L.N. 22 of 2001

NATIONAL INTEREST (ENABLING POWERS) ACT (CAP. 365)

United Nations Sanctions (Taliban) (Amendment) Regulations, 2001

IN EXERCISE of the powers conferred by article 3 of the National Interest (Enabling Powers) Act , the Prime Minister has made the following regulations:—

Citation.

1. The title of these regulations is the United Nations Sanctions (Taliban) (Amendment) Regulation, 2001, and they shall be read and construed as one with the United Nations Sanctions (Taliban) (Amendment) Regulations,1999, hereinafter referred to as "the principal regulations".

L.N. 214 of 1999.

Amends regulation 3 of the principal regulations.

2. In regulations 3 of the principal regulations, for the words "in the Schedule to the regulations" there shall be added the words "in Schedule A to these regulations", and in the marginal note thereto immediately after the word "resolution" there shall be added the words "1267 (1999)".

Adds new regulation 3A to the principal regulations.

3. Immediately after regulation 3 of the principal regulations, there shall be added the following new regulation:

"Text of resolution 1333 (2000).

3A. For the purposes of subarticle (4) of article 3 of the Act, Resolution number 1333 (2000) adopted by the Security Council of the United Nations on the 19th December, 2000, is published in Schedule B to these regulations.".

Amends regulation 4 of the principal regulations.

4. Immediately after subregulation (2) of regulation 4 of the principal regulations there shall be added the following new regulations:-

"(3) Notwithstanding any other law, no permission shall be granted for any aircraft to take off from, land in

or overfly Malta if that aircraft has taken off from, or is destined to land at, a place in the territory of Afghanistan designated by the Committee as being under Taliban control:

Provided that the provisions of this subregulation shall not apply to flights which have been approved in advance by the Committee on the grounds of humanitarian need, including religious obligations such as the Hajj, or on the grounds that the flight promotes discussion of a peaceful resolution of the conflict in Afghanistan or is likely to promote Taliban compliance with the Resolutions referred to in regulations 3 and 3A hereof.

(4) Notwithstanding any other law, no citizen of Malta and no person in Malta shall:

(a) whether directly or indirectly supply, sell or transfer to the territory of Afghanistan under Taliban control as designated by the Committee, any arms or related material of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment or spare parts for the aforementioned, or use any vessel or aircraft registered in Malta for the purposes referred to in this paragraph;

(b) whether directly or indirectly, whether from Malta or elsewhere, sell, supply or transfer to the territory of Afghanistan under Taliban control as designated by the Committee, technical advice, assistance, or training related to the military activities of the armed personnel under the control of the Taliban:

Provided that the measures imposed by paragraphs (a) and (b) of this subregulation shall not apply to supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, as approved in advance by the Committee, or to protective clothing, including flak jackets and military helmets, exported to Afghanistan by United Nations personnel, representatives of the media, and humanitarian workers for their personal use;

(c) sell, supply or transfer the chemical acetic anhydride to any person in the territory of Afghanistan under Taliban control as designated by the Committee or to any person for the purpose of any activity carried on in, or operated from, the territory under Taliban control as designated by the Committee.

(5) Any funds or other financial assets of Usama bin Laden and individuals and entities associated with him as designated by the Committee, including those in the Al-Qaida organization, and funds either derived or generated from property owned or controlled directly or indirectly by Usama bin Laden and individuals and entities associated with him, are immediately frozen and cannot be in any way transferred to the persons or entities herein before referred to.

(6) Notwithstanding any other law, no citizen of Malta and no person in Malta shall, whether directly or indirectly, transfer any funds or other financial resources as are referred to in subregulation (5) hereof the benefit of Usama bin Laden, his associates or any entities owned or controlled, directly or indirectly, by Usama bin Laden or individuals and entities associated with him, including the Al-Qaida organization.".

Amends title of Schedule to the principal regulations.

5. For the title "SCHEDULE" and the words "Regulation 2" in the principal regulations, there shall be substituted the words "SCHEDULE A" and "Regulation 3" respectively.

Adds new Schedule to the principal regulations.

