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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1346/2002

of 25 July 2002

amending Regulation (EC) No 2465/96 concerning the interruption of economic and financial relations between the European Community and Iraq

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 Council Common Position 2002/599/CFSP of 22 July 2002 supplementing Common Position 96/741/CFSP concerning the derogations from the embargo with regard to Iraq [1],

Having regard to the proposal from the Commission,

Whereas:

(1) 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] prohibits, with certain exceptions, the export to Iraq of all commodities and products originating in, coming from, or in transit through the Community. This export regime was imposed further to Resolutions 661(1990), 687(1991) and 986(1995) of the Security Council of the United Nations.

(2) Pursuant to Resolution 986(1995) an escrow account has been established for the financing of certain exports to Iraq. On 14 May 2002, the Security Council of the United Nations adopted Resolution 1409(2002) laying down new procedures and rules for approval of exports to Iraq which will be financed from this escrow account. These procedures and rules have been applicable since 30 May 2002.

(3) As a result, exports for which an application for financing from the escrow account is made will be checked against the list of military commodities and products and against the revised Goods Review List (GRL) which the Security Council also adopted. The GRL comprises goods, services and technologies which can be used for civil as well as military purposes (dual-use goods).

(4) If the exports are not included in these lists, the Office of the Iraq Programme (OIP) will confirm in writing to the State that sent the application, that the application does not contain any commodity or product included in these lists. If such confirmation is obtained, the export is eligible for payment from the escrow account. However, such payment is subject to meeting the conditions of paragraph 8(a) of Resolution 986(1995), which provides that the export must be at the request of the Government of Iraq, that Iraq effectively guarantees equitable distribution of the exported goods on the basis of a plan submitted to, and approved by, the Secretary-General and that the Secretary-General receives authenticated confirmation that the exported goods have arrived in Iraq.

(5) If an application contains items that are on the revised GRL, the application will be referred to the Committee established by Resolution 661(1990). The exports are not permitted unless the Committee gives its approval. In this regard, it should be noted that the Committee may give its approval for exports of commodities and products included in the revised GRL. If the application contains military goods, that part of the application will be considered ineligible for approval.

(6) Applications for financing of exports to Iraq from the escrow account have to be made to the OIP through the diplomatic missions of States and international organisations accredited to the United Nations in the format prescribed by the Security Council.

(7) It is appropriate that competent authorities in the Community promptly confirm in writing to the person, entity or body at whose request the application was made, any confirmation they receive from the OIP and any approval they receive from the said Committee. Such confirmation constitutes sufficient evidence that the export is not in breach of Regulation (EC) No 2465/96 and that the Committee has approved the export or that it does not need approval by the Committee. However, that confirmation does not constitute an export authorisation required in accordance with applicable Community legislation, and in particular Council Regulation (EC) No 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology [3]. For foodstuffs, the competent authority should confirm in writing that the export or transit has been notified to the Committee pursuant to Resolution 661(1990).

(8) Regulation (EC) No 2465/96 should be amended in order to reflect the fact that exports are not in violation of that Regulation if, in accordance with the new procedures and rules, it has been confirmed that they have been approved by the Committee or that they do not need approval from the Committee.

[1] OJ L 194, 23.7.2002, p. 47.
[2] OJ L 337, 27.12.1996, p. 1.
[3] OJ L 159, 30.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 880/2002 (OJ L 139, 29.5.2002, p. 7).

(9) Experience in implementing Regulation (EC) No 2465/96 has shown that clarification is needed in particular on administrative procedures,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2465/96 is hereby amended as follows:

1. the following recital shall be added:

'Whereas this Regulation is only intended to implement the relevant resolutions of the UN Security Council,';

2. Article 2 shall be replaced by the following:

'*Article 2*

1. The prohibitions in points 1 and 5 of Article 1 shall not apply to the introduction into the territory of the Community of:

(a) commodities or products which originate in, or come from, Iraq and were exported before 7 August 1990;

(b) petroleum and petroleum products originating in Iraq, on condition that there is evidence in writing that the Committee established by Resolution 661(1990) of the Security Council of the United Nations (hereinafter referred to as the "Committee") has given its approval for the purchase of the commodities or products concerned, and provided that payment of the full price is made to the escrow account established by the Secretary-General of the United Nations pursuant to Resolution 986(1995).

