



Customs Export Prohibition Order 2002

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 9th day of September 2002

Present:

Her Excellency the Governor-General in Council

Pursuant to section 56 of the Customs and Excise Act 1996, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and being of the opinion that the prohibitions effected by this order are necessary in the public interest, makes the following order.

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Prohibited weapons and dual-use weapon-related exports

Order

1 Title

This order is the Customs Export Prohibition Order 2002.

2 Commencement

This order comes into force on 1 October 2002.

3 Expiry

This order expires on the close of 30 September 2005.

4 Prohibited agriculture exports

The exportation of the following goods is prohibited, except with the consent of, and subject to such conditions (if any) not inconsistent with this prohibition as may be imposed by, the Minister of Agriculture:

- (a) live merino and booroola-merino sheep exported for breeding purposes;
- (b) reproductive material (ova, semen, embryos) of merino and booroola-merino sheep.

5 Prohibited pounamu exports

- (1) The exportation of pounamu in its natural state, and partly or wholly processed pounamu, is prohibited, except with the consent of, and subject to such conditions (if any) not inconsistent with this prohibition as may be imposed by, the Minister of Customs.
- (2) The Minister may give his or her consent as provided in subclause (1) only on written advice—
 - (a) from Te Rūnanga o Ngāi Tahu; or
 - (b) if the pounamu is extracted from the catchment of the Arahura river, from the Māwhera Incorporation.
- (3) This prohibition does not apply to—
 - (a) articles made from pounamu (for example, jewellery, pendants, or sculptures, containing pounamu);
 - (b) consignments that are being exported by a single exporter and in which the total weight of pounamu does not exceed 5 kilograms.
- (4) In this prohibition,—

Māwhera Incorporation has the meaning given to that term by section 8 of the Ngāi Tahu Claims Settlement Act 1998

pounamu has the meaning given to that term by section 2 of the Ngai Tahu (Pounamu Vesting) Act 1997

Te Rūnanga o Ngāi Tahu means Te Rūnanga o Ngāi Tahu as established by section 6 of Te Runanga o Ngai Tahu Act 1996.

6 Prohibited fisheries exports

The exportation of the following goods is prohibited, except with the consent of, and subject to such conditions (if any) not inconsistent with this prohibition as may be imposed by, the Minister of Fisheries:

- (a) live New Zealand greenshell mussels with a shell size of less than 50 mm in length;
- (b) toheroa.

7 Prohibited waste exports

- (1) The exportation of the following goods is prohibited, except with the consent of, and subject to such conditions (if any) not inconsistent with this prohibition as may be imposed by, the Minister of Commerce:

- (a) any hazardous waste;
- (b) any other waste.

- (2) In this prohibition,—

Basel Convention means the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, adopted at Basel on 22 March 1989

hazardous waste means any waste that—

- (a) either—
 - (i) falls into one of the categories of waste specified in Part 1 of Schedule 1; or
 - (ii) has as a constituent any substance specified in Part 2 of Schedule 1; and
- (b) has any of the hazardous characteristics specified in Part 3 of Schedule 1

other waste means—

- (a) any waste collected from households;
- (b) any residue from the incineration of household wastes

waste means any substance or object—

- (a) that is intended to be disposed of by any of the methods specified in Part 4 of Schedule 1; or
 - (b) that is required, by any law of New Zealand, to be disposed of by any of the methods specified in Part 4 of Schedule 1.
- (3) The hazardous waste or other waste that may be exported from New Zealand with the consent of the Minister under this order is any hazardous waste or other waste—

- (a) either—
 - (i) whose exportation is to a country that is a party to the Basel Convention and that has not prohibited the importation of such wastes; or
 - (ii) whose exportation is to a country that has consented, in writing, to the specific importation of such wastes; or
 - (iii) that New Zealand does not have the technical capacity, or the necessary facilities or capacity, or suitable disposal sites, to dispose of in an environmentally sound and efficient manner, and that is able to be so disposed of in the importing country; or
 - (iv) that is required as a raw material for any recycling or recovery industry in the importing country; or
 - (v) whose exportation is in accordance with any criteria decided by the parties to the Basel Convention; and
- (b) whose exportation is otherwise in conformity with New Zealand's obligations under the Basel Convention.

