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THE NETHERLANDS

- 1. Which are the procedures for the incorporation of Security Council resolutions imposing sanctions in the internal legal order of your State? Are they incorporated through legislation, regulations or in any other way?**

The Sanctiewet 1977 (“Law on sanctions”, an English translation is attached) is the Dutch legal framework for the implementation of international sanctions. The Sanctiewet authorizes the ministers concerned to implement international sanctions via secondary legislation. Usually UNSC Resolutions imposing sanctions are implemented by the European Union via Regulations; these regulations are directly applicable in member states of the Union and do not require other additional national legislation than is needed for the imposing of penalties. In such cases Dutch legislative measures are restricted to the imposing of penalties on breaches of the European Regulation, via secondary legislation (“Sanctieregeling”). A Sanctieregeling to penalize a breach of an European Regulation simply states that a breach of the specified paragraphs of the European Regulation is punishable. The height of the penalties is regulated in the Wet op de economische delicten (“Law on economic offences”).

If specific UNSC sanctions are not within the boundaries of the competence of the European Council – such as arms embargoes or the obligation to transfer money belonging to former Iraqi leaders to the Iraq Development Fund – the Dutch authorities implement the UNSC Resolution directly and completely by means of a Sanctieregeling as well. In such a case the content of the Sanctieregeling is not limited to the penalization of a breach of specified paragraphs of the Resolution: the Sanctieregeling includes the text of the relevant provisions as well. In addition to this the transfer of arms is controlled by means of a licensing system based on the Law on Imports and Exports.

- 2. Does the choice depend on the content of the Security Council resolution?**

All binding international sanctions are implemented via secondary legislation unless no legislation is required to ensure that individuals, organisations or companies observe the regulations: travel restrictions for instance are implemented by denying access, no additional legislation is needed.

- 3. When sanctions are imposed for a fixed period which is not renewed, are they tacitly repealed within your domestic legal order or is any normative action required?**

Sanctions imposed for a fixed period are implemented by means of temporary secondary legislation. No action is required to repeal that type of legislation.

- 4. When a Security Council resolution imposing an export embargo provides for exceptions while not establishing a committee to authorise such exceptions, does the incorporating act appoint a national authority which is competent to authorise export?**

Yes. The Minister of Economic Affairs is designated to authorise exports.

- 5. Are Sanctions Committee decisions specifying Security Council sanctions or setting conditions for their activation incorporated into domestic law?**

Yes

6. Have there been cases where the act where the act incorporating sanctions in the domestic legal order was challenged in court for being in violation of human rights?

No

7. Are there decisions of national courts or state practice concerning the relationship between sanctions directed towards individuals and the human rights of these individuals?

No

Appendix

Sanctions Act 1977**Part 1. Definitions****Section 1**

For the purpose of the application of the provisions of or pursuant to this Act:

- a. Sanction order means: an Order in Council as referred to in section 2;
- b. Sanction regulation means: a regulation as referred to in section 2, subsection two, or in section 7;
- c. Our Minister means: Our Minister for Foreign Affairs in concurrence with Our Minister whom it may also concern;
- d. Corporate body means: a corporate body within the meaning of section 66, subsection four, of the Industrial Organisation Act.

Part 2. Administration of international sanctions**Section 2**

1. By Order in Council, rules may be adopted with regard to the subjects referred to in sections 3 and 4, in order to comply with treaties, resolutions, or recommendations of bodies of international institutions, or with international agreements, related to the keeping or restoring of international peace and safety, or to the furthering of the international rule of law, or to the fighting of terrorism.
2. If the rules to be adopted relate only to the performance of duties under treaties or resolutions of international institutions, they may be adopted by Our Minister.

Section 3

1. The rules referred to in section 2 may apply to the movement of goods and services, financial transactions, shipping, aviation, road transport, post and telecommunication, and all that is required in order to comply with the treaties, resolutions, and recommendations, or the international agreements, referred to in section 2.
2. The traffic referred to in subsection one also includes every act that apparently is directly aimed at realising such traffic.
3. The rules referred to in section 2 may also include regulations regarding the documents normally used in relation with the subjects mentioned in subsection one.
4. This Act is without prejudice to the powers conferred under the Import and Export Act.

