

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Foreign Affairs

Charter of the United Nations Act 1945

*Charter of the United Nations (Sanctions—Democratic People's Republic of Korea)
List 2014*

Section 6 of the *Charter of the United Nations Act 1945* (the Act) provides that the Governor-General may make regulations to give effect to decisions of the United Nations Security Council (UNSC) under Chapter VII of the Charter of the United Nations (the Charter) that Australia is required to carry out under Article 25 of the Charter and in so far as those decisions require Australia to apply measures not involving the use of armed force. Section 6(2)(g) of the Act also allows the regulations to authorise the making of legislative instruments.

The *Charter of the United Nations (Sanctions—Democratic People's Republic of Korea) List 2014* (**the DPRK List**) lists documents specified by the Minister with reference to decisions of the United Nations 1718 (DPRK) Sanctions Committee. The documents referred to in DPRK List list goods decided by the 1718 (DPRK) Sanctions Committee to be goods prohibited for export to, or importation from, the DPRK. The goods listed in these documents will be implemented into the definition of export and import sanctioned goods for the purposes of the *Charter of the United Nations (Sanctions – Democratic People's Republic of Korea) Regulations 2008*.

Australia is under an international legal obligation to implement the decisions of the UNSC and its sanctions committees fully and as expeditiously as possible. The DPRK List will facilitate the implementation of this international legal obligation.

Section 6(3) of the *Charter of the United Nations Act 1945* provides that regulations made for the purposes of giving effect to decisions of the UNSC may make provision in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time despite subsection 14(2) of the *Legislative Instruments Act 2003*.

No public consultation was undertaken in relation to the DPRK List, as it implements Australia's international legal obligations arising from decisions of the UNSC. The Department of Foreign Affairs and Trade conducts regular outreach to the Australian business community to explain Australian sanctions laws implementing UNSC sanctions.

Resolution 1718 was 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 DPRK List are set out in the [Attachment](#).

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Charter of the United Nations Legislation Amendment (Sanctions—Democratic People's Republic of Korea) Document List 2014

The *Charter of the United Nations Legislation Amendment (Sanctions—Democratic People's Republic of Korea) Document List 2014* (the DPRK List) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The DPRK List creates a list of United Nations Security Council and International Atomic Energy Agency documents, as specified by the Minister pursuant to the *Charter of the United Nations (Sanctions – Democratic People's Republic of Korea) Regulations 2008 (the DPRK Regulations)*, that reference goods as decided by the 1718 (Democratic People's Republic of Korea) Sanctions Committee to be goods prohibited from export to, or importation from, the Democratic People's Republic of Korea.

The goods referenced in these documents have been incorporated into the definition of export sanctioned goods and import sanctioned goods for the purposes of Regulations 5 and 7 respectively of the DPRK Regulations.

The Amendment Regulation protects human rights by ensuring that persons and entities that violate measures imposed by UNSC resolutions will be subject to the UNSC sanctions measures.

ATTACHMENT

Details of *Charter of the United Nations (Sanctions—Democratic People's Republic of Korea) Document List 2014*

Section 1 – Name of List

Section 1 provides that the name of the list is the *Charter of the United Nations Legislation Amendment (Sanctions—Democratic People's Republic of Korea) Document List 2014*.

Section 2 – Commencement

Section 2 provides that the list commences on the day after it is registered.

Section 3 – Determination of Documents

Section 3 provides that for the purposes of paragraph 5(2) of the *Charter of the United Nations (Sanctions – Democratic People's Republic of Korea) Regulations 2008* each UN Security Council and International Atomic Energy Agency document mentioned in an item in Schedule 1 is a document for the Democratic People's Republic of Korea.

Schedule 1 – Documents

Item [1] – S/2014/254

Item [1] is a United Nations Security Council document dated 8 April 2014, covering a report from the Chair of the 1718 (DPRK) Sanctions Committee (the Report). The Report reviews and updates the nuclear-related items and ballistic missile-related items contained within paragraph 5(b) of UNSC resolution 2087 (2013).

Item [2] - INFCIRC/254/Pev.12/Part 1

Item [2] is an International Atomic Energy Agency (IAEA) Information Circular, covering a letter dated 18 October 2013 from the Chair of the Nuclear Suppliers Group to the IAEA, amending the Nuclear Suppliers Group Part 1 Guidelines for Nuclear Transfers (the Part 1 Guidelines). The Part 1 Guidelines provide fundamental principles for safeguards and export controls that apply to nuclear transfers.

Item [3] - INFCIRC/254/Rev.9/Part2

Item [3] is an International Atomic Energy Agency (IAEA) Information Circular, covering a letter dated 18 October 2013, from the Chair of the Nuclear Suppliers Group to the IAEA, amending the Nuclear Suppliers Group Part 2 Guidelines for transfers of nuclear-related dual-use equipment, materials, software and related technology (the Part 2 Guidelines). The Part 2 Guidelines govern the export of nuclear-related dual-use items and technologies, including items that can make a

major contribution to an unsafeguarded nuclear fuel cycle or nuclear explosive activity, but which also have non-nuclear uses.

Item [4] – INFCIRC/254/Rev.11/Part1

Item [4] is an International Atomic Energy Agency (IAEA) Information Circular, covering a letter dated 12 October 2012 from the Chair of the Nuclear Suppliers Group to the IAEA, amending the Nuclear Suppliers Group Part 1 Guidelines for Nuclear Transfers (the Part 1 Guidelines). The Part 1 Guidelines provide fundamental principles for safeguards and export controls that apply to nuclear transfers.

Item [5] – INFCIRC/254/Rev.8/Part2

Item [5] is an International Atomic Energy Agency (IAEA) Information Circular, covering a letter dated 14 June 2010, from the Chair of the Nuclear Suppliers Group to the IAEA, amending the Nuclear Suppliers Group Part 2 Guidelines for transfers of nuclear-related dual-use equipment, materials, software and related technology (the Part 2 Guidelines). The Part 2 Guidelines govern the export of nuclear-related dual-use items and technologies, including items that can make a major contribution to an unsafeguarded nuclear fuel cycle or nuclear explosive activity, but which also have non-nuclear uses.

Item [6] – S/2006/853/CORR.1

Item [6] is a corrigendum to the document listed in Item 7.

Item [7] – S/2006/853

Item [7] is a letter dated 1 November 2006 from the Chairman of the 1718 Security Council Committee concerning the Democratic People's Republic of Korea that lists items, materials, equipment, goods and technology related to weapons of mass destruction programmes.