

[AS REPORTED FROM THE COMMERCE AND MINING
COMMITTEE]

House of Representatives, 8 June 1973

Words struck out by the Committee are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. Mr Walding

NEW ZEALAND EXPORT-IMPORT CORPORATION

ANALYSIS

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A BILL INTITULED

An Act to establish a New Zealand Export-Import Corporation, and to define its object, functions, powers, and duties

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

2 *New Zealand Export-Import Corporation*

1. **Short Title**—This Act may be cited as the New Zealand Export-Import Corporation Act 1973.

2. **Interpretation**—In this Act, unless the context otherwise requires—

“Appointed director” means a director appointed under any of the provisions of paragraphs (a) to (c) of subsection (2) of section 3 of this Act: 5

“Corporation” means the New Zealand Export-Import Corporation established by section 3 of this Act:

“Director” means a director of the Corporation appointed or approved under subsection (2) of section 3 of this Act: 10

“Financial year” means a year ending with the 31st day of March:

“Minister” means the Minister of Overseas Trade: 15

“Trading bank” means a trading bank for the time being named in the First Schedule to the Reserve Bank of New Zealand Act 1964.

PART I

NEW ZEALAND EXPORT-IMPORT CORPORATION 20

3. **New Zealand Export-Import Corporation**—(1) There is hereby established a Corporation, to be called the New Zealand Export-Import Corporation.

(2) The Corporation shall consist of—

(a) One director who shall be appointed as Chairman by the Governor-General on the recommendation of the Minister: 25

(b) One director who shall be appointed as Deputy Chairman by the Governor-General on the recommendation of the Minister: 30

(c) Four directors who shall be appointed by the Governor-General on the recommendation of the Minister:

(d) One director who shall be an officer of the Department of Trade and Industry for the time being approved for that purpose by the Minister: 35

(e) One director who shall be an officer of the Ministry of Foreign Affairs for the time being approved for that purpose by the Minister.

(3) The Corporation shall be a body corporate with perpetual succession and a common seal, and may acquire, hold, and dispose of real and personal property, and sue and be sued, and do and suffer all such other acts and things that bodies corporate may lawfully do and suffer. 40

(4) The powers of the Corporation shall not be affected by any vacancy in its membership.

Functions and Powers of Corporation
New

5 **3A. Object for which Corporation established—**(1) The general object for which the Corporation is established is to promote and encourage the development of the overseas trade of New Zealand.

(2) Without limiting the generality of subsection (1) of this section, the Corporation shall, in pursuance of its object and in the exercise of its functions and powers, have regard to—

15 (a) The desirability of achieving a trading surplus with a view to maintaining its capital funds and providing for adequate reserves; and

20 (b) The needs of New Zealand manufacturers, producers, exporters, importers, and persons dealing in services, who for any reason lack the resources themselves to engage in any aspect of overseas trade, including trade promotion, selling, and purchasing.

4. Functions of Corporation—(1) In pursuance of its general object, the functions of the Corporation shall be—

25 (a) To engage in the overseas trade of New Zealand by exporting and importing such goods and dealing in such services as it thinks fit, both in New Zealand and elsewhere:

30 (b) Where it considers that it is desirable to do so, to act in New Zealand and elsewhere on behalf of any New Zealand (*exporters, importers, wholesalers, retailers, and traders dealing in goods or services of any kinds:*) manufacturers, producers, exporters, importers, and persons dealing in services, who request it to do so:

35 (c) Where it considers that it is desirable to do so, to undertake trade promotion in New Zealand and elsewhere for itself (*and for any persons specified in paragraph (b) of this subsection:*) and on behalf of any New Zealand manufacturers, producers, exporters,
40 importers, and persons dealing in services, who request it to do so:

4 *New Zealand Export-Import Corporation*

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- (d) To provide in New Zealand and elsewhere such consulting and advisory services as in its opinion will contribute towards the maintenance and expansion of the overseas trade of New Zealand.

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- (d) To provide in New Zealand and elsewhere such consulting and advisory services as it thinks fit.

