



United Nations Sanctions (Somalia) Amendment Regulations 2022

Rt Hon Dame Helen Winkelmann, Administrator of the Government

Order in Council

At Wellington this 1st day of August 2022

Present:

Her Excellency the Administrator of the Government in Council

These regulations are made under section 2(1) of the United Nations Act 1946—

- (a) on the advice and with the consent of the Executive Council; and
- (b) for the purpose of giving effect to resolution 2607 (2021) of the Security Council of the United Nations, adopted under the United Nations Charter on 15 November 2021.

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Regulations

1 Title

These regulations are the United Nations Sanctions (Somalia) Amendment Regulations 2022.

2 Commencement

These regulations come into force on 1 September 2022.

3 Principal regulations

These regulations amend the United Nations Sanctions (Somalia) Regulations 2018.

4 Regulation 3 amended (Interpretation)

(1) In regulation 3, revoke the definition of **AMISOM**.

(2) In regulation 3, replace the definition of **arms** with:

arms means weapons and military equipment, including—

(a) related materiel; and

(b) spare parts (including spare parts for related materiel)

- (3) In regulation 3, definition of **certificate of clearance**, replace “Customs and Excise Act 1996” with “Customs and Excise Act 2018”.
- (4) In regulation 3, definition of **craft**, replace “section 2(1) of the Customs and Excise Act 1996” with “section 5(1) of the Customs and Excise Act 2018”.
- (5) In regulation 3, definition of **Customs officer**, replace “section 2(1) of the Customs and Excise Act 1996” with “section 5(1) of the Customs and Excise Act 2018”.
- (6) In regulation 3, insert in their appropriate alphabetical order:

ATMIS means the African Union Transition Mission in Somalia

component means an improvised explosive device component

improvised explosive device component or **IED component** means any of the following:

- (a) nitrocellulose containing more than 12.5% nitrogen weight for weight:
- (b) trinitrophenylmethylnitramine (tetryl):
- (c) nitroglycerin, except when packaged or prepared in individual medicinal doses:
- (d) a mixture containing 1 or more components listed in paragraphs (a) to (c):
- (e) any equipment or device specially designed to initiate an explosive by electrical or non-electrical means, including a firing set, a detonator, an igniter, or a detonating cord:
- (f) technology required for the production or use of a component listed in paragraphs (a) to (e)

prohibited arms means arms other than those described in regulation 6(2)

resolution 2607 means resolution 2607 (2021) of the Security Council of the United Nations, adopted on 15 November 2021

5 Regulation 6 amended (Exporting arms to Somalia)

- (1) Replace regulation 6(2)(a) to (c) with:
 - (a) arms intended solely for the development of the security forces of the Federal Government of Somalia to provide security for the Somali people, if—
 - (i) the arms are not arms specified in Annex A or B of resolution 2607; or
 - (ii) in the case of arms specified in Annex A of resolution 2607, the arms are supplied by New Zealand or an international, regional, or sub-regional organisation and the Committee has approved the exportation in advance; or

- (iii) in the case of arms specified in Annex B of resolution 2607, the arms are supplied by New Zealand or an international, regional, or sub-regional organisation and the Committee has been notified of the exportation in advance:
 - (c) arms that are intended solely for support of or use by United Nations personnel (including UNSOM), ATMIS (or the strategic partners of ATMIS acting solely under the African Union Strategic Concept and in concert with ATMIS), or EUTM:
 - (2) Replace regulation 6(2)(e) with:
 - (e) arms intended solely for the development of Somali security sector institutions to provide security for the Somali people, if—
 - (i) the arms are not arms specified in Annex A or B of resolution 2607; or
 - (ii) in the case of arms specified in Annex A of resolution 2607, the arms are supplied by New Zealand or an international, regional, or sub-regional organisation and the Committee has approved the exportation in advance; or
 - (iii) in the case of arms specified in Annex B of resolution 2607,—
 - (A) the arms are supplied by New Zealand or an international, regional, or sub-regional organisation; and
 - (B) the Committee and the Federal Government of Somalia have been notified of the exportation in advance; and
 - (C) the Committee has not, within 5 working days after receiving the notification, made a negative decision on the exportation:
 - (3) Replace regulation 6(2)(f)(i) with:
 - (i) United Nations personnel (including UNSOM):
 - (4) In regulation 6(2)(g), replace “exported” with “supplied”.
 - (5) Replace regulation 6(2)(g)(ii) with:
 - (ii) the Committee has been notified of the exportation in advance:
 - (6) After regulation 6(2)(g), insert:
 - (h) arms carried for defensive purposes on vessels, if the vessels are intended to enter Somali ports on temporary visits only and the arms are intended to remain aboard at all times.
- 6 New regulation 6A inserted (Notification and approval in advance for exempt supplies of arms)**
After regulation 6, insert:

