

Council Regulation (EU) No 747/2014 of 10 July 2014 concerning
restrictive measures in view of the situation in Sudan and
repealing Regulations (EC) No 131/2004 and (EC) No 1184/2005

Article 1

For the purposes of this Regulation, the following definitions shall apply:

- (a) ‘brokering services’ means:
 - (i) the negotiation or arrangement of transactions for the purchase, sale or supply of goods and technology, or of financial and technical services, from a third country to any other third country; or
 - (ii) the selling or buying of goods and technology or of financial and technical services, that are located in third countries for their transfer to another third country;
- (b) ‘claim’ means any claim, whether asserted by legal proceedings or not, made before or after the date of entry into force of this Regulation, under or in connection with a contract or transaction, and includes in particular:
 - (i) a claim for performance of any obligation arising under or in connection with a contract or transaction;
 - (ii) a claim for extension or payment of a bond, financial guarantee or indemnity of whatever form;
 - (iii) a claim for compensation in respect of a contract or transaction;
 - (iv) a counterclaim;
 - (v) a claim for the recognition or enforcement, including by the procedure of *exequatur*, of a judgment, an arbitration award or an equivalent decision, wherever made or given;
- (c) ‘contract or transaction’ means any transaction of whatever form and whatever the applicable law, whether comprising one or more contracts or similar obligations made between the same or different parties; for that purpose ‘contract’ includes a bond, guarantee or indemnity, particularly a financial guarantee or financial indemnity, and credit, whether legally independent or not, as well as any related provision arising under, or in connection with, the transaction;
- (d) ‘competent authorities’ refers to the competent authorities of the Member States as identified on the websites listed in Annex II;
- (e) ‘economic resources’ means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds, but may be used to obtain funds, goods or services;
- (f) ‘freezing of economic resources’ means preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them;
- (g) ‘freezing of funds’ means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume,

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amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management;

- (h) ‘funds’ means financial assets and benefits of every kind, including, but not limited to:
- (i) cash, cheques, claims on money, drafts, money orders and other payment instruments;
 - (ii) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
 - (iii) publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
 - (iv) interest, dividends or other income on or value accruing from or generated by assets;
 - (v) credit, right of set-off, guarantees, performance bonds or other financial commitments;
 - (vi) letters of credit, bills of lading, bills of sale; and
 - (vii) documents showing evidence of an interest in funds or financial resources;
- (i) ‘Sanctions Committee’ means the UN Security Council Committee established pursuant to paragraph 3 of UNSCR 1591 (2005);
- (j) ‘technical assistance’ means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services, including verbal forms of assistance;
- (k) ‘territory of the Union’ means the territories of the Member States to which the Treaty is applicable, under the conditions laid down in the Treaty, including their airspace.

Article 2

It shall be prohibited to:

- (a) provide technical assistance or brokering services related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts therefor, directly or indirectly to any natural or legal person, entity or body in, or for use in Sudan;
- (b) provide financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance, for any sale, supply, transfer or export of arms and related materiel, or for the provision of related technical assistance, directly or indirectly to any natural or legal person, entity or body in, or for use in Sudan.

Article 3

By way of derogation from Article 2, the competent authorities of Member States may authorise the provision of financing and financial assistance, technical assistance and brokering services related to:

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- (a) non-lethal military equipment intended solely for humanitarian, human rights monitoring or protective use, or for institution-building programmes of the UN, the African Union (AU), the European Union;
- (b) materiel intended for European Union, UN and AU crisis management operations;
- (c) de-mining equipment and materiel for use in de-mining operations.

Article 4

Article 2 shall not apply to protective clothing, including flak jackets and military helmets, temporarily exported to Sudan by UN personnel, personnel of the European Union or its Member States, representatives of the media, humanitarian and development workers and associated personnel for their personal use only.

Article 5

1 All funds and economic resources belonging to, owned or controlled, directly or indirectly, by the natural or legal persons, entities or bodies listed in Annex I shall be frozen.

2 No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of the natural or legal persons, entities or bodies listed in Annex I.

3 Annex I shall include natural or legal persons, entities or bodies who impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, violate the arms embargo and/or are responsible for offensive military overflights in and over the Darfur region, as designated by the Sanctions Committee.

Article 6

1 By way of derogation from Article 5, the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, provided that the following conditions are met:

- a the competent authority concerned has determined that the funds or economic resources are:
 - (i) necessary for the basic needs of natural or legal persons, entities or bodies listed in Annex I, and dependant family members of such natural persons, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
 - (ii) intended exclusively for payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or
 - (iii) intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources; and
- b the Member State concerned has notified the Sanctions Committee of the determination referred to in point (a) and its intention to grant an authorisation, and the Sanctions Committee has not objected to that course of action within two working days of such notification.

2 By way of derogation from Article 5, the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources or the making available of certain frozen funds or economic resources, after having determined that the funds

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or economic resources are necessary for extraordinary expenses, provided that the Member State concerned has notified the Sanctions Committee of that determination and the Sanctions Committee has approved that determination.

Article 7

By way of derogation from Article 5, the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources, if the following conditions are met:

- (a) the funds or economic resources are the subject of a judicial, administrative or arbitral lien established prior to the date on which the person, entity or body referred to in Article 5 was included in Annex I, or of a judicial, administrative or arbitral judgment rendered prior to that date;
- (b) the funds or economic resources will be used exclusively to satisfy claims secured by such a lien or recognised as valid in such a judgment, within the limits set by applicable laws and regulations governing the rights of persons having such claims;
- (c) the lien or judgment is not for the benefit of a person, entity or body listed in Annex I;
- (d) recognising the lien or judgment is not contrary to public policy in the Member State concerned; and
- (e) the Sanctions Committee has been notified by the Member State of the lien or judgment.