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- (e) If required to do so by the New Zealand Government:
- (i) To act as a purchasing and selling agent for the Government:
 - (ii) To undertake multilateral and bilateral trade transactions on behalf of the Government:
- (f) To otherwise promote and encourage the overseas trade of New Zealand in such manner as it thinks fit. 15
- (2) Without limiting the generality of subsection (1) of this section, the Corporation in the exercise of the functions specified in that subsection shall have regard to—
- (a) The desirability of achieving a trading surplus with a view to maintaining its capital funds and providing for adequate reserves: 20
 - (b) The needs of New Zealand exporters, importers, wholesalers, retailers, and traders who for any reason lack the resources themselves to engage in any aspect of overseas trade, including trade promotion, marketing, and purchasing. 25

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- (2) It shall also be a function of the Corporation, if required to do so by the New Zealand Government—
- (i) To act as a purchasing and selling agent for the Government; and
 - (ii) To undertake trade transactions on behalf of the Government.

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- (3) In addition, the Corporation shall for the further development of the overseas trade of New Zealand carry out such other functions in New Zealand and elsewhere as the Minister may from time to time direct.

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(3) Nothing in this section, or in section 5 of this Act, shall be construed so as to authorise or empower the Corporation to undertake any transaction in respect of any goods the export of which from New Zealand is, by virtue of any other enactment, reserved to or subject to the control of any statutory body, unless that statutory body first consents to the transaction.

5. General powers of Corporation—(1) The Corporation shall have all the powers that are reasonably necessary *(to enable it to carry out its functions,)* for the attainment of its general object and the exercise of its functions, and in particular it may from time to time *(, in New Zealand and elsewhere)*—

- 15 (a) With the consent of the Minister, subscribe for or otherwise acquire shares and stock in any incorporated company:
- (b) Purchase, take on lease, rent, hire, or otherwise acquire land, buildings, machinery, plant, and equipment:
- 20 (c) Establish warehouses, cool stores, and other marketing facilities:
- (d) Finance the sale, purchase, lease, or hire of machinery, plant, equipment, materials, goods, and articles of every description by means of any arrangement whatsoever, including the purchase and resale and hire of such items, on such terms as it thinks fit; and discount hire-purchase or conditional agreements of sale or hire and lend money on the security of a mortgage or an assignment of any such agreement or on such other security (if any) as it thinks fit:
- 25 (e) Make such charges as it thinks fit for the provision of services by the Corporation to or for any person:
- 30 (f) Prepare for market, sell, export, buy, import, and otherwise deal in goods and services of any kind:
- 35 (g) Carry on the businesses of exporter, importer, wholesaler, retailer, and trader dealing in goods *(and services)* of any kinds:
- 40 (h) Sell, exchange, transfer, lease, rent or hire out, or otherwise dispose of any of its real or personal property:

6 *New Zealand Export-Import Corporation*

- (i) Negotiate freight agreements for the carriage of goods:
- (j) Undertake or commission market research for itself or for any other person:
- (k) Act on behalf of or represent any other person in any capacity.

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(2) Nothing in subsection (1) of this section shall authorise the Corporation to sell goods by way of retail in New Zealand or to carry on the business of a retailer in New Zealand.

6. Contracts of Corporation—(1) Subject to section 7 of this Act, any contract which, if made between private persons, must be by deed shall, if made by the Corporation, be in writing under the seal of the Corporation.

(2) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith shall, if made by the Corporation, be in writing either under the seal of the Corporation or signed by any person acting on behalf of and under the express or implied authority of the Corporation.

(3) Any contract which, if made between private persons, may be made orally may be made in the manner specified in subsection (1) of this section as in the case of a deed, or in the manner specified in subsection (2) of this section as in the case of a contract required to be in writing, or may be made orally by or on behalf of the Corporation by any person acting under the express or implied authority of the Corporation.

(4) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of the Corporation shall be invalid by reason only that it was not made in manner provided by this section, if it was made pursuant to a resolution of the directors or to give effect to a resolution of the directors in relation to contracts generally or in relation to that particular contract.

7. Delegation of powers of Corporation—(1) The Corporation may, in respect of any particular matter or class of matters, or in respect of any particular area in New Zealand or elsewhere, by writing under its seal delegate to any director, or committee of directors, or officer of the Corporation, or to the holder for the time being of any specified office

under the Corporation, or to any other person whatever, any of its powers under this Act (including a power to execute deeds on behalf of the Corporation, but not including this power of delegation), so that the delegated powers may be
5 executed by him in respect of the matters or class of matters or area specified in the instrument of delegation.

(2) Subject to any general or special directions given or conditions imposed by the Corporation, the person to whom any powers are so delegated may exercise those powers in the
10 same manner and with the same effect as if they had been conferred on him directly by this Act and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the
15 terms of the delegation.

(4) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power by the Corporation.

