

(Acts adopted pursuant to Title V of the Treaty on European Union)

COUNCIL COMMON POSITION 2003/495/CFSP
of 7 July 2003
on Iraq and repealing Common Positions 96/741/CFSP and 2002/599/CFSP

THE COUNCIL OF THE EUROPEAN UNION,

Article 2

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas:

- (1) On 22 May 2003, the United Nations Security Council adopted Resolution 1483 (2003) repealing all prohibitions related to trade with Iraq and the provision of financial and economic resources to Iraq established by Security Council Resolution 661 (1990) and subsequent relevant resolutions including Resolution 778 (1992), with the exception of prohibitions related to the sale or supply to Iraq of arms and related material other than those arms and related material required by the United States of America and the United Kingdom of Great Britain and Northern Ireland as occupying powers under unified command (hereinafter called 'the Authority'), and imposing new measures.
- (2) The Council welcomes the decision of the Security Council to lift sanctions against Iraq.
- (3) The Council welcomes the commitment of the Security Council and of the Authority, in Resolution 1483 (2003), to help reconstruct Iraq and to aid the Iraqi people in moving towards the establishment of an internationally recognised, representative Government.
- (4) Council Common Positions 96/741/CFSP ⁽¹⁾ and 2002/599/CFSP ⁽²⁾ should therefore be repealed.
- (5) Action by the Community is needed in order to implement certain measures,

All funds or other financial assets or economic resources:

- (a) of the previous Government of Iraq or its State bodies, corporations, or agencies, located outside Iraq as of 22 May 2003 as designated by the Committee established pursuant to Security Council Resolution 661 (1990), or
- (b) that have been removed from Iraq, or acquired by Saddam Hussein or other senior officials of the former Iraqi regime and their immediate family members, including entities owned or controlled directly or indirectly by them or by persons acting on their behalf or at their direction, as designated by the Committee established pursuant to Security Council Resolution 661 (1990),

shall be frozen without delay and, unless these funds or other financial assets or economic resources are themselves the subject of a prior judicial, administrative or arbitral lien or judgement, Member States shall immediately cause their transfer to the Development Fund for Iraq under the conditions set out in Security Council Resolution 1483 (2003).

HAS ADOPTED THIS COMMON POSITION:

Article 1

The sale or supply to Iraq of arms and related material, other than those arms and related material required by the Authority to serve the purposes of Security Council Resolution 1483 (2003) and other related Security Council Resolutions, remains prohibited.

⁽¹⁾ Common Position 96/741/CFSP of 17 December 1996 defined by the Council on the basis of Article J.2 of the Treaty on European Union concerning the derogations from the embargo with regard to Iraq (OJ L 337, 27.12.1996, p. 5).

⁽²⁾ 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 (OJ L 194, 23.7.2002, p. 47).

Article 3

All appropriate steps will be taken to facilitate the safe return to Iraqi institutions of Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since the adoption of Security Council Resolution 661 (1990), including by establishing a prohibition on trade in or transfer of such items and items with respect to which reasonable suspicion exists that they have been illegally removed.

Article 4

All proceeds from all export sales of petroleum, petroleum products, and natural gas from Iraq as of 22 May 2003 shall be deposited into the Development Fund for Iraq under the conditions set out in Resolution 1483 (2003), until such time as an internationally recognised, representative government of Iraq is properly constituted.

Article 5

1. Petroleum, petroleum products, and natural gas originating in Iraq will be immune, until title passes to the initial purchaser, from legal proceedings against them and not be subject to any form of attachment, garnishment, or execution.

2. Privileges and immunities equivalent to those enjoyed by the United Nations will be enjoyed by:

- (a) proceeds and obligations arising from the sale of products referred to in paragraph 1;
- (b) the Development Fund for Iraq;
- (c) funds, other financial assets or economic resources to be transferred to the Development Fund for Iraq in accordance with Article 2.

3. The privileges and immunities referred to in paragraph 2(a) will not apply with respect to any legal proceeding in which recourse to such proceeds and obligations is necessary

to satisfy liability for damages assessed in connection with an ecological accident, including an oil spill, that occurs after 22 May 2003.

Article 6

Council Common Positions 96/741/CFSP and 2002/599/CFSP are hereby repealed.

Article 7

This Common Position shall take effect on the date of its adoption. It shall apply from 22 May 2003.

Article 4 shall apply until 31 December 2007 unless the Council decides otherwise in accordance with any future relevant UN Security Council Resolution.

Article 8

This Common Position shall be published in the *Official Journal of the European Union*.

Done at Brussels, 7 July 2003.

For the Council

The President

F. FRATTINI