



United Nations Sanctions (Lebanon) Regulations 2008

Anand Satyanand, Governor-General

Order in Council

At Wellington this 18th day of August 2008

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 2 of the United Nations Act 1946, His Excellency the Governor-General, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) for the purpose of giving effect to resolutions 1636 (2005) and 1701 (2006) of the Security Council of the United Nations, adopted under the United Nations Charter, calling upon the Government of New Zealand and all other member States of the United Nations to apply in respect of Lebanon the measures set out in those resolutions,—

makes the following regulations.

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Regulations

1 Title

These regulations are the United Nations Sanctions (Lebanon) Regulations 2008.

2 Commencement

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

3 Interpretation

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

arms includes—

- (a) related materiel of all types (for example, weapons, ammunition, military aircraft, vehicles, and equipment, and paramilitary equipment); and
- (b) spare parts for any arms, or for any goods specified in paragraph (a)

Committee means the Committee established under paragraph 3(b) of resolution 1636 of the Security Council of the United Nations

the Customs and **Customs officer** have the same meaning as in section 2(1) of the Customs and Excise Act 1996

designated person means a person designated under paragraph 3 of resolution 1636

Minister means the Minister of Foreign Affairs

money includes—

- (a) the banknotes and other currency 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

New Zealand aircraft means an 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

security—

- (a) includes a share, stock, bond, debenture, debenture stock, mortgage, lien, treasury bill, coupon or warrant representing dividends or interest, and a life or endowment insurance policy, in whatever currency the security is expressed; and
 - (b) also includes any document or means by which the right to the ownership or provision of any money or security, or any interest in money or a security, may be exercised; but
 - (c) does not include a promissory note or bill of exchange.
- (2) A reference in these regulations to the transfer of a security includes a reference to a transfer of a security by way of loan, mortgage, pledge, or bailment, whether in respect of a legal or an equitable interest.
- (3) The Minister may publish, in any manner the Minister thinks fit (for example, by notice in the *Gazette*, or publication on the Internet, or both),—
- (a) a list of the names of any persons designated under paragraph 3 of resolution 1636; and
 - (b) any additions to, or deletions from, the lists referred to in paragraph (a).

*Exportation of arms***4 Exportation of arms to Lebanon**

- (1) No person in New Zealand, and no New Zealand citizen in any place outside New Zealand, may directly or indirectly export arms from New Zealand to Lebanon.
- (2) Subclause (1) does not apply to particular arms or to arms of a particular class if the Minister has consented to that exportation of those goods.
- (3) Subclause (1) does not apply to arms, related materiel, training, or assistance authorised in advance in writing by the Government of Lebanon or by the United Nations Interim Force in Lebanon (UNFIL)

Compare: SR 2005/339 r 4

5 Customs and Excise Act 1996 to apply to prohibited exports

All provisions of the Customs and Excise Act 1996 with respect to prohibited exports (except section 209) apply with respect to goods whose exportation is prohibited by regulation 4 in all respects as if the exportation of the goods were prohibited under section 56 of that Act.

Compare: SR 2005/339 r 5

6 Detention of prohibited exports

A Customs officer may detain any goods he or she suspects on reasonable grounds to be goods whose exportation is prohibited by regulation 4.

Compare: SR 2005/339 r 6

7 Prohibited exports not to be loaded onto ships or aircraft

The master of a ship or the pilot in command of an aircraft must not permit to be laden in the ship or aircraft any goods whose exportation is prohibited by regulation 4, knowing that the goods are intended to be exported in contravention of that regulation.

Compare: SR 2005/339 r 7

8 Power to withhold clearance of ship or aircraft

The Customs may withhold the clearance of any ship or aircraft so long as there are on board the ship or aircraft any goods any Customs officer knows to be goods whose exportation is prohibited by regulation 4.

