



**THE UNITED NATIONS SANCTIONS (HAITI)
REGULATIONS 1994**

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 7th day of June 1994

Present:

THE RIGHT HON. D. C. MCKINNON PRESIDING IN COUNCIL

PURSUANT to the United Nations Act 1946, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and for the purpose of giving effect to a resolution of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on the 16th day of June 1993, and to a resolution of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on the 6th day of May 1994, calling upon the Government of New Zealand and all other member states of the United Nations to apply in respect of Haiti the measures set out in those resolutions, hereby makes the following regulations.

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the United Nations Sanctions (Haiti) Regulations 1994.

(2) These regulations shall come into force on the 10th day of June 1994.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“The Customs Acts”, “Collector”, and “Comptroller” have the same meaning as in the Customs Act 1966:

“Importer” has the same meaning as in the Customs Act 1966:

“Money” includes—

(a) The bank notes and other currency, postal notes, and money orders of New Zealand or any other country; and

(b) Promissory notes and bills of exchange; and

(c) Any credit in an account with any person, whether that account is held in New Zealand or outside New Zealand:

“New Zealand” includes Tokelau:

“New Zealand aircraft” means any aircraft that is registered or required to be registered in New Zealand under the Civil Aviation Act 1990:

“New Zealand ship” means a ship registered in New Zealand, or recognised by the law of New Zealand as a ship belonging to New Zealand:

“Securities”—

(a) Includes shares, stock, bonds, debentures, debenture stock, mortgages, liens, treasury bills, coupons or warrants representing dividends or interest, and life or endowment insurance policies, in whatever currency the securities are expressed and whether they are situated in New Zealand or elsewhere; and

(b) Also includes any document or means whereby the right to the ownership or provision of any money or security, or any interest therein, may be exercised; but

(c) Does not include promissory notes or bills of exchange.

(2) Any reference in these regulations to the transfer of any security includes a reference to a transfer of the security by way of loan, mortgage, pledge, or bailment, whether in respect of a legal or an equitable interest.

Prohibited Imports

3. Importation of goods from Haiti prohibited—(1) Except with the consent of the Minister of Foreign Affairs and Trade, the importation into New Zealand of any goods being the produce or manufacture of Haiti is hereby prohibited.

(2) Subclause (1) of this regulation shall not apply with respect to any goods, in respect of which the Minister of Customs is satisfied that they had been exported from Haiti on or before the 6th day of May 1994.

4. Application of Customs Acts to prohibited imports—All the provisions of the Customs Acts with respect to prohibited imports (except the provisions as to monetary penalties in section 48 (10) of the Customs Act 1966) shall extend and apply with respect to goods whose importation is prohibited by regulation 3 of these regulations, in all respects as if the importation of the goods were prohibited under section 48 of the Customs Act 1966.

5. Detention of, and payment for, prohibited imports—(1) If a Collector has reason to suspect that any goods imported into New Zealand are goods whose importation is prohibited by regulation 3 of these regulations, he or she may detain the goods.

(2) The importer of any such goods for which payment has not been made shall pay the purchase price of the goods into a Trust Bank Account operated under Part VII of the Public Finance Act 1989 by the Customs Department.

(3) Where any such goods have been imported into New Zealand before the commencement of these regulations, and payment for the goods has not been made or has not been fully made, all money payable by the importer in respect of the goods shall be paid into the account referred to in subclause (2) of this regulation, and not otherwise.

(4) All money in the said account shall be dealt with in such manner as the Minister of Finance may direct.

(5) Money paid into the said account shall not be money deposited for the purposes of section 284 of the Customs Act 1966.

(6) If any dispute arises as to the purchase price of any such goods imported into New Zealand or as to the date of payment thereof, the Comptroller may determine the matter, and the decision of the Comptroller shall be final.

Prohibited Exports

6. Exportation of goods to Haiti prohibited—Except with the consent of the Minister of Foreign Affairs and Trade, the exportation from New Zealand to Haiti, whether directly or indirectly, of any goods is hereby prohibited.

7. Application of Customs Acts to prohibited exports—All the provisions of the Customs Acts with respect to prohibited exports (except subsection (6A) of section 70 of the Customs Act 1966) shall extend and

apply with respect to goods whose exportation is prohibited by regulation 6 of these regulations, in all respects as if the exportation of the goods were prohibited under section 70 of the Customs Act 1966.

8. Detention of prohibited exports—If a Collector has reason to suspect that any goods being exported are goods whose exportation is prohibited by regulation 6 of these regulations, that Collector may detain the goods.

9. Loading of prohibited exports onto ships or aircraft prohibited—The master of a ship or the pilot in command of an aircraft shall not permit to be laden in the ship or aircraft any goods whose exportation is prohibited by regulation 6 of these regulations, knowing that the goods are intended to be exported in contravention of that regulation.

10. Power to withhold clearance of ship or aircraft—A Collector may withhold the clearance of any ship or aircraft so long as there are on board the ship or aircraft any goods known to that Collector to be goods whose exportation is prohibited by regulation 6 of these regulations.