8 Prohibited weapons and dual-use weapon-related exports

The exportation of the goods specified in Schedule 2 is prohibited, except with the consent of, and subject to such conditions (if any) not inconsistent with this prohibition as may be imposed by, the Secretary of Foreign Affairs and Trade.

Schedule 1 Prohibited waste exports

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Part 1 Waste streams

- 1 Clinical waste from medical care in hospitals, medical centres, or clinics.
- 2 Waste from the production or preparation of pharmaceutical products.
- 3 Waste pharmaceuticals, drugs, and medicines.
- 4 Waste from the production, formulation, or use of biocides or phytopharmaceuticals.
- 5 Waste from the manufacture, formulation, or use of wood-preserving chemicals.
- 6 Waste from the production, formulation, or use of organic solvents.
- 7 Waste from heat treatment or tempering operations and containing cyanides.
- 8 Waste mineral oils unfit for originally intended use.
- 9 Waste mixtures of—
 - (i) oil and water:
 - (ii) hydrocarbon and water.
- 10 Waste substances or articles containing, or contaminated with, 1 or more of the following substances:
 - (i) polychlorinated biphenyls (PCBs):
 - (ii) polychlorinated terphenyls (PCTs):
 - (iii) polybrominated biphenyls (PBBs).
- 11 Waste tarry residues arising from refining or distillation, or any pyrolytic treatment.

Part 1—*continued*

- 12 Waste from the production, formulation, or use of inks, dyes, pigments, paints, lacquers, or varnish.
- 13 Waste from the production, formulation, or use of resins, latex, plasticisers, or glues or other adhesives.
- 14 Waste chemical substances—
 - (i) that arise from research and development or teaching activities; and
 - (ii) that are not identified or are new, or both; and
 - (iii) whose effects on humans or the environment, or both, are not known.
- 15 Waste from the production, formulation, or use of photographic chemicals or photographic processing materials.
- 16 Waste resulting from the surface treatment of metals or plastics.
- 17 Waste arising from industrial waste disposal operations.

Part 2

Hazardous constituents

Metal carbonyls
Beryllium and beryllium compounds
Hexavalent chromium compounds
Copper compounds
Zinc compounds
Arsenic and arsenic compounds
Selenium and selenium compounds
Cadmium and cadmium compounds
Antimony and antimony compounds
Tellurium and tellurium compounds
Mercury and mercury compounds
Thallium and thallium compounds
Lead and lead compounds
Inorganic fluorine compounds (excluding calcium fluoride)
Inorganic cyanides
Acidic solutions and acids in solid form
Basic solutions and bases in solid form

Part 2—*continued*

Asbestos (dust or fibres)

Organic phosphorous compounds

Organic cyanides

Phenols and phenol compounds (including chlorophenols)

Ethers

Halogenated organic solvents

Organic solvents (excluding halogenated solvents)

Any congener of polychlorinated dibenzo-furan

Any congener of polychlorinated dibenzo-p-dioxin

Organohalogen compounds (other than any substance referred to elsewhere in this Part of this Schedule)

Part 3

Hazardous characteristics

1 References to flammable

In this Part, “flammable” has the same meaning as the word “inflammable”.

2 Explosive characteristics

A waste has explosive characteristics if—

- (a) that waste is solid or liquid, or contains or is mixed with substances that are solid or liquid; and
- (b) that waste, or any solid or liquid that it contains or that it is mixed with, is capable, by chemical reaction, of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.

3 Liquids that have flammable characteristics

A liquid waste has flammable characteristics if that waste—

- (a) is in liquid form, or is a liquid that contains solids in solution or suspension (including, by way of example only, paints, varnishes, and lacquers); and
- (b) gives off a flammable vapour at temperatures of not more than 60.5°C (using the closed-cup test), or not more than 65.6°C (using the open-cup test).