Compare: SR 2005/339 r 8

9 Exceptions

- (1) Nothing in regulations 4 to 8 applies to any act or thing authorised by a consent under subclause (2).
- (2) The Minister may consent to the doing of any act or thing described in any of those regulations if satisfied that—
 - (a) Security Council resolutions do not intend that the act or thing be prohibited; or
 - (b) the act or thing has been approved by the Security Council of the United Nations.

*Dealings with arms***10 Transactions with persons in Lebanon in relation to arms prohibited**

- (1) No person in New Zealand, and no New Zealand citizen in any place outside New Zealand, may enter into, or be concerned in, any sale, transfer, carriage, or delivery of, or other dealing with, any of the goods whose exportation is prohibited by regulation 4, knowing that those goods—
 - (a) are intended to be imported by a person within Lebanon; or
 - (b) are to be supplied or delivered to, or to the order of, a person within Lebanon.
- (2) Subclause (1) does not apply to particular goods or to goods of a particular class if—
 - (a) the Minister has consented to that sale, transfer, carriage, or delivery of, or other dealing with, those goods; or
 - (b) regulation 4(3) applies to the goods.

Compare: SR 2005/339 r 9

*Carriage of arms***11 Carriage of arms to Lebanon prohibited**

- (1) No ship or aircraft may be used for the carriage of any of the goods whose exportation is prohibited by regulation 4 if the carriage is, or forms part of, the carriage of those goods from any place to Lebanon.
- (2) Subclause (1) does not apply if—
 - (a) the Minister has consented to that carriage of goods under regulations 4(2) or 10(2); or
 - (b) regulation 4(3) applies to the goods.
- (3) In subclause (1), **ship or aircraft** means—
 - (a) any New Zealand ship or New Zealand aircraft (as those terms are defined in regulation 3(1)); or
 - (b) any other ship or aircraft that is, for the time being, chartered to any New Zealand citizen, or to any body incorporated or constituted under the law of New Zealand.
- (4) Subclause (1) does not limit any of regulations 4 to 10.

Compare: SR 2005/339 r 10

12 Liability of owner, charterer, master, or pilot in command

- (1) If any ship or aircraft is used in contravention of regulation 11, each of the following persons is guilty of an offence against these regulations:
 - (a) in the case of a New Zealand ship or New Zealand aircraft (as those terms are defined in regulation 3(1)), the owner and the master of the ship or, as the case requires, the owner and the pilot in command of the aircraft;
 - (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, the master or pilot in command.
- (2) However, it is a defence to any such offence if the person concerned proves that he or she did not know and had no reason to suppose—
 - (a) that the goods carried on the ship or aircraft were or included arms; or
 - (b) that the carriage of the arms was, or formed part of, the carriage of goods from any place to Lebanon.
- (3) In this regulation, **owner** and **charterer**, in relation to a ship, include any person acting as the agent of the owner or, as the case requires, the agent of the charterer.

Compare: SR 2005/339 r 11

*Provision of assistance, advice, or training
relating to military activities*

13 Provision to Lebanon of assistance, advice, or training relating to military activities prohibited

- (1) No person in New Zealand, and no New Zealand citizen in any place outside New Zealand, may provide to, or at the request of, any person within Lebanon, any assistance, advice, or training related to military activities.
- (2) The assistance, advice, or training referred to in subclause (1) includes, without limitation, any technical assistance or training relating to the provision, manufacture, maintenance, or use of arms.
- (3) Subclause (1) does not apply if—

- (a) the Minister has consented to the provision of the assistance, advice, or training; or
- (b) regulation 4(3) applies to the assistance, advice, or training.

Compare: SR 2005/339 r 12

Funds of or for designated persons or entities

14 Prohibition on dealings in assets, money, or securities of, or derived from property of, designated persons

- (1) No person may knowingly transfer, pay for, sell, assign, dispose of, or otherwise deal with any asset, money, or security—
 - (a) that is owned or controlled, directly or indirectly, by a designated person or a person or entity acting on behalf, or at the direction, of a designated person; and
 - (b) that is located in New Zealand.
- (2) Subclause (1) does not apply if the Minister has consented under regulation 16 to that transfer, sale, assignment, or disposal of, payment for, or other dealing with, the asset, money, or security.
- (3) It is a defence to a prosecution under this regulation in respect of any asset, money, or security derived or generated from any asset, money, or security of the kind specified in subclause (1)(a) (a **restricted item**) if the defendant proves that he or she received the asset, money, or security in good faith, at a time when he or she did not know that it was a restricted item or derived or generated from a restricted item.