Prohibited Transactions in Relation to Exports from Haiti

11. Prohibited transactions in relation to exports from Haiti—

(1) Except with the consent of the Minister of Foreign Affairs and Trade, no person shall in New Zealand, and no New Zealand citizen shall in any place outside New Zealand, enter into or be concerned in any sale, transfer, carriage, or delivery of or other dealing with any goods, knowing that they are being or have been or are intended to be exported from Haiti.

(2) Notwithstanding anything in subclause (1) of this regulation, it shall, in any prosecution for an offence against that subclause, be a defence to prove that the goods were exported from Haiti on or before the 6th day of May 1994.

12. Prohibition on promotion of exportation or transshipment of goods from Haiti—Except with the consent of the Minister of Foreign Affairs and Trade, no person shall in New Zealand, and no New Zealand citizen shall in any place outside New Zealand, do any act knowing that it promotes or is calculated to promote the exportation from Haiti of any goods or the transshipment of any goods exported from Haiti.

Prohibited Transactions in Relation to Imports

13. Prohibited transactions in relation to imports into Haiti—Except with the consent of the Minister of Foreign Affairs and Trade, no person shall in New Zealand, and no New Zealand citizen shall in any place outside New Zealand, enter into or be concerned in any sale, transfer, carriage, or delivery of or other dealing with any goods, knowing that—

- (a) They are intended to be imported into Haiti; or
- (b) They are to be supplied or delivered to or to the order of any person in Haiti; or
- (c) They will be used for the purposes of any business carried on in or operated from Haiti.

14. Prohibition on promotion of importation of goods into Haiti—Except with the consent of the Minister of Foreign Affairs and Trade, no person shall do any act knowing that it promotes or is calculated

to promote the importation into Haiti of any goods, or the carrying out of any act that is contrary to regulation 13 of these regulations.

Prohibitions in Relation to Money, Securities, and Assets

15. Prohibition in relation to transfer or delivery of money or securities—(1) This regulation applies to money or securities which—

- (a) Are the property of the Government of Haiti or of the de facto authorities in Haiti; or
- (b) Are controlled, directly or indirectly, by the Government of Haiti or by the de facto authorities in Haiti; or
- (c) Are controlled, directly or indirectly, by entities, wherever located or organised, which are owned or controlled by the Government of Haiti or the de facto authorities in Haiti.

(2) Except with the consent of the Minister of Finance, no person shall in New Zealand, and no New Zealand citizen shall in any place outside New Zealand, send, transfer, or deliver, or cause to be sent, transferred, or delivered, whether directly or indirectly, any money or securities to which this regulation applies to the Government of Haiti or the de facto authorities in Haiti.

16. Prohibition on dealings in assets, money, or securities in New Zealand—Except with the consent of the Minister of Finance, no person shall knowingly transfer, pay for, sell, assign, dispose of, or otherwise deal with any assets, money, or securities held or controlled, directly or indirectly, in New Zealand by—

- (a) The Government of Haiti or the de facto authorities in Haiti; or
- (b) Entities, wherever located or organised, that are owned or controlled by the Government of Haiti or the de facto authorities in Haiti.

Prohibition on Carriage of Goods

17. Prohibition on carriage of goods to or from Haiti—(1) This regulation applies to—

- (a) Any New Zealand ship:
- (b) Any New Zealand aircraft:
- (c) Any other ship or aircraft that is for the time being chartered to any person, being a New Zealand citizen or a body incorporated or constituted under the law of New Zealand.

(2) Without prejudice to the generality of the foregoing provisions of these regulations, no ship or aircraft to which this regulation applies shall be used for the carriage of any goods—

- (a) If the goods are being or have been exported from Haiti; or
- (b) If the carriage is, or forms part of, carriage from any place outside Haiti to any destination in Haiti or to any person for the purposes of any business carried on in or operated from Haiti.

(3) Nothing in subclause (2) (a) of this regulation shall apply in any case where it is proved that the goods were exported from Haiti on or before the 6th day of May 1994.

(4) Nothing in this regulation shall apply to any carriage of goods in respect of which the consent of the Minister of Foreign Affairs and Trade has been given under any other provision of these regulations.

18. Liability of owner, charterer, master, or pilot in command—

(1) If any ship or aircraft is used in contravention of regulation 17 (2) (a) of these regulations, then,—

- (a) In the case of a New Zealand ship or aircraft, the owner and the master of the ship or, as the case may be, the owner and the pilot in command of the aircraft; or
- (b) In the case of any other ship or aircraft, the charterer of the ship or aircraft and, if the master of the ship or pilot in command of the aircraft is a New Zealand citizen, such master or pilot in command—

shall each be guilty of an offence against these regulations, unless he or she proves that he or she did not know and had no reason to suppose that the goods were being or had been exported from Haiti.