6. Immediately after Schedule A as renumbered, there shall be added the following new schedule:-

"SCHEDULE B

Regulation 3A

Resolution 1333 (2000)

Adopted by the Security Council at its 4251st meeting, on 19 December 2000

The Security Council,

Reaffirming its previous resolutions, in particular resolution 1267 (1999) of 15 October 1999 and the statements of its President on the situation in Afghanistan,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and national unity of Afghanistan, and its respect for Afghanistan's cultural and historical heritage,

Recognizing the critical humanitarian needs of the Afghan people,

Supporting the efforts of the Personal Representative of the Secretary-General for Afghanistan to advance a peace process through political negotiations between the Afghan parties aimed at the establishment of a broad-based, multi-ethnic, and fully representative government, and *calling for* the warring factions to cooperate fully with those efforts to conclude a ceasefire and begin discussions leading to a political settlement, by moving forward promptly in the process of dialogue to which they have committed themselves,

Noting the December 2000 meeting of the Afghan Support Group which emphasized that the situation in Afghanistan is a complex one that requires a comprehensive, integrated approach to a peace process and issues of narcotics trafficking, terrorism, human rights, and international humanitarian and development aid,

Recalling the relevant international counter-terrorism conventions and in particular the obligations of parties to those conventions to extradite or prosecute terrorists,

Strongly condemning the continuing use of the areas of Afghanistan under the control of the Afghan faction known as Taliban, which also calls itself the Islamic Emirate of Afghanistan (hereinafter known as the Taliban), for the sheltering and training of terrorists and planning of terrorist acts, and *reaffirming* its conviction that the suppression of international terrorism is essential for the maintenance of international peace and security,

Noting the importance of the Taliban acting in accordance with the 1961 Single Convention, the 1971 Convention on Psychotropic Substances, and the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and the commitments of the 1998 Twentieth Special Session of the General Assembly on Narcotic Drugs, including to work closely with the United Nations Drug Control Programme,

Noting that the Taliban benefits directly from the cultivation of illicit opium by imposing a tax on its production and indirectly benefits from the processing and trafficking of such opium, and *recognizing* that these substantial resources strengthen the Taliban's capacity to harbour terrorists,

Deploring the fact that the Taliban continues to provide safehaven to Usama bin Laden and to allow him and others associated with him to operate a network of terrorist training camps from Taliban-controlled territory and to use Afghanistan as a base from which to sponsor international terrorist operations,

Noting the indictment of Usama bin Laden and his associates by the United States of America for, inter alia, the 7 August 1998 bombings of the United States embassies in Nairobi, Kenya and Dar es Salaam, Tanzania and for conspiring to kill American nationals outside the United States, and *noting* also the request of the United States of America to the Taliban to surrender them for trial (S/1999/1021),

Reiterating its deep concern over the continuing violations of international humanitarian law and of human rights, particularly discrimination against women and girls, and over the significant rise in the illicit production of opium,

Stressing that the capture by the Taliban of the Consulate-General of the Islamic Republic of Iran and the murder of Iranian diplomats and a journalist in Mazar-e-Sharif constituted flagrant violations of established international law,

Determining that the failure of the Taliban authorities to respond to the demands in paragraph 13 of resolution 1214 (1998) and in paragraph 2 of resolution 1267 (1999) constitutes a threat to international peace and security,

Stressing its determination to ensure respect for its resolutions,

Reaffirming the necessity for sanctions to contain adequate and effective exemptions to avoid adverse humanitarian consequences on

the people of Afghanistan, and that they be structured in a way that will not impede, thwart or delay the work of international humanitarian assistance organizations or governmental relief agencies providing humanitarian assistance to the civilian population in the country,

Underlining the responsibility of the Taliban for the well-being of the population in the areas of Afghanistan under its control, and in this context *calling on* the Taliban to ensure the safe and unhindered access of relief personnel and aid to all those in need in the territory under their control,

Recalling the relevant principles contained in the Convention on the Safety of United Nations and Associated Personnel adopted by the General Assembly in its resolution 49/59 of 9 December 1994,

Acting under Chapter VII of the Charter of the United Nations,

1. *Demands* that the Taliban comply with resolution 1267 (1999) and, in particular, cease the provision of sanctuary and training for international terrorists and their organizations, take appropriate effective measures to ensure that the territory under its control is not used for terrorist installations and camps, or for the preparation or organization of terrorist acts against other States or their citizens, and cooperate with international efforts to bring indicted terrorists to justice;

2. *Demands also* that the Taliban comply without further delay with the demand of the Security Council in paragraph 2 of resolution 1267 (1999) that requires the Taliban to turn over Usama bin Laden to appropriate authorities in a country where he has been indicted, or to appropriate authorities in a country where he will be returned to such a country, or to appropriate authorities in a country where he will be arrested and effectively brought to justice;

3. *Demands further* that the Taliban should act swiftly to close all camps where terrorists are trained within the territory under its control, and *calls* for the confirmation of such closures by the United Nations, inter alia, through information made available to the United Nations by Member States in accordance with paragraph 19 below and through such other means as are necessary to assure compliance with this resolution;

4. *Reminds* all States of their obligation to implement strictly the measures imposed by paragraph 4 of resolution 1267 (1999);