Compare: SR 2005/339 r 14

15 Prohibition on sending funds, etc, to designated persons

- (1) No person in New Zealand, and no New Zealand citizen in any place outside New Zealand, may knowingly send, transfer, or deliver, or knowingly cause to be sent, transferred or delivered, whether directly or indirectly, any asset, money, or security—
 - (a) to a designated person or a person or entity acting on behalf, or at the direction, of a designated person; or
 - (b) for the benefit of a designated person or a person or entity acting on behalf, or at the direction, of a designated person.

- (2) Subclause (1) does not apply if the Minister has consented under regulation 16 to that sending, transfer, or delivery of the asset, money, or security.

Compare: SR 2005/339 r 15

16 Exceptions to regulations 14 and 15

- (1) Nothing in regulation 14(1) or 15(1) applies to any dealing authorised by a consent under subclause (2).
- (2) The Minister may consent to any dealing with an asset, money, or security if the Minister is satisfied that the Committee has determined under paragraph 2(ii) of the Annex to resolution 1636 of the Security Council of the United Nations that the dealing is necessary for basic expenses.

Entry and transit of designated persons

17 Designated persons to enter New Zealand only if consistent with determinations of Security Council

- (1) No person who is a designated person may enter New Zealand, or transit through New Zealand, if the entry or transit would be contrary to a determination of the Security Council made under Article 41 of the Charter of the United Nations.
- (2) Subclause (1) does not apply so as to prevent a designated person from entering or transiting through New Zealand if—
- (a) the Committee has determined that the travel is justified on the grounds of humanitarian need, including religious obligations; or
 - (b) the Committee has concluded that the travel would otherwise further the objectives of the Security Council's resolutions.
- (3) Subclause (1) does not apply to a designated person who is a New Zealand citizen.
- (4) A permit or visa may be granted or issued, under the Immigration Act 1987, to a designated person only on the advice of the Secretary of Foreign Affairs and Trade that the permit or visa is consistent with subclause (1).

- (5) This regulation operates in addition to the requirements of the Immigration Act 1987 and of any regulations made under that Act.

Compare: SR 2005/339 r 13

Miscellaneous provisions

18 Offences

Every person commits an offence against these regulations, and is 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.

Compare: SR 2005/339 r 16

19 Attorney-General's consent and certificate in certain cases

If an offence against these regulations is alleged to have been committed outside New Zealand, a prosecution for the offence may not be commenced without—

- (a) the Attorney-General's consent; and
- (b) the Attorney-General's certificate that it is expedient that the proceedings be commenced.

Compare: SR 2005/339 r 17

20 Customs and Excise Act 1996 not affected

These regulations do not affect the operation of the Customs and Excise Act 1996.

Compare: SR 2005/339 r 18

Rebecca Kitteridge,
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 28 days after the date of their notification in the *Gazette*, give effect to Security Council resolutions 1636 (2005) and 1701 (2006) calling upon the Government of New Zealand and all other member States of the United Nations to apply in respect of Lebanon the measures set out in those resolutions.

The measures include—

- a prohibition on the direct or indirect supply, sale, or transfer to Lebanon, through New Zealand or using vessels or aircraft, of arms and related materiel of all types, as well as related training assistance, subject to specified exceptions:
- the freezing of funds, other financial assets, and economic resources in New Zealand that are owned or controlled by persons registered by the Lebanon Sanctions Committee, subject to specified exceptions:
- a travel ban against persons from Lebanon suspected of involvement in the Hariri bombing in 2005, subject to exceptions.

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

Date of notification in *Gazette*: 21 August 2008.

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