6A Notification and approval in advance for exempt supplies of arms

- (1) Any request for approval or notification under regulation 6 in relation to a supply of arms must be made or given—
 - (a) by the supplier of the arms (in the case of regulation 6(2)(a)) or by the supplier or the Federal Government of Somalia (in any other case); and
 - (b) at least 5 working days before the arms are delivered.
- (2) If the request or notification is under regulation 6(2)(a), it must include all of the following information that applies in relation to the arms:
 - (a) a description of the arms, including the type, calibre, and ammunition:
 - (b) details of the manufacturer and supplier:
 - (c) the proposed date and place of delivery:
 - (d) all relevant information concerning the intended destination unit or the intended place of storage.
- (3) If the request or notification is under regulation 6(2)(e),—
 - (a) it must include all the information listed in subclause (2)(a) to (d) that applies in relation to the arms, including serial numbers; and
 - (b) the supplier must provide the Committee and the Federal Government of Somalia, within 30 days after delivery, with written confirmation that the delivery has been completed.
- (4) Confirmation of delivery under subclause (3)(b) must include all of the following information that applies in relation to the arms:
 - (a) serial numbers:
 - (b) shipping information:
 - (c) the bill of lading:
 - (d) cargo manifests or packing lists:
 - (e) the specific place of storage.

7 Regulation 7 amended (Loading arms onto craft)

Replace regulation 7(b) with:

- (b) prohibited arms intended—
 - (i) to be exported to Somalia; or
 - (ii) for use in, or for the benefit of, Somalia.

8 Regulation 8 amended (Customs may refuse certificate of clearance)

- (1) In the heading to regulation 8, before “**Customs**”, insert “**Arms:**”.
- (2) Replace regulation 8(b) with:
 - (b) prohibited arms intended—
 - (i) to be exported to Somalia; or

- (ii) for use in, or for the benefit of, Somalia.

9 Regulation 9 replaced (Application of Customs and Excise Act 1996)

Replace regulation 9 with:

9 Arms: application of Customs and Excise Act 2018

- (1) The provisions of the Customs and Excise Act 2018 (except sections 186(b)(ii), 188(1)(b), 188(2), 189(2), 388, and 389, and clauses 1(3)(b), 4(2)(b), and 6 of Schedule 5) apply in relation to the following arms as if they were goods the exportation of which is prohibited under section 96 of that Act:
 - (a) arms that are intended to be sold or transferred to a designated person or an agent of a designated person:
 - (b) prohibited arms intended—
 - (i) to be exported to Somalia; or
 - (ii) for use in, or for the benefit of, Somalia.
- (2) The Comptroller of Customs must give any of those arms to which the Crown has title as forfeited goods to a person authorised in writing by the Secretary of Foreign Affairs and Trade to receive the arms (instead of disposing of the arms under section 189(2) of the Customs and Excise Act 2018).

10 Regulation 10 amended (Dealing with arms)

Replace regulation 10(1)(b) with:

- (b) prohibited arms intended—
 - (i) to be exported to Somalia; or
 - (ii) for use in, or for the benefit of, Somalia.

