

NATIONAL SANCTIONS SECRETARIAT

Explanatory Note on the implementation of United Nations Sanctions Measures

Issued under section 7(2)(f) of the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019

1. Background

The United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019 (the 'Act') was enacted on 29 May 2019 to enable the Government of Mauritius to implement targeted sanctions and other measures imposed by the United Nations Security Council under Chapter VII of the Charter of the United Nations in response to threats to the peace, breaches of the peace, and acts of aggression.

The Act provides for the setting up of a National Sanctions Committee which is supported in its work by a National Sanctions Secretariat.

The Act imposes three main targeted sanctions, namely financial prohibitions, arms embargo and travel ban, against parties listed by or under the authority of the United Nations Security Council (the 'Security Council').

2. Glossary

deal includes to sell, supply, lease, transfer, convert, dispose, move, use or withdraw;

economic resources include assets of every kind, whether movable, immovable, tangible, intangible, actual or potential, which are not funds but potentially may be used to obtain funds, goods or services, such as –

- (a) land, buildings and other real estate;
- (b) equipment, including computers, computer software, tools, and machinery;
- (c) office furniture, fittings and fixtures and other items of a fixed nature;
- (d) vessels, aircraft and motor vehicles;
- (e) inventories of goods;
- (f) works of art, precious stones, jewellery and gold;
- (g) commodities, including oil, minerals and timber;
- (h) arms and related materiel;
- (i) patents, trademarks, copyrights, trade names, franchises, goodwill and other forms of intellectual property;

funds or other assets means –

- (a) any assets, including, but not limited to, financial assets, economic resources and property of every kind, whether tangible, intangible, movable or immovable, however acquired;
- (b) legal documents or instruments in any form –
 - (i) including electronic or digital, evidencing title to, or interest in, such funds or other assets; and
 - (ii) including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit;
- (c) any interest, dividends or other income on or value accruing from or generated by such funds or other assets, virtual or digital currencies, including cryptocurrencies;
- (d) any other assets which potentially may be used to obtain funds, goods or services;

immediately means without delay and not later than 24 hours;

listed party means any party listed by or under the authority of the United Nations Security Council;

reporting person has the same meaning as in the Financial Intelligence and AntiMoney Laundering Act and comprises financial institutions licensed by the Bank of Mauritius or the Financial Services Commission or member of a relevant profession or occupation, namely –

- (a) Professional accountant, public accountant and member firm under the Financial Reporting Act;
- (b) Licensed auditor under the Financial Reporting Act;
- (c) Law firm, foreign law firm, joint law venture, foreign lawyer, under the Law Practitioners Act;
- (d) Attorney;
- (e) Barrister;

- (f) Notary;
- (g) Person licensed to operate a casino, gaming house, gaming machine, totalisator, bookmaker and interactive gambling under the Gambling Regulatory Authority Act;
- (h) Dealer under the Jewellery Act;
- (i) Agent in Land and/or Building or Estate Agency under the Local Government Act;
- (j) Land Promoter and Property Developer under the Local Government Act;
- (k) A credit union under the Co-operatives Act;
- (l) Company Service Provider.

3. The United Nations Sanctions Measures

The Security Council can take action to maintain or restore international peace and security under Chapter VII of the United Nations Charter. Sanctions measures, under Article 41 of the United Nations Charter, encompass a broad range of enforcement options that do not involve the use of armed force. There are currently 14 ongoing sanctions regimes which focus on supporting political settlement of conflicts, nuclear non-proliferation, and counter-terrorism, in particular, by virtue of the following United Nations Security Council Resolutions and their respective successor resolutions, as set out in the Second Schedule of the Act –

- (a) United Nations Security Council Resolution 751 (1992) concerning Somalia;
- (b) United Nations Security Council Resolution 1267 (1999) and 1989 (2011) concerning ISIL (Da'esh), Al-Qaida and associated individuals groups undertakings and entities;
- (c) United Nations Security Council Resolution 1518 (2003) concerning Iraq;
- (d) United Nations Security Council Resolution 1533 (2004) concerning the Democratic Republic of the Congo;
- (e) United Nations Security Council Resolution 1591 (2005) concerning Sudan;
- (f) United Nations Security Council Resolution 1636 (2005) concerning Lebanon;
- (g) United Nations Security Council Resolution 1718 (2006) concerning Democratic People's Republic of Korea (DPRK);
- (h) United Nations Security Council Resolution 1970 (2011) concerning Libya;
- (i) United Nations Security Council Resolution 1988 (2011) concerning individuals, groups, undertakings and entities associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan;

- (j) United Nations Security Council Resolution 2048 (2012) concerning Guinea-Bissau;
- (k) United Nations Security Council Resolution 2127 (2013) concerning the Central African Republic;
- (l) United Nations Security Council Resolution 2140 (2014) concerning Yemen;
- (m) United Nations Security Council Resolution 2206 (2015) concerning South Sudan;
- (n) United Nations Security Council Resolution 2374 (2017) concerning Mali;