Directors

20 **8. Terms of office of appointed directors**—(1) Except as otherwise provided by this Act, every appointed director shall hold office for such term as the Governor-General on the recommendation of the Minister shall specify in his appointment, being a term not exceeding 3 years, but may from time
25 to time be reappointed.

(2) Every appointed director, unless he sooner vacates his office under section 9 of this Act, shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

30 **9. Extraordinary vacancies**—(1) An appointed director may at any time resign his office by delivering a notice in writing to that effect to the Minister.

(2) Any appointed director may be removed from office at any time by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General.
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(3) If an appointed director dies or resigns or is removed from office, the vacancy occurring shall be deemed to be an extraordinary vacancy.

40 (4) An extraordinary vacancy shall be filled in the same manner as the appointment of the person vacating office.

(5) Every person who is appointed to fill an extraordinary vacancy shall be appointed for the remainder of the term for which his predecessor was appointed.

8. *New Zealand Export-Import Corporation*

10. Deputies—(1) In any case in which the Minister is satisfied that any appointed director is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may appoint a person to be the deputy of that director during his incapacity. 5

(2) Whenever the director approved by the Minister under paragraph (d) or paragraph (e) of subsection (2) of section 3 of this Act is for any reason unable to perform his duties as a director, any other officer of his department for the time being approved for that purpose by the Minister may 10 act in his place as his deputy.

(3) Any deputy appointed or approved under this section shall, while he acts as such, be deemed to be a director, except that no such person shall be deemed to be the Chairman or Deputy Chairman of the Corporation by reason only of the 15 fact that he is the deputy of the Chairman or Deputy Chairman.

(4) No appointment or approval of a deputy and no act done by him as such, and no act done by the Corporation while any deputy is acting as such, shall in any proceedings 20 be questioned on the ground that the occasion of his appointment or approval had not arisen or had ceased.

11. Remuneration and expenses of directors—(1) There shall be paid out of the funds of the Corporation to the Chairman, the Deputy Chairman, and the other directors 25 such remuneration by way of salary, fees, or allowances as the Minister of Finance from time to time approves, either generally or in any particular case.

(2) The directors shall be paid out of the funds of the Corporation such travelling expenses and allowances as may 30 from time to time be approved by the Minister of Finance, having regard to any recommendations made in that behalf by the Corporation.

12. Disclosure of interests—(1) Any director who, otherwise than as a director, is directly or indirectly interested in 35 any arrangement or agreement made or entered into, or proposed to be made or entered into, by the Corporation shall as soon as possible after the relevant facts have come to his knowledge disclose the nature of his interest at a meeting of the directors. 40

(2) A disclosure under this section shall be recorded in the minutes of the meeting and, except as the directors otherwise provide by resolution, the director—

- 5 (a) Shall not take part after the disclosure in any deliberation or decision of the directors relating to the arrangement or agreement; and
(b) Shall be disregarded for the purpose of forming a quorum for any such deliberation or decision.

10 **13. Meetings of directors**—(1) The first meeting of the directors shall be held at a time and place to be appointed by the Minister.

(2) Subsequent meetings shall be held at such times and places as the directors or the Chairman may appoint.

15 (3) The Chairman may at any time, and shall whenever requested in writing to do so by not less than 3 directors, call a special meeting.

(4) At any meeting, not less than 4 directors shall be a quorum.

20 (5) The Chairman shall preside at all meetings at which he is present.

(6) If the Chairman is absent from a meeting—

(a) The Deputy Chairman shall preside if he is present:

(b) The members present shall appoint one of their number to preside if the Deputy Chairman is not present.

25 (7) Every question before a meeting shall be decided by a majority of the votes cast by the directors present at the meeting.

(8) At any meeting, the Chairman or other person presiding shall have a deliberative vote, and in the case of an equality of votes he shall also have a casting vote.

30 (9) Subject to the other provisions of this Act, the directors may regulate their own procedure as they think fit.

14. Committees—(1) The Corporation may from time to time appoint committees consisting of such directors as it
35 thinks fit.

(2) Subject to the other provisions of this Act and to any directions given by the Corporation, each committee may regulate its own procedure as it thinks fit.

40 **15. Personal liability of directors**—No director shall be personally liable for any act done or default made in good faith by the Corporation or any committee of directors or any director in the course of operations of the Corporation or of any committee.