2. The prohibitions in points 2 and 5 of Article 1 shall not apply to the export from, or transit through, the Community to Iraq of:

(a) products intended strictly for medical purposes, on condition that a competent authority listed in Annex I has given an authorisation in writing;

(b) foodstuffs, on condition that a competent authority listed in Annex I has confirmed in writing that the export or transit has been notified to the Committee;

(c) materials and supplies for essential civilian needs, on condition that a competent authority listed in Annex I has confirmed in writing that the export or transit has been approved by the Committee;

(d) parts and equipment which are essential for the safe operation of the Kirkuk-Yumurtalik pipeline system in Iraq, on condition that a competent authority listed in Annex I has confirmed in writing that the export or transit has been approved by the Committee, and provided that the conditions for payment determined by the Committee are fulfilled;

(e) any other commodity or product, on condition that a competent authority listed in Annex I has confirmed in writing that the Office of the Iraq Programme (OIP) of the Secretariat-General of the United Nations has notified in written form that the export of that commodity or product may proceed without prior approval of the Committee and is eligible for payment from the escrow account upon verification by UN agents that the products have been delivered to Iraq;

(f) any other commodity or product on the condition that a competent authority listed in Annex I has confirmed in writing that the export has been approved by the Committee.

3. The prohibitions in points 3, 4 and 5 of Article 1 shall not apply to:

(a) the provision of either postal and telecommunications services, medical services necessary for the operation of existing hospitals, or of non-financial services resulting from contracts or amendments to contracts concluded before 7 August 1990, where their execution began before that date;

(b) flights approved by the Committee or destined for activities of the United Nations in Iraq, on condition that a competent authority listed in Annex I has confirmed in writing that the flight either has been approved by the Committee or is destined for activities of the United Nations in Iraq;

(c) services, including financial transactions, which are ancillary or directly related to the activities referred to in paragraphs 1, 2 and 3.

4. Except for notifications and applications made by international organisations which are accredited to the United Nations, all notifications to the Committee, applications for approval by that Committee and applications for payment addressed to the OIP shall be made through the competent authority of the Member State in which the person, entity or body concerned is resident or established, as listed in Annex I. As regards notifications, applications and requests for payments concerning exports to Iraq, the request shall be accompanied by the completed form entitled "Notification or Request to Ship Goods to Iraq" given in Annex II.

5. A confirmation in writing by a competent authority listed in Annex I, as referred to in this Article, shall be valid throughout the Community.

Upon receipt of an authorisation from the Committee or a notification from the OIP that an export does not need approval from the Committee, the competent authorities listed in Annex I shall promptly give such written confirmation to the person, entity or body concerned.

The competent authorities shall remind the person, entity or body concerned that, where an export authorisation is required in accordance with paragraph 2(a) or under other applicable Community legislation, the confirmation does not exempt that person, entity or body from the requirement to make an application for an export authorisation before the export takes place.

The competent authorities shall give confirmation in writing of a notification to the Committee as soon as such notification is made.

6. A confirmation of an authorisation concerning export or transit to Iraq or of a notification referred to in paragraph 5 shall be made out on a form corresponding to the model given in Annex IV and shall be issued free of charge. Member States shall be responsible for having this form printed.

The exporter shall present this confirmation to the customs authorities together with the customs declaration.

A translation of this authorisation into an official language of the Member State where the export declaration is presented may be required of the exporter.

7. If an authorisation in writing referred to in paragraph 2(a) is issued by a competent authority listed in Annex I, it shall be valid throughout the Community. It shall be made out on a form corresponding to the model given in Annex V and shall be issued free of charge. Member States shall be responsible for having this form printed.

