# Council Regulation (EC) No 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96

## COUNCIL REGULATION (EC) No 1210/2003

## of 7 July 2003

## concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60 and 301 thereof,

Having regard to Common Position 2003/495/CFSP on Iraq and repealing Common Positions 1996/741/CFSP and 2002/599/CFSP[(1)],

Having regard to the proposal from the Commission,

Whereas:

(1) Further to United Nations Security Council Resolution 661 (1990) and subsequent relevant Resolutions, in particular Resolution 986 (1995), the Council imposed a comprehensive embargo on trade with Iraq. This embargo is at present laid down in Council Regulation (EC) No 2465/96 of 17 December 1996 concerning the interruption of economic and financial relations between the European Community and Iraq[(2)].

(2) In its Resolution 1483 (2003) of 22 May 2003, the Security Council decided that, with certain exceptions, all prohibitions related to trade with Iraq and the provision of financial or economic resources to Iraq should no longer apply.

(3) With the exception of a ban on exports of arms and related materiel to Iraq, the Resolution provides that the comprehensive restrictions concerning trade should be repealed and replaced with specific restrictions applying to proceeds from all export sales of petroleum, petroleum products, and natural gas from Iraq, and to trade in goods belonging to Iraq's cultural heritage with the objective of facilitating the safe return of those goods.

(4) The Resolution also states that certain funds and economic resources, in particular those belonging to former Iraqi President Saddam Hussein and senior officials of his regime, should be frozen, subject to designation by the Committee of the Security Council established pursuant to paragraph 6 of Resolution 661 (1990), and that such funds should subsequently be transferred to the Development Fund for Iraq.

(5) In order to allow the Member States to effect the transfer of frozen funds, economic resources and proceeds of economic resources to the Development Fund for Iraq, provision should be made for such funds and economic resources to be unfrozen.

**Changes to legislation:** *There are outstanding changes not yet made to Council Regulation (EC) No 1210/2003. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(6) The Resolution stipulates that all petroleum, petroleum products and natural gas exported by Iraq, as well as the payments for such goods, should be exempt from legal proceedings, attachment, garnishment and execution by those having claims against Iraq. This temporary measure is necessary in order to promote the economic reconstruction of Iraq and the restructuring of its debt, which will help remove the threat to international peace and security constituted by the current situation in Iraq in the common interest of the international community and in particular the Community and its Member States.

(7) Common Position 2003/495/CFSP makes provision for an amendment of the current Community regime in order to align it with UNSC Resolution 1483 (2003).

(8) These measures fall under the scope of the Treaty and, therefore, in particular with a view to avoiding distortion of competition, Community legislation is necessary to implement the relevant decisions of the Security Council as far as the territory of the Community is concerned. For the purposes of this Regulation, the territory of the Community is deemed to encompass the territories of the Member States to which the Treaty is applicable, under the conditions laid down in that Treaty.

(9) In order to create maximum legal certainty within the Community, the names and other relevant data relating to natural or legal persons, groups or entities identified by the UN authorities whose funds and economic resources are to be frozen, should be published and a procedure established within the Community to amend these lists.

(10) For reasons of expediency, the Commission should be empowered to amend the Annexes to this Regulation setting out the list of cultural goods, the lists of persons, bodies and entities, whose funds and economic resources are to be frozen, and the list of competent authorities.

(11) The competent authorities of the Member States should, where necessary, be empowered to ensure compliance with the provisions of this Regulation.

(12) The Commission and Member States should inform each other of the measures taken under this Regulation and of other relevant information at their disposal in connection with this Regulation, and should cooperate with the Committee established by UNSC Resolution 661 (1990), in particular by supplying it with information.

(13) Member States should lay down rules on sanctions applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those sanctions should be effective, proportionate and dissuasive.

(14) Since the comprehensive trade measures of Regulation (EC) No 2465/96 are being replaced by the specific trade restrictions of this Regulation, and this Regulation imposes freezing measures which require immediate application by economic operators, it is necessary to ensure that sanctions for breaches of this Regulation can be imposed as soon as it enters into force.

(15) For the sake of clarity, Regulation (EC) No 2465/96 should be repealed in its entirety.

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(16) Council Regulation (EEC) No 3541/92 of 7 December 1992 prohibiting the satisfying of Iraqi claims with regard to contracts and transactions, the performance of which was affected by United Nations Security Council Resolution 661 (1990) and related resolutions[3] should remain in force,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the purpose of this Regulation, the following definitions shall apply:

1. ‘Sanctions Committee’ means: the Committee of the Security Council of the United Nations which was established pursuant to paragraph 6 of Resolution 661 (1990);

2. ‘funds’ means financial assets and economic benefits of every kind, including but not limited to:

   (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;

   (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;

   (c) publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;

   (d) interest, dividends or other income on or value accruing from or generated by assets;

   (e) credit, right of set-off, guarantees, performance bonds or other financial commitments;

   (f) letters of credit, bills of lading, bills of sale;

   (g) documents evidencing an interest in funds or financial resources,

   (h) any other instrument of export-financing;

3. ‘economic resources’ means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;

4. ‘freezing of funds’ means preventing any move, transfer, alteration, use of or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the use of the funds, including portfolio management;

5. ‘freezing of economic resources’ means preventing their use to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them;

6. ‘Development Fund for Iraq’ means the Development Fund for Iraq held by the Central Bank of Iraq.