4 Solids that have flammable characteristics

A solid waste has flammable characteristics if that waste (not being a waste to which clause 2 applies), under conditions

Part 3—*continued*

encountered in transport, is readily combustible, or may cause or contribute to fire through friction.

5 Characteristics of being liable to spontaneous combustion

A waste has the characteristic of being liable to spontaneous combustion if that waste—

- (a) is liable to spontaneous heating under normal conditions encountered in transport; or
- (b) is liable to heating up on contact with air, and, as a result, is liable to catch fire.

6 Wastes that, in contact with water, emit flammable gases

A waste has the characteristic of emitting flammable gases in contact with air if that waste, by interaction with water,—

- (a) is liable to become spontaneously flammable; or
- (b) is liable to give off flammable gases in dangerous quantities.

7 Oxidising characteristics

A waste has oxidising characteristics if that waste, while in itself not necessarily combustible, may, generally by yielding oxygen, cause, or contribute to, the combustion of other materials.

8 Characteristic of being an organic peroxide

- (1) A waste that falls into one of the categories of waste specified in Part 1 has the characteristic of being an organic peroxide if that waste—
 - (a) contains the bivalent -O-O- structure; and
 - (b) is thermally unstable and may undergo exothermic self-accelerating decomposition.
- (2) A waste that has as a constituent any substance specified in Part 2 has the characteristic of being an organic peroxide if that waste is thermally unstable and may undergo exothermic self-accelerating decomposition.

Part 3—*continued***9 Acutely poisonous characteristics**

A waste has the characteristic of being acutely poisonous if that waste is, if it is swallowed or inhaled, or if it has been in contact with skin,—

- (a) liable to cause death or serious injury; or
- (b) liable to harm human health.

10 Characteristics of being infectious

A waste has the characteristic of being infectious if—

- (a) that waste contains viable micro organisms, or toxins of such micro organisms; and
- (b) those micro organisms or those toxins are known to cause, or are suspected of causing, disease in animals or humans.

11 Corrosive characteristics

A waste has corrosive characteristics if that waste, by chemical action,—

- (a) will cause severe damage when in contact with living tissue; or
- (b) in the case of leakage, will materially damage or destroy its means of transport or other goods.

12 Characteristics that result in the liberation of toxic gases where in contact with air or water

A waste has the characteristic of resulting in the liberation of toxic gases where in contact with air or water if that waste, by interaction with air or water, is liable to give off toxic gases in dangerous quantities.

13 Toxic characteristics (delayed or chronic)

A waste has toxic characteristics if that waste, through inhalation, ingestion, or penetration of the skin, may involve delayed or chronic effects, including carcinogenicity.

14 Ecotoxic characteristics

A waste has ecotoxic characteristics if that waste, if released, would or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation, or toxic effects upon biotic systems, or both.

Part 3—*continued***15 Other hazardous characteristics**

A waste has other hazardous characteristics if that waste is capable by any means, after disposal by any of the methods specified in Part 4, of yielding another material (including, by way of example only, leachate) that possesses any of the characteristics specified in any of clauses 2 to 14 of this Part.

Part 4

Methods of disposal of wastes

- 1 Methods of disposal that do not lead to the possibility of resource recovery, recycling, reclamation, direct re-use, or alternative uses:
 - (a) deposit into or onto land (including, by way of example only, landfill):
 - (b) land treatment (including, by way of example only, biodegradation of liquid or sludgy discards in soils):
 - (c) deep injection (including, by way of example only, injection of pumpable discards into wells, salt domes, or naturally occurring repositories):
 - (d) surface impoundment (including, by way of example only, placement of liquid or sludge discards into pits, ponds, or lagoons):
 - (e) specially engineered landfill (including, by way of example only, placement into lined discrete cells which are capped and isolated from one another and the environment):
 - (f) release into a water body (not being sea or an ocean):
 - (g) release into a sea or an ocean (including sea-bed insertion):
 - (h) incineration on land:
 - (i) incineration at sea:
 - (j) permanent storage (including, by way of example only, emplacement of containers in a mine):
 - (k) any biological treatment that results in final compounds of mixtures which are discarded by means of any of the methods specified in any of paragraphs (a) to (j) or in paragraph (l):
 - (l) physico chemical treatment that results in final compounds or mixtures that are discarded by means of any of the methods specified in any of paragraphs (a) to (k)

Part 4—*continued*

(including, by way of example only, evaporation, drying, calcination, neutralisation, or precipitation):

- (m) blending or mixing prior to disposal by any of the methods specified in any of paragraphs (a) to (l):
- (n) repackaging prior to disposal by any of the methods specified in any of paragraphs (a) to (l):
- (o) storage pending disposal by any of the methods specified in any of paragraphs (a) to (l).