The exporter shall present this authorisation to the customs authorities together with the customs declaration.

A translation of this authorisation into an official language of the Member State where the export declaration is presented may be required of the exporter.

8. The forms referred to in paragraphs 6 and 7 shall be printed in accordance with Article 12(9) of Council Regulation (EC) No 3285/94 of 22 December 1994 on the common rules for imports (*). In particular, the layout of the forms shall be followed precisely and the forms shall have a yellow printed guilloche pattern background so as to reveal any falsification by mechanical or chemical means.

(*) OJ L 349, 31.12.1994, p. 53. Regulation as last amended by Regulation (EC) No 2474/2000 (OJ L 286, 11.11.2000, p. 1).'

3. Article 4 shall be replaced by the following:

'*Article 4*

Any direct or indirect payment from the escrow account established by the Secretary-General of the United Nations pursuant to Resolution 986(1995) shall be destined only for the purposes indicated in paragraph 8 of that Resolution as contained in Annex III, and shall not be diverted to any other purpose.'

4. the following subparagraph shall be added to Article 6:

'The Commission shall be empowered to amend Annex II in order to bring it into line with changes that may be made by the Committee.';

5. Annexes I, II, III, IV and V, which appear in the Annex to this Regulation, shall be added to Regulation (EC) No 2465/96.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 25 July 2002.

For the Council

The President

P. S. MØLLER

ANNEX

'ANNEX I

List of competent authorities referred to in Article 2

BELGIUM

Ministère des affaires économiques
Administration des relations économiques
Politique d'accès aux marchés
Service: Licences
60, Rue Général Leman
B-1040 Bruxelles
Tél. 32 2 206 58 11
Fax 32 2 230 83 22

Ministerie van Economische Zaken
Bestuur economische betrekkingen
Marktordening
Dienst: vergunningen
60, Generaal Lemanstraat
B-1040 Brussel
Tel.: 32 2 206 58 11
Fax: 32 2 230 83 22

DENMARK

Erhvervs- og Boligstyrelsen
Dahlerups Pakhus
Langelinie Allé 17
DK-2100 København Ø
Tel.: 45 35 46 60 00
Fax: 45 35 46 60 01

GERMANY

Generaldirektor für Luft- und Raumfahrt
Bundesministerium für Verkehr, Bau- und Wohnungswesen
Postfach 20 01 00
D-53170 Bonn
Tel. 49 228 300 45 00
Fax 49 228 300 45 99

Bundesamt für Wirtschaft und Ausfuhrkontrolle
Referat 214
Postfach 5160
D-65726 Eschborn
Tel. 49 6196 908 0
Fax 49 6196 908 905

Bundesanstalt für Landwirtschaft und Ernährung
Referat 412
Postfach 18 02 03
D-60322 Frankfurt a.M.
Tel. 49 69 1564 0
Fax 49 69 1564 444

GREECE

Υπουργείο Εθνικής Οικονομίας και Οικονομικών
Γενική Γραμματεία Διεθνών Σχέσεων
Γενική Διεύθυνση Πολιτικού Προγραμματισμού και Εφαρμογής
Διεύθυνση Διεθνών Οικονομικών Θεμάτων
Τηλ.: 301 03286021, 03286051
Φαξ: 301 03286094, 03286059
E-mail: e3c@dos.gr

Ministry of Economy and Economics
General Secretariat of International Relations
General Directorate for Policy Planning and Implementation
Directory for International Economy Issues
Tel.: 301 03286021, 03286051
Fax: 301 03286094, 03286059
E-mail: e3c@dos.gr

SPAIN

Ministerio de Economía
Secretaría General de Comercio Exterior
Paseo de la Castellana 162
E-28046 Madrid
Tel.: 34 91 3493904
Fax: 34 91 3493802