Section 4

The rules referred to in section 2 may also apply to the admittance and residence of aliens, insofar as where necessary, and in derogation of sections 3 and 12 of the Aliens Act 2000, the admittance and residence of aliens indicated in the rules may be refused, and that Our Minister of Justice may revoke the residence permits within the meaning of sections 14 and 20 of the Aliens Act 2000 with respect to the said aliens. Revocation under this section shall be regarded as revocation pursuant to sections 19 and 22, respectively, of the Aliens Act 2000.

Section 5

(repealed)

Part 3. Temporary regulations

Section 6

1. A sanction order, as well as a decision to amend or revoke such order, comes into effect two months after the date of publication of the Bulletin of Acts and Decrees in which it is placed.
2. Regarding sanction orders other than those that are given in order to comply with an obligation under a treaty or resolution of an international institution, or regarding a decision to revoke or amend such order, either of the Houses of the States General may express the wish, or such wish may be made on their behalf, or by at least one-fifth of either of these Houses, within one month after the date of publication in the Bulletin of Acts and Decrees in which the order is placed, that the relevant order shall be confirmed by law. If such wish is expressed, We shall propose a bill to that end as quickly as possible.
3. If either of the Houses of the States General rejects a bill proposed in accordance with subsection two, the relevant order shall be withdrawn immediately.
4. If not previously revoked, a sanction order ceases to have effect three years after it has come into effect, unless it is decreed otherwise by further legislation.

Section 7

If Our Minister is considering making a recommendation for the adoption, amendment, or revocation of a sanction order and an urgent cause requires an immediate provision in his opinion, Our Minister may, by regulation, adopt rules in accordance with the order under consideration as well as render inoperative rules stipulated in an existing sanction order.

Section 8

If not previously revoked, a sanction regulation pursuant to section 7 shall remain in force until an order adopted pursuant to section 2 regarding the same subject comes into effect, but with a maximum of ten months after that regulation has come into effect.

Part 4. Exemption and dispensation

Section 9

1. Our Minister, as designated in the sanction order or in the sanction regulation, may grant exemption, and upon request may grant dispensation, from regulations in rules laid down in accordance with section 2 or with section 7 regarding the subjects referred to in section 3.
2. Exemption or dispensation may be granted subject to restrictions. Conditions may be attached to exemptions and dispensations.
3. Our Minister as referred to in subsection one may revoke a dispensation if the information submitted in order to obtain such dispensation turns out to be incorrect or incomplete to such extent, that a different decision would have been taken with regard to the request if the true circumstances were fully known when the request was considered.
4. Our Minister as referred to in subsection one may revoke the dispensations forming part of a group designated by him, if this is so required in his opinion due to urgent cause. Notice of a decision adopted in accordance with subsection one will be given by publication in the Bulletin of Acts and Decrees.

Part 5. Supervision

Section 10

1. The supervision of the compliance with the provisions of or pursuant to this Act will be charged to the officials or other persons designated by Our Minister.

2. Without prejudice to subsection one, Our Minister of Finance may designate one or more legal entities who will be charged with the supervision of the compliance with the provisions of or pursuant to this part 5 with respect to financial transactions carried out by:
 - a. The credit institutions and financial institutions registered pursuant to section 52, subsection two, under a, b, c, e, and f of the Credit Institutions Supervision Act 1992,
 - b. The investment institutions registered pursuant to section 18, subsection one, under a and c, of the Investment Institutions Supervision Act,
 - c. The exchange offices registered pursuant to section 2 of the Exchange Offices Act,
 - d. The securities institutions within the meaning of in section 7, subsection two, under i, and the securities institutions who possess a permit pursuant to section 7, subsection four, of the Securities Transactions Supervision Act 1995,
 - e. The pension funds within the meaning of section 1, subsection one, under b, c, d, and l, of the Pension and Savings Funds Guarantee Act,
 - f. The insurers that are placed on a list within the meaning of section 9, subsection one, under a and b, of the Insurance Industry Supervision Act 1993,
 - g. The pension fund within the meaning of section 13, subsection three, under d, of the Insurance Industry Supervision Act 1993, and
 - h. The insurers that are placed on a list within the meaning of section 4, subsection one, under a, of the Funeral Insurance In Kind Supervision Act.
3. The provisions of Chapter 5, part 5.2, of the General Administrative Law Act apply *mutatis mutandis* to persons who are charged by a legal entity designated in accordance with subsection two with the supervision of the compliance with the provisions of or pursuant to this part 5.
4. Notice of a designation order given in accordance with subsection one or two shall be given by publication in the Government Gazette.

