



Ottawa, February 7, 2006

MEMORANDUM D19-11-1

In Brief

UNITED NATIONS ACT – TRADE SANCTIONS

The Canada Border Services Agency (CBSA) assists Foreign Affairs Canada (FAC) with the administration of the *United Nations Act* and its associated regulations. These regulations contain information on trade sanctions that are currently in place and administered by the CBSA. This Memorandum has been updated to include the new *United Nations Cote d'Ivoire Regulations*.



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UNITED NATIONS ACT – TRADE SANCTIONS

Legislation

The Canada Border Services Agency (CBSA) assists Foreign Affairs Canada (FAC) with the administration of the *United Nations Act* and its associated regulations. This Memorandum outlines the key elements of the legislation administered by the CBSA.

United Nations Act

Sections 2 and 3 of the *United Nations Act* contain provisions that deal with order and regulation-making authority, offence and punishment coverage and seizure and detention authority that are required to enforce economic sanctions imposed by the United Nations Security Council (UNSC). These sanctions often include trade restrictions for goods that originate in, or are destined for, specified countries.

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2. When, in pursuance of Article 41¹ of the Charter of the United Nations, set out in the schedule, the Security Council of the United Nations decides on a measure to be employed to give effect to any of its decisions and calls on Canada to apply the measure, the Governor in Council may make such orders and regulations as appear to him to be necessary or expedient for enabling the measure to be effectively applied.

3. (1) Any person who contravenes an order or regulation made under this Act is guilty of an offence and liable

(a) on summary conviction, to a fine of not more than \$100,000 or to imprisonment for a term of not more than one year, or both; or

(b) on conviction on indictment, to imprisonment for a term of not more than 10 years.

(2) Any property dealt with contrary to any order or regulation made under this Act may be seized and detained and are liable to forfeiture at the instance of the Minister of Justice, on proceedings in the Federal Court, or in any superior court, and any such court may make rules governing the procedure on any proceedings taken before the court or a judge thereof under this section.

¹ ARTICLE 41--The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

GUIDELINES AND GENERAL INFORMATION

Introduction

1. The *United Nations Act* enables the Canadian government to give effect to decisions passed by the United Nations Security Council (UNSC). United Nations sanctions are imposed pursuant to decisions of the UNSC under Chapter VII (Article 41) of the United Nations Charter. If the UNSC determines that a threat to the peace, a breach of the peace or an act of aggression has occurred, it may decide what measures shall be taken to maintain or restore international peace and security. These measures generally involve some form of economic or trade sanctions that are applied to specified countries.

2. At the present time the following countries are subject to Canadian economic trade sanctions:

- Afghanistan
- Cote d'Ivoire
- Democratic Republic of the Congo
- Iraq
- Liberia
- Rwanda
- Sierra Leone
- Sudan

Appendices A through H of this Memorandum contain a summary of the *United Nations Regulations* that relate to various import and export prohibitions. The complete text of these regulations and related prohibitions may be found on the Department of Justice Web site at <http://laws.justice.gc.ca/en>.

Import/Export Prohibitions and Restrictions

3. The import and export prohibitions and restrictions specified for these countries cover a wide range of commodities that include but are not limited to: arms, rough diamonds, round logs and timber. The CBSA has direct involvement in the administration of those aspects of the regulations that relate to the import and/or export of goods. Appendices A through H contain further details regarding the extent of these sanctions. These regulations also contain a number of prohibitions, which are not administered by the CBSA (e.g., certain financial transactions and provision of technical assistance). Changes to trade sanctions may occur frequently and on short notice as international situations evolve. The most up-to-date information on sanctions may be found on the Foreign Affairs Canada's (FAC) Web site at www.fac-aec.gc.ca.