5. *Decides* that all States shall:

(a) Prevent the direct or indirect supply, sale and transfer to the territory of Afghanistan under Taliban control as designated by the Committee established pursuant to resolution 1267 (1999), hereinafter known as the Committee, by their nationals or from their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned;

(b) Prevent the direct or indirect sale, supply and transfer to the territory of Afghanistan under Taliban control, as designated by the Committee, by their nationals or from their territories, of technical advice, assistance, or training related to the military activities of the armed personnel under the control of the Taliban;

(c) Withdraw any of their officials, agents, advisers, and military personnel employed by contract or other arrangement present in Afghanistan to advise the Taliban on military or related security matters, and urge other nationals in this context to leave the country;

6. *Decides* that the measures imposed by paragraph 5 above shall not apply to supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, as approved in advance by the Committee, and *affirms* that the measures imposed by paragraph 5 above do not apply to protective clothing, including flak jackets and military helmets, exported to Afghanistan by United Nations personnel, representatives of the media, and humanitarian workers for their personal use only;

7. *Urges* all States that maintain diplomatic relations with the Taliban to reduce significantly the number and level of the staff at Taliban missions and posts and restrict or control the movement within their territory of all such staff who remain; in the case of Taliban missions to international organizations, the host State may, as it deems necessary, consult the organization concerned on the measures required to implement this paragraph;

8. Decides that all States shall take further measures:

(a) To close immediately and completely all Taliban offices in their territories;

(b) To close immediately all offices of Ariana Afghan Airlines in their territories;

(c) To freeze without delay funds and other financial assets of Usama bin Laden and individuals and entities associated with him as designated by the Committee, including those in the Al-Qaida organization, and including funds derived or generated from property owned or controlled directly or indirectly by Usama bin Laden and individuals and entities associated with him, and to ensure that neither they nor any other funds or financial resources are made available, by their nationals or by any persons within their territory, directly or indirectly for the benefit of Usama bin Laden, his associates or any entities owned or controlled, directly or indirectly, by Usama bin Laden or individuals and entities associated with him including the Al-Qaida organization and *requests* the Committee to maintain an updated list, based on information provided by States and regional organizations, of the individuals and entities designated as being associated with Usama bin Laden, including those in the Al-Qaida organization;

9. *Demands* that the Taliban, as well as others, halt all illegal drugs activities and work to virtually eliminate the illicit cultivation of opium poppy, the proceeds of which finance Taliban terrorist activities;

10. *Decides* that all States shall prevent the sale, supply or transfer, by their nationals or from their territories, of the chemical acetic anhydride to any person in the territory of Afghanistan under Taliban control as designated by the Committee or to any person for the purpose of any activity carried on in, or operated from, the territory under Taliban control as designated by the Committee;

11. *Decides also* that all States are required to deny any aircraft permission to take off from, land in or over-fly their territories if that aircraft has taken off from, or is destined to land at, a place in the territory of Afghanistan designated by the Committee as being under Taliban control, unless the particular flight has been approved in advance by the Committee on the grounds of humanitarian need, including religious obligations such as the performance of the Hajj, or on the grounds that the flight promotes discussion of a peaceful resolution of the conflict in Afghanistan, or is likely to promote Taliban compliance with this resolution or with resolution 1267 (1999);

12. *Decides further* that the Committee shall maintain a list of approved organizations and governmental relief agencies which are providing humanitarian assistance to Afghanistan, including the United Nations and its agencies, governmental relief agencies providing humanitarian assistance, the International Committee of the Red Cross and non-governmental organizations as appropriate, that the prohibition imposed by paragraph 11 above shall not apply to humanitarian flights operated by, or on behalf of, organizations and governmental relief

agencies on the list approved by the Committee, that the Committee shall keep the list under regular review, adding new organizations and governmental relief agencies as appropriate and that the Committee shall remove organizations and governmental agencies from the list if it decides that they are operating, or are likely to operate, flights for other than humanitarian purposes, and shall notify such organizations and governmental agencies immediately that any flights operated by them, or on their behalf, are thereby subject to the provisions of paragraph 11 above;

13. *Calls upon* the Taliban to ensure the safe and unhindered access of relief personnel and aid to all those in need in the territory under their control, and *underlines* that the Taliban must provide guarantees for the safety, security and freedom of movement for United Nations and associated humanitarian relief personnel;

14. *Urges* States to take steps to restrict the entry into or transit through their territory of all senior officials of the rank of Deputy Minister or higher in the Taliban, the equivalent rank of armed personnel under the control of the Taliban, and other senior advisers and dignitaries of the Taliban, unless those officials are travelling for humanitarian purposes, including religious obligation such as the performance of the Hajj, or where the travel promotes discussion of a peaceful resolution of the conflict in Afghanistan or involves compliance with this resolution or resolution 1267 (1999);