Ministerio de Fomento
Dirección General de Aviación Civil
Paseo de la Castellana 67
E-28071 Madrid
Tel.: 34 91 5977000
Fax: 34 91 5975357

FRANCE

Ministère de l'économie, des finances et de l'industrie
Direction générale des douanes et droits indirects (DGDDI)
Sous-direction du commerce international
Bureau E/2 — Prohibitions, agriculture et protection du consommateur
Cellule embargo
23 bis, rue de l'Université
F-75700 Paris 07 SP
Tél. 33 1 44 74 48 93 (ou 96)
Fax 33 1 44 74 48 97

IRELAND

Licensing Unit
Department of Enterprise, Trade and Employment
Block C
Earlsfort Centre
Hatch Street
Dublin 2
Ireland
Tel.: 353 1-6312534
Fax: 353 1-6312562

ITALY

Ministero delle Attività Produttive
D. G. per la Politica Commerciale e per la Gestione del Regime degli Scambi
Divisione IV — UOPAT
Viale Boston, 35
I-00144 Roma
Dirigente:
Tel. 39 06 59647534
Fax 39 06 59647506
Collaboratori:
Tel. 39 06 59933295
Fax 39 06 59932430

LUXEMBOURG

Ministère des affaires étrangères, du commerce extérieur, de la coopération, de l'action humanitaire et de la défense
Direction des relations économiques internationales
Office des licences
BP 113
L-2011 Luxembourg
Tél. 352 478 23 70
Fax 352 46 61 38

NETHERLANDS

For agricultural products

Ministerie van Landbouw
Directie Juridische Zaken
Postbus 20401
2500 EK Den Haag
Nederland
tel.: 31 70 378 4481
fax: 31 70 378 6127

For other exports

Belastingdienst/Douane centrale dienst voor in- en uitvoer
Postbus 30003
9700 RD Groningen
Nederland
tel.: 31 50 5239111
fax: 31 50 5260698
e-mailadres: cdiusgs@bart.nl

For flights to Iraq

Ministerie van Verkeer en Waterstaat
Directoraat Generaal Luchtvaart
Postbus 90771
2509 LT Den Haag
Nederland
tel.: 31 70 351 7526
fax: 31 70 356 3450

AUSTRIA

Bundesministerium für Wirtschaft und Arbeit
Abteilung C/2/2
Außenwirtschaftsadministration
Landstraßer Hauptstrasse 55-57
A-1030 Wien
Tel. 43 1 71100/8327
Fax 43 1 71100/8386

PORTUGAL

Ministério dos Negócios Estrangeiros
Direcção Geral dos Assuntos Multilaterais
Serviços das Organizações Políticas Internacionais
Largo do Rilvas, P-1399-030 Lisboa
e-mail: mne_dgam_spm@hotmail.com
Tel.: 351 21 3946702
Fax: 351 21 3946073

FINLAND

Ulkoasiainministeriö/Utrikesministeriet
PL/PB 176
FIN-00161 Helsinki/Helsingfors
Tel.: 358 9 16 05 59 00
Fax: 358 9 16 05 57 07

SWEDEN

Utrikesdepartementet
Rättssekretariatet för EU-frågor
S-103 39 Stockholm
Tel.: 46 8 405 1000
Fax: 46 8 723 1176

UNITED KINGDOM

Sanctions Licensing Unit
Department for Trade and Industry (DTI)
Bay 310
4 Abbey Orchard Street
London SW1P 2HT
United Kingdom
Tel.: 44 20 7215 0594
Fax: 44 20 7215 0593

EUROPEAN COMMUNITY

Commission of the European Communities
Directorate-general for External Relations
Directorate CFSP
Unit A.2/Mr A. de Vries
Rue de la Loi/Wetstraat 200
B-1049 Bruxelles/Brussel
Tel.: 32 2 295 68 80
Fax: 32 2 296 75 63
E-mail: anthonius.de-vries@cec.eu.int