Section 10a

Our Minister of Finance may offer the legal entities designated in accordance with section 10, subsection two, the opportunity to voice their opinions regarding the assessment of requests for dispensation within the meaning of section 9, subsection one, as well as regarding the implementation of the rules adopted in accordance with section 2 or section 7 regarding financial transactions.

Section 10b

1. Our Minister of Finance may adopt rules for the management of the administrative organisation and the internal inspection of the institutions as referred to in section 10, subsection two, under a to and including h.
2. Our Minister of Finance may adopt rules regarding providing information, whether or not upon request, by the institutions as referred to in section 10, subsection two, under a to and including h.
3. Our Minister of Finance may grant exemption or dispensation from the rules laid down in accordance with subsections one and two.

Section 10c

1. Our Minister of Finance may impose an order, under pains of a penalty, with respect to violation of the rules laid down pursuant to section 10b. Section 5:32, subsections two through five, and sections 5:33 through 5:35, of the General Administrative Law Act are applicable.
2. Our Minister of Finance may adopt rules regarding the exercise of the power as referred to in the first sentence of subsection one.

Section 10d

1. Our Minister of Finance may impose an administrative fine with respect to the violation of the rules laid down pursuant to section 10b.
2. The administrative fine will revert to the State.
3. Regarding the institutions as referred to in section 10, subsection two, under a, sections 90e, 90f, 90g, 90h, 90i, 90k, 90l, and the classification in article 2 of the schedule as referred to in section 90d, of the Credit System Supervision Act 1992, apply mutatis mutandis.
4. Regarding the institutions as referred to in section 10, subsection two, under b, sections 33e, 33f, 33g, 33h, 33i, 33k, 33l, and the classification in article 2 of the schedule as referred to in section 33d, of the Investment Institutions Supervision Act, apply mutatis mutandis.
5. Regarding the institutions as referred to in section 10, subsection two, under c, sections 23, 24, 25, 26, 27, 29 and 30, and the classification in article 2 of the schedule as referred to in section 22, of the Exchange Offices Act, apply mutatis mutandis.
6. Regarding the institutions as referred to in section 10 subsection two, under d, sections 48e, 48f, 48g, 48h, 48i, 48k, 48l, and the classification in article 2 of the schedule as referred to in section 48d, of the Securities Transactions Supervision Act 1995, apply mutatis mutandis.
7. Regarding the institutions as referred to in section 10, subsection two, under e, sections 23d, 23e, 23f, 23g, 23h, 23j, 23k, and the classification in article 2 of the schedule as referred to in section 23c, of the Pension and Savings Funds Guarantee Act, apply mutatis mutandis.
8. Regarding the institutions as referred to in section 10, subsection two, under f and g, sections 188e, 188f, 188g, 188h, 188i, 188k, 188l, and the classification in article 2 of the schedule as referred to in section 188d, of the Insurance Industry Supervision Act 1993, apply mutatis mutandis.
9. Regarding the institutions as referred to in section 10, subsection two, under h, sections 93e, 93f, 93h, 93i, 93k, 93l, and the classification van article 2 of the schedule as referred to in section 93d, of the Funeral Insurance In Kind Supervision Act, apply mutatis mutandis.

Section 10e

1. The amount of the fine shall be determined in the manner as provided in subsection two, on the understanding that the fine shall not exceed the amount of € 200,000.
2. The amount of the fine shall be determined by multiplying the amount of € 5445 with a factor that is applicable in accordance with the classification in article 2 of the schedule referred to in section 10d, subsections three, four, five, six, seven, eight, or nine.
3. Our Minister of Finance may impose in certain events a lower fine than the fine stipulated in subsection one if the amount of the fine is unreasonably high due to extraordinary circumstances.