11 Regulation 11 amended (Carrying arms on New Zealand craft)

Replace regulation 11(1)(b) with:

- (b) the carriage is, or forms part of, the carriage of—
 - (i) arms to any place where a designated person is located; or
 - (ii) prohibited arms intended—
 - (A) to be exported to Somalia; or
 - (B) for use in, or for the benefit of, Somalia.

12 Regulation 12 amended (Providing assistance or training)

Replace regulation 12(3) with:

- (3) Subclause (1)(b) does not apply to assistance or training intended solely for—
 - (a) the development of the security forces of the Federal Government of Somalia to provide security for the Somali people; or

- (b) support of or use by United Nations personnel (including UNSOM), ATMIS (or the strategic partners of ATMIS acting solely under the African Union Strategic Concept and in concert with ATMIS), or EUTM; or
- (c) the development of Somali security sector institutions to provide security for the Somali people if—
 - (i) the provider of the assistance or training has notified the Committee and the Federal Government of Somalia of the provision at least 5 working days in advance; and
 - (ii) the Committee has not, within 5 working days after receiving the notification, made a negative decision on the provision of the assistance or training.

13 New regulations 12A to 12G and cross-heading inserted

After regulation 12, insert:

Improvised explosive devices

12A Exporting IED components

A person must not directly or indirectly export IED components if the person knows that—

- (a) the components are intended to be used in Somalia to manufacture improvised explosive devices; or
- (b) there is a significant risk that the components will be used in Somalia to manufacture improvised explosive devices.

12B Loading IED components onto craft

The master or pilot-in-command of a craft must not allow IED components to be loaded onto the craft if the master or pilot-in-command knows that—

- (a) the components are intended to be used in Somalia to manufacture improvised explosive devices; or
- (b) there is a significant risk that the components will be used in Somalia to manufacture improvised explosive devices.

12C IED components: Customs may refuse certificate of clearance

Customs may refuse to grant a certificate of clearance for a craft if a Customs officer has reasonable cause to suspect that the craft is loaded with IED components and that—

- (a) the components are intended to be used in Somalia to manufacture improvised explosive devices; or
- (b) there is a significant risk that the components will be used in Somalia to manufacture improvised explosive devices.

12D IED components: application of Customs and Excise Act 2018

- (1) The provisions of the Customs and Excise Act 2018 (except sections 186(b)(ii), 188(1)(b), 188(2), 189(2), 388, and 389, and clauses 1(3)(b), 4(2)(b), and 6 of Schedule 5) apply in relation to the following IED components as if they were goods the exportation of which is prohibited under section 96 of that Act:
 - (a) components intended to be used in Somalia to manufacture improvised explosive devices; or
 - (b) components at significant risk of being used in Somalia to manufacture improvised explosive devices.
- (2) The Comptroller of Customs must give any of those components to which the Crown has title as forfeited goods to a person authorised in writing by the Secretary of Foreign Affairs and Trade to receive the components (instead of disposing of the components under section 189(2) of the Customs and Excise Act 2018).

12E Dealing with IED components

- (1) A person must not sell, transfer, or otherwise deal with any IED components if the person knows that—
 - (a) the components are intended to be used in Somalia to manufacture improvised explosive devices; or
 - (b) there is a significant risk that the components will be used in Somalia to manufacture improvised explosive devices.
- (2) Subclause (1) applies to—
 - (a) a person in New Zealand; and
 - (b) a New Zealand citizen in any place outside New Zealand.

12F Carrying IED components on New Zealand craft

- (1) A person must not use a New Zealand craft to carry IED components if the person—
 - (a) knows that the craft is carrying IED components; and
 - (b) knows that the carriage is, or forms part of, the carriage of the IED components from any place to Somalia in contravention of regulation 12A.
- (2) Subclause (1) applies,—
 - (a) in the case of a New Zealand registered craft, to—
 - (i) the owner of the craft; and
 - (ii) the master or pilot-in-command of the craft;
 - (b) in the case of a New Zealand chartered craft, to—
 - (i) the charterer of the craft; and

- (ii) the master or pilot-in-command of the craft, if the master or pilot is a New Zealand citizen.