16. Insurance of directors—(1) The Corporation may from time to time enter into contracts of insurance insuring directors against loss from personal accident arising out of and in the course of the exercise and performance of their functions, powers, and duties as directors, and may pay the premiums payable in respect of such contracts. 5

(2) The Corporation may pay the net proceeds received by it under any such contract of insurance to the director affected or to his personal representative, as the case may require. 10

(3) This section shall continue to apply until Part III of the Accident Compensation Act 1972 comes into force, and shall then expire and be deemed to be repealed.

PART II

FINANCIAL PROVISIONS 15

17. Capital of Corporation—(1) The capital of the Corporation shall be \$2,000,000, which shall be paid to it by the Minister of Finance, out of the National Development Loans Account without further appropriation than this section, when it is in the opinion of the Minister of Finance required by the Corporation. 20

(2) The Minister of Finance may pay the capital of the Corporation to it under subsection (1) of this section either in a lump sum or by such instalments as he thinks fit.

18. Borrowing powers—The Corporation may from time to time, with the consent of the Minister of Finance and subject to such conditions (if any) as he thinks fit, borrow money and issue debentures or mortgage or charge any of its real or personal property. 25

19. Advances to Corporation—(1) The Minister of Finance may from time to time, on behalf of Her Majesty the Queen— 30

(a) Advance money to the Corporation; and

(b) Give in respect of any advance made to the Corporation by any other person any guarantee, indemnity, or security— 35

on such conditions (if any) as the Minister of Finance thinks fit.

(2) All money (to be paid by the Minister of Finance) required by the Minister of Finance to be paid under this section shall, without further appropriation than this 40

section, be paid out of the Consolidated Revenue Account or out of the National Development Loans Account. Where any payment under this section is made out of the National Development Loans Account, the authority of the Minister of Finance to borrow money under section 11 of the New Zealand Loans Act 1953 shall be deemed to be extended as if the money so paid had been authorised to be transferred from the National Development Loans Account to another fund or account as mentioned in that section.

10 (3) The Minister of Finance may from time to time, on behalf of Her Majesty the Queen, enter into agreements with the Corporation for the purpose of giving effect to this section.

20. **Bank accounts**—(1) The Corporation may establish at the Reserve Bank of New Zealand, or at any branch of any trading bank in New Zealand, such accounts as the Corporation thinks fit for the purposes of this Act.

(2) Subject to the Reserve Bank of New Zealand Act 1964 and to any regulations made under that Act, the Corporation may establish at any bank or branch of a bank outside New Zealand such accounts as the Corporation thinks fit for the purposes of this Act.

(3) Every such account shall be operated upon only by cheque or other instrument (not being a promissory note or bill) signed by any person who is authorised in that behalf by the Corporation, and countersigned by any other person who is so authorised.

21. **Investment of money belonging to Corporation**—Any money belonging to the Corporation and available for investment may be invested:

- (a) In New Zealand Government securities; or
- (b) On deposit in any trading bank; or
- (c) On deposit in any bank outside New Zealand for the time being authorised for that purpose by the Minister of Finance:
- 35 (d) In such securities as are from time to time authorised by the Minister of Finance.

22. **Disposition of profits**—(1) *The Corporation shall establish a Reserve Fund into which shall be transferred in each financial year such amount or amounts (if any) as it thinks fit by way of reserves.*

(2) After allowing for transfers to reserves pursuant to subsection (1) of this section and making provision for accumulated losses, the Corporation shall in each financial year declare a dividend on the capital of the Corporation of such amount as may be fixed by the Minister of Finance.) 5

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(1) The Corporation shall establish and maintain a Reserve Fund.

(2) After making provision for accumulated losses, tax liability, rates, and such other matters as the Corporation thinks proper, the Corporation shall in each financial year transfer to the Reserve Fund by way of reserves such amount or amounts (if any) as it thinks fit from its surplus profits. 10

(2A) After making provision for all of the matters referred to in subsection (2) of this section, the Corporation may in each financial year declare a dividend on the capital of the Corporation of such amount as may be fixed by the Minister of Finance. 15

(3) Notwithstanding subsection (2A) of this section the Minister of Finance, having regard to the financial position of the Corporation, may decide that no dividend shall be payable by the Corporation in respect of any particular financial year. 20

(4) The amount of any dividend declared under this section shall be paid by the Corporation into the Public Account. 25

23. Unauthorised expenditure—In any financial year the Corporation may expend for purposes not authorised by this Act or any other enactment any sum or sums not amounting in the aggregate to more than \$1,000. 30

24. Accounts—The Corporation shall at all times keep, in such form as the Minister of Finance may require or approve, full and correct records and accounts of all its financial transactions, assets, liabilities, and funds.