2 Methods of disposal that may lead to resource recovery, recycling, reclamation, direct re-use, or alternative uses, where the waste being disposed of would otherwise have been destined for disposal by any of the methods specified in clause 1:

- (a) use as a fuel (other than in direct incineration) or other means to generate energy:
 - (b) solvent reclamation or regeneration:
 - (c) recycling or reclamation of organic substances not used as solvents:
 - (d) recycling or reclamation of metals and metal compounds:
 - (e) recycling or reclamation of other inorganic materials:
 - (f) regeneration of acids or bases:
 - (g) recovery of components used for pollution abatement:
 - (h) recovery of components from catalysts:
 - (i) re-refining of used oil, or other re-uses of previously used oil:
 - (j) land treatment resulting in a benefit to agriculture or in ecological improvement:
 - (k) uses of residual materials obtained from any of the methods specified in any of paragraphs (a) to (j):
 - (l) exchange of wastes for disposal by any of the methods specified in any of paragraphs (a) to (k):
 - (m) accumulation of material intended for disposal by any of the methods specified in any of paragraphs (a) to (l).
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Schedule 2**Prohibited weapons and dual-use weapon-related exports**

- 1 Nuclear weapon related dual-use goods**
Dual-use goods that may have application in a nuclear weapons programme.*
- 2 Chemical weapons precursors**
Precursor chemicals,* except where those chemicals are subject to prohibitions and consents applying by virtue of section 10 of the Chemical Weapons (Prohibition) Act 1996.
- 3 Biological agents**
Biological agents.*
- 4 Certain conventional weapons and other dual-use goods**
Certain conventional weapons, and other dual-use goods that are intended for military use or may have military applications or may be used for the production of military goods or goods that may have military applications. Lists of the goods concerned are available from the Head Office of the Ministry of Foreign Affairs and Trade in Wellington for inspection by the public free of charge.

* Lists of goods of this kind are available from the Head Office of the Ministry of Foreign Affairs and Trade in Wellington for inspection by the public free of charge.

Marie Shroff,
Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 1 October 2002, prohibits the exportation of various goods under the Customs and Excise Act 1996 except with the relevant Ministerial or official consent.

The prohibited exports are—

- certain merino and booroola-merino sheep, and reproductive material of merino and booroola-merino sheep:
- certain New Zealand pounamu (greenstone):
- certain greenshell mussels and toheroa:
- hazardous and other waste:
- dual-use goods that may have application in a nuclear weapons programme:
- certain chemical weapons precursors:
- biological agents:
- certain conventional weapons, and other dual-use goods that are intended for military use or may have military applications or may be used for the production of military goods or goods that may have military applications.

This order continues prohibitions that were formerly in place under the Customs Export Prohibition Order 1996 (SR 1996/233). That order, as amended in 1999, expired on the close of 30 September 2002.

There are only 2 changes (or kinds of changes) from that order.

First, exceptions to the prohibition on the exportation of pounamu (greenstone) are changed. A previous exception for relatively small pieces of (reject stone) pounamu in displays of New Zealand minerals is discontinued, and a new exception is included for consignments that are being exported by a single exporter and in which the total weight of pounamu does not exceed 5 kilograms. As well, the example in *clause 5(3)(a)* (of articles made from pounamu) is expanded so it refers not just to jewellery, but also to pendants or sculptures, containing pounamu.

Second, references to Ministers are updated.

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

Date of notification in *Gazette*: 12 September 2002.

This order is administered in the New Zealand Customs Service.