12G Notification of dealings with IED components and other explosive precursors and materials

- (1) A person who directly or indirectly exports, sells, or transfers any IED components to Somalia (otherwise than in breach of regulation 12A or 12E) must notify the Secretary of Foreign Affairs and Trade of the exportation, sale, or transfer no later than 5 working days after it takes place.
- (2) A notification under subclause (1) must include the following information:
 - (a) the proposed use of the components:
 - (b) their end user:
 - (c) the technical specifications of the components:
 - (d) the quantity of components being exported, sold, or transferred.
- (3) A person in the business of exporting, selling, or transferring explosive precursors or materials must—
 - (a) keep a record of any transaction with, or inquiry from, an individual in Somalia regarding explosive precursors or materials; and
 - (b) notify the Secretary of Foreign Affairs and Trade of the transaction or inquiry no later than 5 working days after it takes place.
- (4) This regulation applies to—
 - (a) a person in New Zealand; and
 - (b) a New Zealand citizen in any place outside New Zealand.
- (5) In this regulation, **explosive precursor or material** means any of the following:
 - (a) ammonium nitrate fuel oil (ANFO):
 - (b) nitroglycol:
 - (c) pentaerythritol tetranitrate (PETN):
 - (d) picryl chloride:
 - (e) 2,4,6-trinitrotoluene (TNT):
 - (f) a mixture containing 1 or more materials listed in paragraphs (a) to (e):
 - (g) ammonium nitrate:
 - (h) potassium nitrate:
 - (i) sodium chlorate:
 - (j) nitric acid:
 - (k) sulphuric acid:
 - (l) any other explosive precursor or material that may be used in the manufacture of improvised explosive devices.

14 Regulation 15 replaced (Application of Customs and Excise Act 1996)

Replace regulation 15 with:

15 Charcoal: application of Customs and Excise Act 2018

The provisions of the Customs and Excise Act 2018 (except sections 186(b)(ii), 188(1)(b), 188(2), 189(2), 388, and 389, and clauses 1(3)(b), 4(2)(b), and 6 of Schedule 5) apply in relation to charcoal that is imported into New Zealand from Somalia as if the charcoal were goods the importation of which is prohibited under section 96 of that Act.

Rachel Hayward,
Acting Clerk of the Executive Council.

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 1 September 2022, amend the United Nations Sanctions (Somalia) Regulations 2018 (the **principal regulations**). They relate to the arms embargo and other United Nations Security Council sanctions against Somalia that are provided for by the principal regulations.

Regulations 4(1), (2), and (6) and 5 to 13 of these regulations give effect to United Nations Security Council resolution 2607 (2021), adopted on 15 November 2021. They—

- introduce a ban on the export of certain components that are intended to be, or at significant risk of being, used to manufacture improvised explosive devices in Somalia:
- require people trading in improvised explosive device components and other explosive precursors and materials to keep records and notify the Secretary of Foreign Affairs and Trade of any dealings with Somalia:
- introduce a new exception to the arms embargo, so that the embargo no longer applies to arms kept on vessels for defensive purposes during visits to Somali ports:
- narrow the existing exception for arms, training, and assistance supplied to develop Somali government security forces by—
 - adding further items to the list of arms that can be supplied to those forces only with the consent of the relevant Security Council committee (the **Committee**); and
 - providing that certain other arms, training, and assistance can be supplied only by advance notice to the Committee:

- alter the existing exception for arms supplied to develop Somali security sector organisations, so that, instead of all supplies to those organisations requiring advance notification to the Committee and the Committee having a right of veto over them,—
 - the existing procedure continues to apply to some arms; but
 - the Committee’s advance consent is required for supplies of certain other arms; and
 - in other cases neither advance notification nor consent is required:
- make various minor amendments, for example, to update definitions and streamline the drafting of the principal regulations.

Regulations 4(3) to (5), 9, and 14 update references to the Customs and Excise Act 1996 to reflect that Act’s replacement by the Customs and Excise Act 2018.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 4 August 2022.

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