25. Audit of accounts—(1) As soon as reasonably practicable after the end of each financial year, the Corporation shall prepare a balance sheet, profit and loss account, and statement of source and application of funds, and such other statements of account as are necessary to show fully the financial position of the Corporation and the financial results of its operations during that year. 35 40

(2) The balance sheet, statement, and other accounts shall be audited by the Audit Office, which for that purpose shall have the same powers as it has under the Public Revenues Act 1953 in respect of public money and stores and the audit
5 of local authorities' accounts.

26. Annual report—(1) As soon as reasonably practicable after the end of every financial year the Corporation shall send to the Minister a report of its proceedings and operations for that year together with a copy of its audited accounts for that
10 year and the report of the Audit Office on those accounts.

(2) A copy of the report and of the accounts of the Corporation, together with a copy of the report of the Audit Office on the accounts, shall be laid before Parliament as soon as practicable after their receipt by the Minister.

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PART III

GENERAL PROVISIONS

27. Directions by Minister—(1) The Minister may from time to time give to the Corporation in writing such directions as he thinks fit, as to the exercise of the functions or powers
20 of the Corporation.

(2) The Corporation shall, in the exercise of its functions and powers give effect to any written directions given to it by the Minister under subsection (1) of this section.

28. Employees and agents of Corporation—(1) The Corporation may from time to time appoint a General Manager and such other officers and employees of the Corporation (including salesmen to represent it in overseas markets) as it considers necessary for the effective and efficient carrying out of the functions of the Corporation.

30 (2) The Corporation may from time to time engage agents (whether in New Zealand or elsewhere) for the conduct of its operations under this Act.

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35 (3) The Corporation may pay to any of such officers, employees, and agents, out of the funds of the Corporation, such remuneration and allowances as the Corporation with the approval of the Minister of Finance from time to time determines.

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(3) The Corporation may pay to any of its officers, employees, and agents, out of its funds, such remuneration and allowances as it may from time to time determine, in accordance with scales from time to time approved by the Minister of Finance. 5

(4) The Corporation may for the purpose of providing a superannuation fund or retiring allowance for any of the officers or employees of the Corporation, subsidise out of the funds of the Corporation any scheme under the National Provident Fund Act 1950 containing provision for employer subsidy or any other scheme approved by the Minister of Finance. 10

29. Acquisition of houses for use of employees—(1) The Corporation may, if in its opinion it is expedient to assist its officers or employees to acquire housing accommodation, whether within or outside New Zealand,— 15

- (a) Take on lease, rent, or purchase land on which houses are erected, or flats; or
- (b) Purchase land and erect houses or flats; or 20
- (c) Take on lease or rent furnished houses or flats; or
- (d) Make advances, on such terms and conditions as it thinks fit, to its officers or employees for the purpose of enabling them to purchase for their own use land on which houses or flats are erected or to be erected, or to erect houses or flats for their own use. 25

(2) Where, pursuant to subsection (1) of this section, the Corporation —

- (a) Takes on lease, rents, or purchases any land on which a house is erected, or any flat; or 30
- (b) Erects a house or flat on any land that it has purchased; or
- (c) Takes on lease or rents any furnished house or flat— it may let the house or flat, or if it is unfurnished and is situated outside New Zealand, furnish it and let it, to any officer or employee of the Corporation for such term and at such rent and otherwise on such terms and conditions as it thinks fit. 35

30. Protection of name—(1) No company or other body shall be incorporated or registered under any Act or otherwise under the name “New Zealand Export-Import Corpora- 40

tion” or under any other name that in the opinion of the Registrar of Companies so resembles the name of the Corporation as to be calculated to deceive.

5 (2) No person other than the Corporation shall, by himself or with any other person or persons, trade or carry on business under the name “New Zealand Export-Import Corporation” or under any other name so resembling the name of the Corporation as to be calculated to deceive.

10 (3) Any person who contravenes subsection (2) of this regulation commits an offence and shall be liable on summary conviction to a fine not exceeding \$100 and to a further fine not exceeding \$10 for each day on which the offence has continued.

New

15 (4) Notwithstanding subsections (2) and (3) of this section, no company or other body incorporated or registered before the commencement of this Act commits an offence by reason only of the fact that by itself it trades or carries on business after the commencement of this Act under its
20 incorporated or registered name.

New

31. Corporation not an instrument of Executive Government—The Corporation is not an instrument of the Executive Government of New Zealand.