Somalia. The Regulations will ensure that the UN sanctions regime against Somalia is implemented into Australian law consistently with other UN sanctions regimes.

Regulation 7 of the proposed Regulations prohibits "conducts that assists, or results in, the sale or supply of arms or related matériel to any recipient in Somalia". Regulation 8 prohibits "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 Somalia". Regulation 9 prohibits an Australian aircraft or ship to be used "in a way that assists, or results in," the activities prohibited in regulation 7.

Regulations 7, 8 and 9 of the proposed Regulations would not apply in respect of the following: the sale or supply of non-lethal military equipment intended solely for humanitarian or protective use; training in relation to non-lethal military equipment intended solely for humanitarian or protective use; and protective clothing intended to be worn by UN personnel, the media or humanitarian workers. However, the sale or supply of such items or the provision of such training must be approved in advance by the United Nations Security Council Committee established pursuant to paragraph 11 of UNSCR 751 to administer the Somalia sanctions regime.

These Regulations should be read in conjunction with regulation 13E of the *Customs (Prohibited Exports) Regulations 1958* administered by the Australian Customs Service, which sets out Australia's general defence exports control regime.

The relevant United Nations Security Council Resolutions can be found on the UN website (www.un.org).

The Regulations are a legislative instrument for the purpose of the *Legislative Instruments Act 2003*. The Regulations commenced the day after they were registered. An exemption from the provision of a Regulation Impact Statement has been granted because the Regulations implement a non-discretionary international obligation.