

EXPLANATORY MEMORANDUM TO
THE SUDAN (UNITED NATIONS MEASURES) ORDER 2006

2006 No.1454

1. This explanatory memorandum has been prepared by Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.

2. **Description**

The Sudan (United Nations Measures) Order 2006 (SI 2006/1454) (the "Order") gives effect to two resolutions adopted by the Security Council of the United Nations: resolution 1672(2006) adopted on 25 April 2006 and resolution 1591(2005) adopted on 29 March 2005.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 This Order gives effect in the UK to the asset freezes that the UN Security Council requires in resolution 1672(2006) should be imposed, in particular by providing for the enforcement of those asset freezes in the UK.

- 3.2 It is important that those asset freezes are enforceable in the UK as soon as practicable to avoid frustrating the operation of the asset freezes.

- 3.3 It is for that reason that the Order is made on 7th June 2006, at the first convenient Privy Council meeting following the adoption of resolution 1672(2006). It is for the same reason that the Order will be laid on 8th June 2006 and come into force on 9th June 2006.

4. **Legislative Background**

- 4.1 On 29 March 2005, the United Nations Security Council adopted resolution 1591(2005) which, inter alia, required Member States to freeze the assets of persons designated by the Committee established under resolution 1591(2005) as persons who impede the peace process or violate international law in the Darfur region of Sudan.

- 4.2 On 25 April 2006, the United Nations Security Council adopted resolution 1672(2006). That resolution designated four individuals who were required to be subject to certain measures set out in resolution 1591(2005) including the asset freeze.

- 4.3 On 18 July 2005 the European Communities adopted Regulation (EC) No 1184/2005 to give effect to resolution 1591(2005). On 18 May 2006 the European Communities amended that Regulation through adopting Regulation (EC) No 760/2006. That amendment gives effect

in the European Community to the requirements in resolution 1672(2006).

4.4 Resolution 1591(2005) and Regulation (EC) No 1184/2005 were given effect in the UK through the Sudan (United Nations Measures) Order 2005 (S.I. 2005/1259).

4.5 The Order:

- gives effect to resolution 1591(2005), resolution 1672(2006) and provides for the enforcement of Regulation (EC) No 1184/2005 as amended by Regulation 760/2006;

- revokes The Sudan (United Nations Measures) Order 2005 (S.I. 2005/1259).

4.6 The Order is made in exercise of the powers conferred by section 1 of the United Nations Act 1946.

5. Extent

This instrument applies to the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The United Nations Security Council adopted resolution 1591(2005) on 29 March 2005 in response to the situation in the Darfur region of Sudan. That resolution required Member States to take restrictive measures against persons designated by a committee established under the resolution. The restrictive measures included an asset freeze. On 25 April 2006, the United Nations Security Council adopted resolution 1672(2006) to designate four individuals who should be subject to the restrictive measures in resolution 1591(2005) including the asset freeze. The UK supports the continuation of restrictive measures imposed by the United Nations Security Council in respect of Sudan by resolution 1672 (2006).

7.2 The asset freezing measures required by resolution 1591(2005) and 1672(2006) are given effect by the European Community through Regulation (EC) No 1184/2005 as amended by Regulation (EC) No 760/2006. Regulation (EC) No 760/2006 applies the asset freeze in

Regulation (EC) No 1184/2005 to the individuals listed in resolution 1672(2006).

- 7.3 This Order fulfils the UK's obligation to give effect to resolution 1591(2005), resolution 1672(2006) and Regulation (EC) No 1184/2005 (as amended), principally by providing for the enforcement of the asset freeze and ancillary matters. The Order also revokes the Sudan (United Nations Measures) Order 2005 (S.I. 2005/1259) which gave effect only to resolution 1591(2005) and the unamended Regulation (EC) No 1184/2005. The benefits of making a new Order which gives effect to both resolutions and Regulations is that it creates a single instrument that gives effect to the assets freezes in relation to Sudan, it allow us to modernise the drafting and it allows us to take account of the changes to criminal penalties for offences sentenced in the Magistrates Courts that will follow the commencement of the Criminal Justice Act 2003.

8. Impact

8.1 A Regulatory Impact Assessment is attached.

8.2 The impact on the public sector is negligible.

9. Contact

Patricia Croasdell at Her Majesty's Treasury, Tel: 0207 270 5937 or e-mail: Patricia.Croasdell@hm-treasury.x.gsi.gov.uk can answer queries regarding the instrument.

Regulatory Impact Assessment

The Sudan (United Nations Measures) Order 2006

2006 No. [XXXX]

1. Title of proposal

The Sudan (United Nations Measures) Order 2006

2. Purpose and intended effect

The Order gives effect to UN Security Council Resolutions 1672(2006) and 1591(2005) (the “UN Resolutions”) and Council Regulation (EC) No 1184/2005 as amended by Commission Regulation (EC) No 760/2006 (the “EC Regulations”), which concern, inter alia, financial sanctions against those involved in the Darfur conflict in Sudan.

3. Consultation

None

4. Options

The UK is required to give effect to the UN Resolutions and to provide the mechanisms for enforcing the EC Regulations.

5. Costs and benefits

Sectors and groups affected:

Financial institutions

Benefits:

Financial sanctions against individuals involved in the Darfur conflict are intended to exert pressure on those individuals and support international efforts for a peaceful resolution of the conflict. The UN Security Council requires Member States to impose the financial sanctions contained in the UN Resolutions. The UK is also required to provide for the enforcement of the EC Regulations. Consistent with those requirements under international law, the Sudan (United Nations Measures) Order 2006 ensures that these financial sanctions are fully enforceable in the UK.

Costs:

There are small compliance costs for financial institutions in implementing financial sanctions. The Government is mindful of these compliance costs and seeks to ensure that international sanctions regimes are well targeted and are based on good identifying information to help financial institutions administer them.

6. Small Firms Impact Test

Not applicable – no particular impact on small firms

7. Competition assessment

Not applicable – no particular competition impact

8. Enforcement, sanctions and monitoring

The provisions are set out in the Order

9. Implementation and delivery plan

Not applicable – no further implementation is required

10. Post-implementation review

Not applicable – as no further implementation is required.

11. Summary and recommendation

The Sudan (United Nations Measures) Order 2006 is required to give effect to financial sanctions against Sudan that have been agreed at an international level. Doing nothing would not be consistent with our international legal obligations and is therefore not an option in this case.

Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed

Date

Minister's name, title, department

Contact point for enquiries and comments: name, address, telephone number and email address.

Patricia Croasdell, Financial Sanctions Unit, HM Treasury, 1 Horse Guards Road,
London SW1A 2HQ

Telephone: 020 7270 5937

Email: patricia.croasdell@hm-treasury.gsi.gov.uk