



Security Council

Distr.
GENERAL

S/21547
17 August 1990

ORIGINAL: ENGLISH

NOTE VERBALE DATED 17 AUGUST 1990 FROM THE CHARGE D'AFFAIRES A.I.
OF THE PERMANENT MISSION OF NEW ZEALAND TO THE UNITED NATIONS
ADDRESSED TO THE SECRETARY-GENERAL

The Chargé d'affaires a.i. of the Permanent Mission of New Zealand to the United Nations presents her compliments to the Secretary-General of the United Nations and has the honour to refer to her note of 16 August in which she reported on the interim measures taken by the Government of New Zealand to give effect to the sanctions imposed on Iraq and Kuwait by the Security Council in its resolution 661 (1990).

The Chargé d'affaires is now able to advise that comprehensive regulations implementing the sanctions fully in New Zealand law have been promulgated. These regulations enter into force on 18 August and supersede the interim measures taken earlier.

The Chargé d'affaires would be grateful to have this information drawn to the attention of the first meeting of the Security Council Committee on the implementation of resolution 661 (1990).

Annex

The United Nations Sanctions (Iraq and Kuwait) Regulations 1990

PAUL REEVES

Governor-General

ORDER IN COUNCIL

At Wellington this 17th day of August 1990

Present:

His Excellency the Governor-General in Council

Pursuant to the United Nations Act 1946, His 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 6th day of August 1990, calling upon the Government of New Zealand and all other Member States of the United Nations to apply in respect of Iraq and Kuwait the measures set out in that resolution, 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 (Iraq and Kuwait) Regulations 1990.

(2) These regulations shall come into force on the 18th day of August 1990.

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 1964;

"New Zealand ship" means a ship registered in New Zealand, or recognized 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 Iraq or Kuwait prohibited - (1) The importation into New Zealand of any goods being the produce or manufacture of Iraq or Kuwait 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 Iraq or Kuwait on or before the 6th day of August 1990.

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 Iraq or Kuwait prohibited - Except with the consent of the Minister of External Relations and Trade, the exportation from New Zealand to Iraq or Kuwait, 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

11. Prohibited transactions in relation to exports from Iraq or Kuwait -

(1) 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 Iraq or Kuwait.

(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 Iraq or Kuwait on or before the 6th day of August 1990.

12. Prohibition on promotion of exportation or trans-shipment of goods from Iraq or Kuwait - 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 Iraq or Kuwait of any goods or the trans-shipment of any goods exported from Iraq or Kuwait.

Prohibited transactions in relation to imports

13. Prohibited transactions in relation to imports into Iraq or Kuwait - Except with the consent of the Minister of External Relations 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 Iraq or Kuwait; or

(b) They are to be supplied or delivered to or to the order of any person in Iraq or Kuwait; or

(c) They will be used for the purposes of any business carried on in or operated from Iraq or Kuwait.

14. Prohibition on promotion of importation of goods into Iraq or Kuwait - Except with the consent of the Minister of External Relations and Trade, no person shall do any act knowing that it promotes or is calculated to promote the importation into Iraq or Kuwait of any goods.

Prohibitions in relation to money, securities and assets

15. Prohibition in relation to transfer or delivery of money or securities - (1) 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 -

(a) To the Government of Iraq; or

(b) To the benefit of the Government of Iraq; or

(c) To any commercial undertaking, industrial undertaking, or public utility undertaking in Iraq or Kuwait; or

(d) To the benefit of any commercial undertaking, industrial undertaking, or public utility undertaking in Iraq or Kuwait; or

(e) To any person in Iraq or Kuwait; or

(f) To the benefit of any person in Iraq or Kuwait; or

(g) To the benefit of any business carried on in or operated from Iraq or Kuwait.

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 in New Zealand -

(a) By the Government of Iraq or the Government of Kuwait; or

(b) By any agencies or bodies controlled by the Government of Iraq or the Government of Kuwait.

Prohibition on carriage of goods

17. Prohibition on carriage of goods to or from Iraq or Kuwait - (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 Iraq or Kuwait; or

(b) If the carriage is, or forms part of, carriage from any place outside Iraq or Kuwait to any destination in Iraq or Kuwait or to any person for the purposes of any business carried on in or operated from Iraq or Kuwait.

(3) Nothing in subclause (2) (a) of this regulation shall apply in any case where it is proved that the goods were exported from Iraq or Kuwait on or before the 6th day of August 1990.

(4) Nothing in this regulation shall apply to any carriage of goods in respect of which the consent of the Minister of External Relations 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 Iraq or Kuwait.

(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 Iraq or Kuwait to any destination therein or to any person for the purposes of any business carried on in or operated from Iraq or Kuwait.

(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.

Miscellaneous provisions

19. 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.

20. 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.

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

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 18 August 1990, are for the purpose of giving effect to the resolution of the Security Council of the United Nations, adopted on 6 August 1990.

These regulations prohibit the importation into New Zealand from Iraq or Kuwait and the exportation from New Zealand to Iraq or Kuwait of all goods.

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They also prohibit certain related dealings and transactions, and the carriage of goods in New Zealand ships or New Zealand aircraft.