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*[F1 Article 2*

All proceeds from all export sales of petroleum, petroleum products and natural gas from Iraq, as listed in Annex I, as of 22 May 2003 shall be deposited into the Development Fund for Iraq under the conditions set out in UNSC Resolution 1483 (2003) and in particular paragraphs 20 and 21 thereof.**]**

**Textual Amendments**

**F1** Substituted by Council Regulation (EC) No 195/2008 of 3 March 2008 amending Regulation (EC) No 1210/2003 concerning certain specific restrictions on economic and financial relations with Iraq.

*Article 3*

1 The following shall be prohibited:

a the import of or the introduction into the territory of the Community of,

b the export of or removal from the territory of the Community of, and

c the dealing in, Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific and religious importance including those items listed in Annex II, if they have been illegally removed from locations in Iraq, in particular, if:

(i) the items form an integral part of either the public collections listed in the inventories of Iraqi museums, archives or libraries' conservation collection, or the inventories of Iraqi religious institutions, or

(ii) there exists reasonable suspicion that the goods have been removed from Iraq without the consent of their legitimate owner or have been removed in breach of Iraq's laws and regulations.

2 These prohibitions shall not apply if it is shown that either:

a the cultural items were exported from Iraq prior to 6 August 1990; or

b the cultural items are being returned to Iraqi institutions in accordance with the objective of safe return as set out in paragraph 7 of UNSC Resolution 1483 (2003).

*[F2 Article 4*

1 All funds and economic resources of the previous Government of Iraq, or of any of the public bodies, corporations, including companies established under private law in which the public authorities have a majority or controlling stake, or agencies of that Government, identified by the Sanctions Committee and listed in Annex III, shall be frozen, if they were located outside Iraq on the date of 22 May 2003.

2 All funds and economic resources belonging to, or owned or held by the following persons, identified by the Sanctions Committee and listed in Annex IV, shall be frozen:

a former President Saddam Hussein;

b senior officials of his regime;

c immediate members of their families; or

d legal persons, bodies or entities owned or controlled directly or indirectly by the persons referred to in (a), (b) and (c) or by any natural or legal person acting on their behalf or at their direction.

**[**F3 3 No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of natural or legal persons, bodies or entities listed in Annex IV.;**]]**

***Changes to legislation:** There are outstanding changes not yet made to Council Regulation (EC) No 1210/2003. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F4 4 . . . . . .

**Textual Amendments**

**F2** Substituted by Council Regulation (EC) No 1799/2003 of 13 October 2003 amending Regulation (EC) No 1210/2003 concerning certain specific restrictions on economic and financial relations with Iraq.

**F3** Substituted by Council Regulation (EU) No 791/2014 of 22 July 2014 amending Regulation (EC) No 1210/2003 concerning certain specific restrictions on economic and financial relations with Iraq.

**F4** Deleted by Council Regulation (EU) No 791/2014 of 22 July 2014 amending Regulation (EC) No 1210/2003 concerning certain specific restrictions on economic and financial relations with Iraq.

*[F3 Article 4a*

The prohibition set out in Article 4(3) shall not give rise to liability of any kind on the part of the natural or legal persons or entities concerned, if they did not know, and had no reasonable cause to suspect, that their actions would infringe this prohibition.**]**

**Textual Amendments**

**F3** Substituted by Council Regulation (EU) No 791/2014 of 22 July 2014 amending Regulation (EC) No 1210/2003 concerning certain specific restrictions on economic and financial relations with Iraq.

*[F3 Article 5*

1 Article 4 shall not prevent the crediting of frozen accounts by financial or credit institutions that receive funds transferred by third parties to the account of the listed person, entity or body, provided that any additions to such accounts are also frozen. The financial or credit institution shall inform the competent authorities about such transactions without delay.

2 By way of derogation from Article 4(3), the competent authorities, as indicated on the websites listed in Annex V, may authorise the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the funds or economic resources concerned are:

a necessary to satisfy the basic needs of natural or legal persons, entities or bodies listed in Annex IV, and dependent family members of such natural persons, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;

b intended exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services;

c intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources; or

d necessary for extraordinary expenses, provided that the relevant competent authority has notified the grounds on which it considers that a specific authorisation should be granted to the competent authorities of the other Member States and to the Commission at least two weeks prior to authorisation.

3 The Member States concerned shall inform the other Member States and the Commission of any authorisation granted under this Article.**]**