Rough Diamond Importations

4. The sanctions that apply to importations of rough diamonds from Liberia are in place to ensure that the proceeds from the sale of such diamonds are not used to

arm rebel forces in certain parts of Africa. Canada has implemented these sanctions to comply with United Nations Resolution 1521 (Liberia). For the purpose of administering these regulations, rough diamonds are those diamonds that fall under tariff item numbers: 7102.10.00, 7102.21.00, 7102.31.00 in the list of Tariff Provisions in the schedule to the *Customs Tariff*.

5. It should be noted that all rough diamonds exported from Liberia are prohibited entry into Canada regardless of their country of origin. A summary of the *United Nations Liberia Regulations* is contained in Appendix E of this Memorandum.

6. Natural Resources Canada (NRCan) is the Federal Government department responsible for administering the Kimberley Process Certification Scheme for rough diamonds in Canada. CBSA assists NRCan with certain border-enforcement aspects of this program. Information regarding the Kimberley Process may be accessed on NRCan's Web site at <http://nrcan-rncan.gc.ca/inter>. In addition, CBSA has published Memorandum D19-6-4, *Kimberley Process – Export and Import of Rough Diamonds*.

Detention and Disposal of Goods

7. Border Services officers will review import/export declarations and other documents such as bills of lading, invoices and certificates of origin issued by the relevant government authority to determine if goods are subject to prohibition or control measures. Goods that appear to be in contravention of the *United Nations Regulations* will be detained based on the authority contained in Section 101 of the *Customs Act*. Immediate contact should then be made with the United Nations, Human Rights and Economic Law Division of FAC (refer to paragraph 14) to inform them of a possible infraction of the *United Nations Act* and one of its related regulations. FAC will then determine if an infraction under the *United Nations Act* has occurred. Where FAC has determined that there is an infraction of the *United Nations Act*, FAC will inform the Department of Justice Legal Branch of their findings. The Department of Justice and the Royal Canadian Mounted Police (RCMP) will then proceed with the execution of a seizure, laying of charges and prosecution for offences under the *United Nations Act*.

8. Some of the goods controlled under the *United Nations Act* may also be controlled under the *Export and Import Permits Act* (EIPA) through the Import and Export Control Lists (e.g., arms and munitions). International Trade Canada (ITCan) oversees the EIPA and is responsible for administering this legislation and making decisions regarding whether charges should be laid under this Act. If it appears that a good is being imported or exported in contravention of the *United Nations Act*, FAC should be informed in accordance with the procedure described in paragraph 7. Possible infractions under the EIPA may also

be discussed with FAC. If FAC declines to follow up with action under the *United Nations Act*, ITCan may still wish to proceed under the EIPA. Customs Investigations Division will consult with FAC and ITCan to determine if charges will be laid under both the *United Nations Act* and the EIPA.

9. In the event a CBSA infraction also applies to the importation of any such goods, the goods will be detained and the Customs Investigations Division should be immediately informed of the contravention. Regional investigations staff may be contacted 24 hours a day, seven days a week. In these situations, Investigations will consult with FAC and Partnerships Division of CBSA to determine if charges will be laid under both the *Customs Act* and the *United Nations Act*.

10. All costs associated with the detention of goods that are in violation of the *United Nations Act* or any of its related regulations (e.g., storage, disposal, transportation) will be the responsibility of FAC. Contact should be made with FAC at the address shown in paragraph 14 to arrange for payment of such costs.

11. In certain circumstances, the Minister of Foreign Affairs may issue a certificate authorizing the import or export of goods generally subject to prohibition under these regulations if the applicable Security Council resolution was not intended to apply to a particular transaction or the action has been approved by the relevant Security Council Committee. Applications to obtain a certificate should be submitted in writing to FAC at the address indicated in paragraph 14.

Penalties

12. As indicated in the Legislation section of this Memorandum, a penalty may apply to any contravention of this legislation.