(2) If any ship or aircraft is used in contravention of regulation 17 (2) (b) of these regulations, then,—

- (a) In the case of a New Zealand ship or aircraft, the owner and the master of the ship or, as the case may be, the owner and the pilot in command of the aircraft; or
- (b) In the case of any other ship or aircraft, the charterer of the ship or aircraft and, if the master of the ship or pilot in command of the aircraft is a New Zealand citizen, such master or pilot in command—

shall each be guilty of an offence against these regulations, unless he or she proves that he or she did not know and had no reason to suppose that the carriage of goods was, or formed part of, carriage from any place outside Haiti to any destination therein or to any person for the purposes of any business carried on in or operated from Haiti.

(3) In this regulation, the terms “owner” and “charterer”, in relation to a ship, include any person acting as the agent of the owner or, as the case may be, the agent of the charterer.

Prohibition in Relation to Movements of Aircraft

19. Prohibition on take off, landing, or passage of aircraft—

(1) Subject to subclause (3) of this regulation, except with the consent of the Minister of Foreign Affairs and Trade, no person shall cause any aircraft—

- (a) To take off from any destination in New Zealand if the ultimate destination of the aircraft is in Haiti; or
- (b) To land at any destination in New Zealand if the aircraft has initially taken off from Haiti; or
- (c) To fly over New Zealand or any part of New Zealand if the ultimate destination of the aircraft is in Haiti or if the aircraft has initially taken off from Haiti.

(2) Subject to subclause (3) of this regulation, except with the consent of the Minister of Foreign Affairs and Trade, no person shall permit or authorise any aircraft—

- (a) To take off from any destination in New Zealand if that person has reason to suspect that the ultimate destination of the aircraft is in Haiti; or
- (b) To land at any destination in New Zealand if that person has reason to suspect that the aircraft has initially taken off from Haiti; or
- (c) To fly over New Zealand or any part of New Zealand if that person has reason to suspect that the ultimate destination of the aircraft is in Haiti or if the aircraft has initially taken off from Haiti.

(3) Nothing in this regulation shall apply to regularly scheduled commercial passenger flights.

Prohibition on Movement of New Zealand Ships

20. Prohibition on entry by New Zealand ships into territorial sea of Haiti—Except with the consent of the Minister of Foreign Affairs and Trade or in case of *force majeure*, no New Zealand ship engaged in commercial trade shall enter the territorial sea of Haiti.

21. Liability of owner and master of ship—If any ship is used in contravention of regulation 20 of these regulations, then the owner and the master of the ship shall each be guilty of an offence against these regulations.

Miscellaneous Provisions

22. Offences—Every person commits an offence against these regulations and shall be liable accordingly under section 3 of the United Nations Act 1946, who acts in contravention of or fails to comply in any respect with any of the provisions of these regulations.

23. Consent of Attorney-General to proceedings in certain cases—Proceedings for the trial and punishment of any person who is charged with having committed outside New Zealand any offence against these regulations shall not be instituted in any Court except with the consent of the Attorney-General and on his or her certificate that it is expedient that the proceedings be instituted.

24. Customs Acts not affected—Nothing in these regulations shall limit or affect the operation of the Customs Acts.

25. Revocation—The United Nations Sanctions (Haiti) Regulations 1993* are hereby revoked.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 10 June 1994, replace the United Nations Sanctions (Haiti) Regulations 1993. Those regulations were made for the purpose of giving effect to a resolution of the Security Council of the United Nations adopted on 16 June 1993.

On 6 May 1994 the Security Council adopted a further resolution imposing more comprehensive sanctions in respect of Haiti. These regulations give effect to that resolution, and also continue the sanctions in place under the earlier resolution.

These regulations:

- (a) Prohibit the importation into New Zealand of any goods being the produce or manufacture of Haiti:
- (b) Prohibit the exportation from New Zealand to Haiti of any goods:
- (c) Provide that no person in New Zealand and no New Zealand citizen in any place outside New Zealand shall enter into or be concerned in any sale, transfer, carriage, or delivery of or other dealing with any goods being exported from Haiti or being imported into Haiti:
- (d) Provide that no person in New Zealand and no New Zealand citizen in any place outside New Zealand shall promote the exportation of goods from Haiti or the transshipment of goods exported from Haiti:
- (e) Prohibit the transfer or delivery of money or securities owned or controlled by the Government of Haiti or the de facto authorities in Haiti to that Government or those de facto authorities:
- (f) Prohibit any dealing in assets, money, or securities in New Zealand that are owned or controlled by the Government of Haiti or the de facto authorities in Haiti:
- (g) Prohibit the carriage of goods being exported from or imported into Haiti by any New Zealand ship or New Zealand aircraft or any ship or aircraft chartered by a New Zealand citizen or body corporate:
- (h) Prohibit the taking off from, landing in, or passage over New Zealand of any aircraft (except an aircraft on a regularly scheduled commercial passenger flight) if that aircraft has come from or is destined for Haiti:
- (i) Prohibit the entry by New Zealand ships into the territorial sea of Haiti.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 9 June 1994.

These regulations are administered in the Ministry of Foreign Affairs and Trade.