Section 10f

1. The powers of Our Minister of Finance pursuant to this part may be transferred by Order in Council to one or more legal entities designated in accordance with section 10, subsection two. In this event, the obligations that exist towards Our Minister of Finance pursuant to this part 5 shall exist as obligations towards the relevant legal entities.
2. The transfer as referred to in subsection one may be subjected to restrictions and regulations.

Section 10g

1. All data and information that have been provided or obtained regarding separate undertakings, institutions, or persons, in accordance with the provisions of this part 5 and all data and information received from an authority as referred to in section 10h, shall not be made public and shall remain classified.
2. Anyone who performs any duties under the application of this part 5 or pursuant to decisions adopted in this part, is prohibited from making any further or different use of data or information provided pursuant to the said sections or received from an authority as referred to in section 10h, or of data or information obtained through the examination of business data and documents, or to

make such data and information public, other than is required for the performance of his duties in accordance with this part 5.

3. With respect to the person to who subsection two is applicable, subsections one and two are without prejudice to the applicability of the provisions of the Code of Criminal Procedure.
4. Likewise, with respect to the person to who subsection two is applicable, the provisions of subsections one and two are without prejudice to the applicability of the provisions of the Code of Civil Procedure and of section 66 of the Bankruptcy Act that relate to the making of a statement as a witness in a personal appearance of parties or as an expert in civil cases regarding the data or information that have been obtained in the performance of his duties in accordance with this part 5, insofar as it concerns data or information regarding a credit institution that is declared bankrupt or that has been dissolved pursuant to a court ruling. The provisions of the preceding sentence are not applicable to data or information that relate to undertakings or institutions involved in, or that have been involved in, an attempt to allow the relevant credit institution to continue its business.

Section 10h

Without prejudice to the relevant provisions in binding decisions of organs of the European Union or of other international institutions, and in derogation of section 10g, Our Minister of Finance is authorised to supply data or information obtained in the performance of his duties charged to him under this Act, to Dutch or foreign government authorities or to Dutch or foreign authorities charged by their governments with the supervision of the compliance with the treaties, resolutions, recommendations and agreements as referred to in section 2, in the field of financial transactions and the rules laid down pursuant to that section or pursuant to section 7,

unless:

- a. The purpose for which the data or information will be used is insufficiently made clear;
- b. Providing the data or information would be incompatible with Netherlands law or with public order;
- c. The confidentiality of the data or information is insufficiently guaranteed;
- d. Providing the data or information is or would reasonably be, or could become, in conflict with the interests this Act intends to protect; or
- e. It is insufficiently guaranteed that the data or information will not be used for purposes other than for which they are provided.

Section 11

1. Our Minister may delegate powers vested in him pursuant to a sanction order or a sanction regulation, or pursuant to section 9, to the board of a corporate body or the board of a body having the status of a legal entity within the meaning of section 110 of the Industrial Organisations Act, unless the provisions of or pursuant to this Act would oppose this. Our Minister may subject a delegation in accordance with the first sentence to restrictions.
2. Decisions of a general nature, adopted in view of the exercise of a power delegated in accordance with subsection one, require the approval of Our Minister. Such approval shall only be withheld if such decision would be in conflict with the law or with the common interest.
3. Notice of a decision of Our Minister in accordance with subsection one will be given in the Government Gazette.

Section 12

(repealed)

Part 6. Other provisions

Section 13

Netherlands criminal law is applicable to any Dutch national who commits an act that is punishable under or pursuant to this Act abroad.

Section 14

Interested parties may lodge an appeal against a decision taken in accordance with section 9, subsection three, with the Industrial Appeals Court.

Section 15

The Export Prohibition Act 1935 (Bulletin of Acts and Decrees 599) and the Sanctions Act 1935 (Bulletin of Acts and Decrees 621) cease to have effect with respect to the Netherlands.

Section 16

1. This Act may be cited as Sanctions Act 1977.
2. The day on which this Act is to come into effect shall be decided by Us.