Additional Information

13. Additional information regarding the CBSA administration of these regulations may be obtained by contacting:

Partnerships Division
14 th Floor
191 Laurier Avenue West
Ottawa ON K1A 0L8

Telephone: (613) 957-6868
Facsimile: (613) 946-1520

14. Information relating to trade restrictions covered by the *United Nations Act* or its associated regulations, or the certification process referred to in paragraph 11, may be obtained by contacting FAC at the following address:

United Nations, Human Rights and Economic
Law Division (JLH)
Foreign Affairs Canada
Lester B. Pearson Building
125 Sussex Drive
Ottawa ON K1A 0G2

Telephone: (613) 995-1108
Facsimile: (613) 992- 2467

Additional information regarding Canada's Trade Sanction Program may be found on FAC and ITCan's Web site at <http://itcan-cican.gc.ca>.

15. The EIPA contains authority to establish the *Area Control List* (ACL) that identifies specific countries, which the Governor in Council deems necessary to control the export of goods. Permits issued by ITCan are required for exports to countries on the ACL. At the present time, only Myanmar (Burma) is identified on the ACL. Memorandum D19-10-3, *Export and Import Permits Act (Exportations)*, contains additional information regarding the CBSA administration of the ACL.

APPENDIX A**Summary of the *United Nations Afghanistan Regulations***

1. These regulations prohibit the export of arms and related materials to the Taliban or Usama bin Laden or his associates.
2. For the full text of the *United Nations Afghanistan Regulations* and additional information regarding the prohibitions contained therein, please visit the Department of Justice Web site at <http://laws.justice.gc.ca/en>.

Note: The foregoing is a summary of the controls on exports administered by the CBSA.

APPENDIX B**Summary of the *United Nations Cote d'Ivoire Regulations***

1. These regulations prohibit the export of arms and related materials to any person in Cote d'Ivoire.
2. The prohibition does not apply in the following situations:
 - (a) Use of arms and related material intended solely for the support of UNOCI (United Nations Operations to Cote d'Ivoire);
 - (b) Use of non-lethal military equipment intended solely for humanitarian or protective use, if the Committee of the Security Council has approved in advance the supply of such equipment; and
 - (c) Use of protective clothing, including flak jackets and military helmets, temporarily exported to Cote d'Ivoire by United Nations personnel, representatives of the media, humanitarian, development workers and associated personnel, for their personal use only.
3. For the full text of the *United Nations Cote d'Ivoire Regulations* and additional information regarding the prohibitions contained therein, visit the Department of Justice Web site at <http://laws.justice.gc.ca/en>.

Note: The foregoing is a summary of the controls on exports administered by the CBSA.

APPENDIX C**Summary of the *United Nations Democratic Republic of the Congo Regulations***

1. These regulations prohibit the export of arms and related materials to any person in the Democratic Republic of the Congo. This prohibition does not apply to the export of supplies of non-lethal military equipment intended solely for humanitarian or protective use if the Committee of the Security Council is notified in advance of the equipment's intended use.
2. The prohibition of the export of arms and related materials does not apply to the United Nations Organization Mission in the Democratic Republic of the Congo.
3. For the full text of the *United Nations Democratic Republic of the Congo Regulations* and additional information regarding the prohibitions contained therein, visit the Department of Justice Web site at <http://laws.justice.gc.ca/en>.

Note: The foregoing is a summary of the controls on exports administered by the CBSA.

APPENDIX D**Summary of the *United Nations Iraq Regulations***

1. These regulations prohibit the export of arms and related materials to any person in Iraq, unless they are required by the government of Iraq, or the multinational force under unified command, to serve the purposes of the United Nations Security Council Resolution 1546.
2. For the full text of the *United Nations Iraq Regulations* and additional information regarding the prohibitions contained therein, please visit the Department of Justice Web site at <http://laws.justice.gc.ca/en>.

Note: The foregoing is a summary of the controls on imports and exports administered by the CBSA.