The listed parties can be viewed under the United Nations Security Council Consolidated List at the website of –

- (a) the United Nations Security Council: <https://www.un.org/securitycouncil/>; or
- (b) Financial Intelligence Unit : <http://www.fiumauritius.org>

4. Dissemination of United Nations Sanctions List

The National Sanctions Secretariat established under section 7 of the Act, has the responsibility under section 18(1)(a) of the Act to immediately give public notice, in such manner as the National Sanctions Committee may determine, of the United Nations Sanctions Lists and any changes thereto, including any delisting therefrom.

The United Nations Sanctions List refers to the list established by or under the authority of the United Nations Security Council comprising the names of listed parties which are subject to United Nations sanctions and include the list established pursuant to the United Nations Security Council Resolution listed in the Second Schedule and their successor resolutions.

5. Prohibitions imposed under the Act

Reporting persons and members of the public are hereby advised that as from the date of any Notice given by the National Sanctions Secretariat under section 18(1)(a) of the Act –

- (a) the prohibition to deal with funds or other assets of a listed party under section 23 of the Act;

- (b) the prohibition on making funds or other assets available to a listed party under section 24 of the Act;
- (c) the arms embargo under section 35 of the Act; and
- (d) the travel ban under section 36 of the Act,

shall apply immediately and shall continue to apply for as long as the party remains listed on the relevant United Nations Sanctions List.

6. Prohibition to deal with funds or other assets of a listed party under section 23 of the Act

Under **section 23 of the Act, no person shall deal with the funds or other assets of a listed party**, including –

- (a) all funds or other assets that are owned or controlled by the listed party,
- (b) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by the listed party;
- (c) funds or other assets derived or generated from funds or other assets owned or controlled, directly or indirectly, by the listed party, and
- (d) funds or other assets of a party acting on behalf of, or at the direction of, the listed party.

7. Requirement to Notify the National Sanctions Secretariat

In accordance with **section 23(4) of the Act**, notwithstanding any confidentiality provision in any enactment, any person who holds, controls or has in his custody or possession any funds or other assets of a listed party must, not later than **24 hours of any notice issued under section 18(1) of the Act**, notify the National Sanctions Secretariat in writing of –

- (a) details of such funds or assets;
- (b) the name and address of the listed party;
- (c) details of any attempted transaction involving the funds or other assets, including –
 - (i) the name and address of the sender of the funds or assets;
 - (ii) the name and address of the intended recipient of the funds or assets;

- (iii) the purpose of the attempted transaction involving the funds or assets;
- (iv) the origin of the funds or assets; and
- (v) where the funds or other were intended to be sent.

8. Prohibition to make funds or other assets available to a listed party under section 24 of the Act

Under section 24 of the Act no person shall make any funds or other assets or financial or other related services available, directly or indirectly, or wholly or jointly, to or for the benefit of –

- (a) a listed party;
- (b) a party acting on behalf, or at the direction, of a listed party; or
- (c) an entity owned or controlled, directly or indirectly, by a listed party.

9. Arms Embargo under section 35 of the Act

Section 35 of the Act makes it an offence for any person to supply, sell, or transfer, directly or indirectly, to a listed party, arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned as well as technical advice, assistance, or training related to military activities, whether this conduct is carried out from Mauritius or by Mauritian nationals living abroad, or by anyone using flag vessels or aircraft from Mauritius.

10. Travel Ban under section 36 of the Act

Pursuant to section 36 of the Act, a listed party, other than a listed party who is a citizen of Mauritius or resident of Mauritius, shall not be allowed entry into, or transit through, Mauritius.

11. Requirement to exercise caution and vigilance

Reporting persons and members of the public are required to take note of the United Nations sanctions as imposed from time to time (including new listings of parties) and to exercise caution and vigilance in order to ensure that they do not in any way whatsoever support activities, individuals or organisations which are subject to the United Nations sanctions.

Reporting persons and members of the public have a legal obligation to comply with the requirements of the Act and take all steps as may be required for their implementation.

In particular, reporting persons are required to monitor their business relationships and to verify their records on an on-going basis for any information or transactions known or suspected to be connected or related in any manner whatsoever with listed parties and to implement the applicable sanctions under the Act.

Narrative summaries of the reasons for listing are also available on the United Nations Security Council website at:

<https://www.un.org/securitycouncil/sanctions/narrative-summaries>

12. Criminal Offence

Any person who fails to comply with **sections 23, 24, 35 and 36 of the Act shall commit an offence.**

Any query in respect of, or notification under, section 23(4) of the Act must be addressed to the National Sanctions Secretariat, Room 704, Level 7, New Government Centre, Port Louis.