15. *Requests* the Secretary-General in consultation with the Committee:

(a) To appoint a committee of experts to make recommendations to the Council within sixty days of the adoption of this resolution regarding how the arms embargo and the closure of terrorist training camps demanded in paragraphs 3 and 5 above can be monitored, including inter alia the use of information obtained by Member States through their national means and provided by them to the Secretary General;

(b) To consult with relevant Member States to put into effect the measures imposed by this resolution and resolution 1267 (1999) and report the results of such consultations to the Council;

(c) To report on the implementation of the existing measures, assess problems in enforcing these measures, make recommendations for strengthening enforcement, and evaluate actions of the Taliban to come into compliance;

(d) To review the humanitarian implications of the measures imposed by this resolution and resolution *1267 (1999), and to report* back to the Council within 90 days of the adoption of this resolution with an assessment and recommendations, to report at *regular intervals* thereafter on any humanitarian implications and to present a comprehensive report on this issue and any recommendations *no later* than 30 days prior to the expiration of these measures;

16. *Requests* the Committee to fulfil its mandate by undertaking the following tasks in addition to those set out in resolution *1267 (1999):*

(a) To establish and maintain updated lists based on *information* provided by States, regional, and international organizations of all points of entry and landing areas for aircraft within the territory of *Afghanistan* under control by the Taliban and to notify Member States of the contents of such lists;

(b) To establish and maintain updated lists, based on *information* provided by States and regional organizations, of individuals and entities designated as being associated with Usama bin Laden, in accordance with paragraph 8 (c) above;

(c) To give consideration to, and decide upon, requests for the exceptions set out in paragraphs 6 and 11 above;

(d) To establish no later than one month after the adoption of this resolution and maintain an updated list of approved organizations and governmental relief agencies which are providing humanitarian assistance to Afghanistan, in accordance with paragraph 12 above;

(e) To make relevant information regarding implementation of these measures publicly available through appropriate media, including through the improved use of information technology;

(f) To consider, where and when appropriate, a visit to countries in the region by the Chairman of the Committee and such other members as may be required to enhance the full and effective implementation of the measures imposed by this resolution and resolution 1267(1999) with a view to urging States to comply with relevant Council resolutions;

(g) To make periodic reports to the Council on information submitted to it regarding this resolution and resolution 1267 (1999), including possible violations of the measures reported to the Committee and recommendations for strengthening the effectiveness of these measures;

17. *Calls upon* all States and all international and regional organizations, including the United Nations and its specialized agencies, to act strictly in accordance with the provisions of this resolution, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted prior to the date of coming into force of the measures imposed by paragraphs 5, 8, 10 and 11 above;

18. *Calls upon* States to bring proceedings against persons and entities within their jurisdiction that violate the measures imposed by paragraphs 5, 8, 10 and 11 above and to impose appropriate penalties;

19. *Calls upon* all States to cooperate fully with the Committee in the fulfilment of its tasks, including supplying such information as may be required by the Committee in pursuance of this resolution;

20. *Requests* all States to report to the Committee within 30 days of the coming into force of the measures imposed by paragraphs 5, 8, 10 and 11 above on the steps they have taken with a view to effectively implementing this resolution;

21. *Requests* the Secretariat to submit for consideration by the Committee information received from Governments and public sources on possible violations of the measures imposed by paragraphs 5, 8, 10 and 11 above;

22. *Decides* that the measures imposed by paragraphs 5, 8, 10 and 11 above shall come into force at 00.01 Eastern Standard Time, one month after the adoption of this resolution;

23. *Further decides* that the measures imposed by paragraphs 5, 8, 10 and 11 above are established for twelve months and that, at the end of this period, the Council will decide whether the Taliban has complied with paragraphs 1, 2 and 3 above, and, accordingly, whether to extend these measures for a further period with the same conditions;

24. *Decides* if the Taliban comply with the conditions of paragraphs 1, 2 and 3 above, before the twelve-month period has elapsed, the Security Council shall terminate the measures imposed by paragraphs 5, 8, 10 and 11 above;

25. *Expresses* its readiness to consider the imposition of further measures, in accordance with its responsibility under the Charter of the United Nations, with the aim of achieving full implementation of this resolution and resolution 1267 (1999), inter alia, taking into account the impact assessment referred to in paragraph 15 (d) with a view to enhancing the effectiveness of sanctions and avoiding humanitarian consequences;

26. *Decides* to remain actively seized of the matter.".