APPENDIX E**Summary of the *United Nations Liberia Regulations***

1. These regulations prohibit the export of arms and related materials to any person in Liberia. This prohibition does not apply to the export of supplies of non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee of the Security Council of the United Nations. In addition, the prohibition does not apply to protective clothing, such as flak jackets and military helmets temporarily exported to Liberia by United Nations personnel, representatives of the media, and humanitarian and development personnel, for their personal use only.
2. The prohibition to the export of arms and related materials does not apply if such goods are intended solely for the United Nations Mission in Liberia or if approved in advance by the Committee of the Security Council of the United Nations and is intended solely for an international training and reform program for the Liberian armed forces or police.
3. A prohibition on the import of rough diamonds exported from Liberia, whether or not such rough diamonds originate in Liberia, is also contained in these regulations. Further details regarding the prohibition on the importation of rough diamonds are contained in paragraphs 4 to 6 of this Memorandum.
4. Importations of logs and timber products from Liberia are also prohibited.
5. For the full text of the *United Nations Liberia Regulations* and additional information regarding the prohibitions contained therein, please visit the Department of Justice Web site at <http://laws.justice.gc.ca/en>.

Note: The foregoing is a summary of the controls on imports and exports administered by the CBSA.

APPENDIX F**Summary of the *United Nations Rwanda Regulations***

1. These regulations prohibit the export of arms and related material to any person in Rwanda.
2. These regulations do not apply to the United Nations Assistance Mission for Rwanda (UNAMIR) or the United Nations Observation Mission in Uganda and Rwanda (UNOMUR).
3. For the full text of the *United Nations Rwanda Regulations* and additional information regarding the prohibitions contained therein, please visit the Department of Justice Web site at <http://laws.justice.gc.ca/en>.

Note: The foregoing is a summary of the controls on exports administered by the CBSA.

APPENDIX G

Summary of the *United Nations Sierra Leone Regulations*

1. These regulations prohibit the export of arms and related material to any person in Sierra Leone.

2. For the full text of the *United Nations Sierra Leone Regulations* and additional information regarding the prohibitions contained therein, please visit the Department of Justice Web site at <http://laws.justice.gc.ca/en>.

Note: The foregoing is a summary of the controls on imports and exports administered by the CBSA.

APPENDIX H**Summary of the *United Nations Sudan Regulations***

1. These regulations prohibit the export of arms and related materials to any person in Sudan. This prohibition does not apply to protective clothing including flak jackets and military helmets, if it is intended for the personal use of United Nations personnel, human rights monitors, representatives of the media and humanitarian and development workers and associated personnel.
2. This prohibition does not apply to the export of arms and related material for a monitoring, verification or peace support operation, including such an operation led by a regional organization of states if the operation is authorized by the Security Council of the United Nations.
3. For the full text of the *United Nations Sudan Regulations* and additional information regarding the prohibition contained therein, visit the Department of Justice Web site at **<http://laws.justice.gc.ca/en/en>**.

Note: The foregoing is a summary of the controls on imports and exports administered by the CBSA.

REFERENCES

<p>ISSUING OFFICE – Partnerships Division</p>	<p>HEADQUARTERS FILE – 7935-25</p>
<p>LEGISLATIVE REFERENCES – <i>United Nations Act</i> <i>United Nations Afghanistan Regulations</i> <i>United Nations Cote d'Ivoire Regulations</i> <i>United Nations Democratic Republic of the Congo Regulations</i> <i>United Nations Iraq Regulations</i> <i>United Nations Liberia Regulations</i> <i>United Nations Rwanda Regulations</i> <i>United Nations Sierra Leone Regulations</i> <i>United Nations Sudan Regulations</i> <i>Export and Import Permits Act – Area Control List</i> <i>Customs Act</i></p>	<p>OTHER REFERENCES –</p>
<p>SUPERSEDED MEMORANDA “D” – D19-11-1, February 22, 2005</p>	

Services provided by the Canada Border Services Agency are available in both official languages.