Article 8

1 Article 5(2) shall not prevent the crediting of the frozen accounts by financial or credit institutions that receive funds transferred by third parties to the account of the person, entity or body listed in Annex I, provided that any such additions to such accounts will also be frozen. The financial or credit institutions shall inform the relevant competent authority about any such transactions without delay.

- 2 Article 5(2) shall not apply to the addition to frozen accounts of:
- a interest or other earnings on those accounts;
 - b payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which the natural or legal person, entity or body referred to in Article 5 has been included in Annex I; or
 - c payments due under a judicial, administrative or arbitral lien or judgment, as referred to in Article 7;

provided that any such interest, other earnings and payments are frozen in accordance with Article 5(1).

Article 9

1 Without prejudice to the applicable rules concerning reporting, confidentiality and professional secrecy, natural and legal persons, entities and bodies shall:

- a supply immediately any such information which would facilitate compliance with this Regulation, such as information on accounts and amounts frozen in accordance with Article 5, to the competent authority of the Member States where they are resident or located, and transmit any such information, directly or through these competent authorities, to the Commission; and
- b cooperate with the competent authorities listed in Annex II in any verification of this information.

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2 Any additional information received directly by the Commission shall be made available to the Member States.

3 Any information provided or received in accordance with this Article shall be used only for the purposes for which it was provided or received.

Article 10

It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the measures referred to in Articles 2 and 5.

Article 11

1 The freezing of funds and economic resources, or the refusal to make funds or economic resources available, carried out in good faith and on the basis that such action is in accordance with this Regulation, shall not give rise to liability of any kind on the part of the natural or legal person, entity or body implementing it, or its directors or employees, unless it is proved that the funds and economic resources were frozen or withheld as a result of negligence.

2 Actions by natural or legal persons, entities or bodies shall not give rise to any liability of any kind on their part if they did not know, and had no reasonable cause to suspect, that their actions would infringe the measures set out in this Regulation.

Article 12

1 No claims in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed under this Regulation, including claims for indemnity or any other claim of this type, such as a claim for compensation or a claim under a guarantee, particularly a claim for extension or payment of a bond, guarantee or indemnity, particularly a financial guarantee or financial indemnity, of whatever form, shall be satisfied, if they are made by:

- a designated natural or legal persons, entities or bodies listed in Annex I;
- b any natural or legal person, entity or body acting through or on behalf of one of the persons, entities or bodies referred to in point (a).

2 In any proceedings for the enforcement of a claim, the onus of proving that satisfying the claim is not prohibited by paragraph 1 shall be on the natural or legal person, entity or body seeking the enforcement of that claim.

3 This Article is without prejudice to the right of the natural or legal persons, entities and bodies referred to in paragraph 1 to judicial review of the legality of the non-performance of contractual obligations in accordance with this Regulation.

Article 13

1 The Commission and Member States shall inform each other of the measures taken under this Regulation and share any other relevant information at their disposal in connection with this Regulation, in particular, information in respect of:

- a funds frozen under Article 5 and authorisations granted under Articles 6, 7 and 8;
- b violation and enforcement problems and judgments handed down by national courts.

2 The Member States shall immediately inform each other and the Commission of any other relevant information at their disposal which might affect the effective implementation of this Regulation.

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Article 14

The Commission shall be empowered to amend Annex II on the basis of information supplied by Member States.

Article 15

1 Where the UN Security Council or the Sanctions Committee lists a natural or legal person, entity or body and has provided a statement of reasons for the designation, the Council shall include that natural or legal person, entity or body in Annex I. The Council shall communicate its decision and the statement of reasons to the natural or legal person, entity or body concerned, either directly, if the address is known, or through the publication of a notice, providing that natural or legal person, entity or body with an opportunity to present observations.

2 Where observations are submitted, or where substantial new evidence is presented, the Council shall review its decision and inform the natural or legal person, entity or body accordingly.

3 Where the United Nations decides to de-list a person, entity or body, or to amend the identifying data of a listed natural or legal person, entity or body, the Council shall amend Annex I accordingly.

Article 16

Annex I shall include, where available, information provided by the UN Security Council or by the Sanctions Committee necessary to identify the natural or legal persons, entities or bodies concerned. With regard to natural persons, such information may include names including aliases, date and place of birth, nationality, passport and ID card numbers, gender, address, if known, and function or profession. With regard to legal persons, entities or bodies, such information may include names, place and date of registration, registration number and place of business. Annex I shall also include the date of designation by the Security Council or by the Sanctions Committee.

Article 17

1 Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

2 Member States shall notify those rules to the Commission without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment.

Article 18

1 Member States shall designate the competent authorities referred to in this Regulation and identify them on the websites listed in Annex II. Member States shall notify the Commission of any changes in the addresses of their websites listed in Annex II.

2 Member States shall notify the Commission of their competent authorities, including the contact details of those competent authorities, without delay after the entry into force of this Regulation, and shall notify it of any subsequent amendment.

3 Where this Regulation sets out a requirement to notify, inform or otherwise communicate with the Commission, the address and other contact details to be used for such communication shall be those indicated in Annex II.

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Article 19

This Regulation shall apply:

- (a) within the territory of the Union, including its airspace;
- (b) on board any aircraft or any vessel under the jurisdiction of a Member State;
- (c) to any person inside or outside the territory of the Union who is a national of a Member State;
- (d) to any legal person, entity or body, inside or outside the territory of the Union which is incorporated or constituted under the law of a Member State;
- (e) to any legal person, entity or body in respect of any business done in whole or in part within the Union.

Article 20

Regulations (EC) No 131/2004 and (EC) No 1184/2005 are hereby repealed. References to the repealed Regulations shall be construed as references to this Regulation and Regulation (EU) No 748/2014.

Article 21

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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