

## I

(Acts whose publication is obligatory)

## COUNCIL REGULATION (EC) No 2465/96

of 17 December 1996

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 73g and 228a thereof,

Having regard to the common position 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<sup>(1)</sup>, with regard to the implementation of resolutions 660, 661, 666, 670 (1990), 687 (1991) and 986 (1995) of the United Nations Security Council,

Having regard to the proposal from the Commission,

Whereas the United Nations Security Council, acting under Chapter VII of the Charter of the United Nations, decided in its resolutions 660, 661, 666, 670 (1990) and 687 (1991) that all States should take the necessary measures with regard to the interruption of their economic and financial relations with Iraq as provided for in those resolutions;

Whereas, furthermore, the United Nations Security Council, acting under Chapter VII of the Charter of the United Nations, decided in its resolution 986 (1995), to allow, as a temporary measure for humanitarian needs and under appropriate conditions, the import of petroleum and petroleum products originating in Iraq in order to create the funds necessary *inter alia* for the payment for the import of certain goods into Iraq and certain commercial activities related thereto;

Whereas the conditions under which the transactions and payments relating to the operations authorized under this Regulation may be effected must be determined in a uniform manner by means of directly applicable Community rules;

Whereas, for reasons of transparency and in the light of developments since the introduction of the embargo, the Community legislation implementing certain aspects of the abovementioned United Nations Security Council Resolutions should be incorporated in a comprehensive Community instrument, including *inter alia* the products falling under the Treaty establishing the European Coal and Steel Community (ECSC), and therefore Council Regulations (EEC) No 2340/90<sup>(2)</sup> and (EEC) No 3155/90<sup>(3)</sup> preventing trade by the Community as regards Iraq and Kuwait should be repealed. Whereas, to this effect, by Decision 96/740/ECSC<sup>(4)</sup> the Member States of the European Coal and Steel Community have repealed Decision 90/414/ECSC<sup>(5)</sup> as of the date of entry into force of this Regulation;

Whereas the measures adopted to implement Security Council resolutions 660, 661, 666, 670 (1990) and 687 (1991) in areas not covered by the provisions of this Regulation continue to be applicable,

HAS ADOPTED THIS REGULATION:

Article 1

The following shall be prohibited:

1. the introduction into the territory of the Community of all commodities and products originating in or coming from Iraq;

<sup>(2)</sup> OJ No L 213, 9. 8. 1990, p. 1. Regulation as last amended by Regulation (EEC) No 1194/91 (OJ No L 115, 8. 5. 1991, p. 37).

<sup>(3)</sup> OJ No L 304, 1. 11. 1990, p. 1. Regulation as last amended by Regulation (EEC) No 1194/91 (OJ No L 115, 8. 5. 1991, p. 37).

<sup>(4)</sup> See page 4 of this edition of the Official Journal.

<sup>(5)</sup> OJ No L 213, 9. 8. 1990, p. 3. Decision as last amended by Decision 91/265/ECSC (OJ No L 127, 23. 5. 1991, p. 27).

<sup>(1)</sup> See page 5 of this edition of the Official Journal.

2. the export to Iraq of all commodities and products originating in, coming from, or in transit through the Community;
  3. the provision of non-financial services which promote the economy of Iraq, and in particular are:
    - (i) for the purposes of any economic activity carried out in or from Iraq; or
    - (ii) to any natural person in Iraq, any legal person so constituted or incorporated under Iraqi law or any organization exercising an economic activity (whether in Iraq or not) controlled by persons resident in Iraq or by organizations constituted or incorporated under the law of Iraq;
  4. the permission to any aircraft to take off from, land in, or overfly, the territory of the Community if the aircraft carries any cargo to or from Iraq or if it is destined to land in, or has taken off from, the territory of Iraq;
  5. any activity the object or effect of which is to promote the activities mentioned under this Article.
- (c) materials and supplies for essential civilian needs, the export of which to Iraq has been approved by the said Committee;
  - (d) parts and equipment which are essential for the safe operation of the Kirkuk-Yumurtalik pipeline system in Iraq, the export of which to Iraq has been approved in accordance with Security Council resolution 986 (1995) and under the conditions for payment determined by the Committee established under Security Council resolution 661 (1990);
  - (e) any other product for the export of which the said Committee has given its approval;
4. activities directly necessary for the export of products mentioned under paragraph 3 (d) of this Article including financial transactions related thereto;
  5. 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;
  6. flights approved by the said Committee or destined for activities of the United Nations in Iraq;
  7. services necessarily related to the activities mentioned under points 1 (a), 3 (a), (b), (c) and (e), 5 and 6 above.

#### Article 2

The prohibitions of Article 1 shall not apply to:

1. 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, whose export by Iraq has been approved in accordance with Security Council resolution 986 (1995) and under the conditions for payment determined by the Committee established under Security Council resolution 661 (1990);
2. financial and other essential transactions directly related to import into the Community of the products mentioned under point 1 (b) of this Article;
3. the export from or transit through the Community to Iraq of:
  - (a) products intended strictly for medical purposes, after authorization by the competent authority of the Member State;
  - (b) foodstuffs, after notification to the said Committee;

#### Article 3

Petroleum or petroleum products exported by Iraq in accordance with Security Council resolution 986 (1995), and still being under Iraqi title, or any payment related to those exports, shall be immune from legal proceedings and not be subject to any form of attachment, garnishment or execution.

#### Article 4

Any direct or indirect payment from the account determined by the said Committee pursuant to resolution 986 (1995) shall be destined only for the purposes indicated in paragraph 8 of that resolution, as published in the *Official Journal of the European Communities*, and shall not be diverted to any other purpose.

#### Article 5

Articles 1 to 4 shall apply notwithstanding any rights or obligations conferred or imposed by any international agreement or any contract entered into, or any licence granted, before the entry into force of this Regulation.

*Article 6*

The Commission shall publish in the *Official Journal of the European Communities* the relevant information regarding applicable procedures for notifying to or obtaining the necessary approval by the said Committee of transactions or activities referred to in Article 2, and in particular those for obtaining payment from the Iraqi account in accordance with the conditions established by the said Committee, as well as other relevant information in connection with the implementation of this Regulation.

*Article 7*

1. The Commission and the Member States shall take the necessary measures to ensure the implementation of this Regulation.

2. They shall inform each other of the measures taken regarding the embargo against Iraq and other relevant information at their disposal in connection with this Regulation, such as the list of oil companies allowed to deal directly with the Committee established under Security Council resolution 661 (1990), violations and other enforcement problems, and judgments made by national courts.

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

Done at Brussels, 17 December 1996.

3. Each Member State shall determine the sanctions to be imposed where the provisions of this Regulation are infringed.

*Article 8*

Regulation (EEC) No 2340/90 and Regulation (EEC) No 3155/90 are hereby repealed.

*Article 9*

This Regulation shall apply within the territory of the European Community including its air space and on any aircraft or any vessel under the jurisdiction of a Member State and to any person elsewhere who is a national of a Member State and any body which is incorporated or constituted under the law of a Member State.

*Article 10*

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

It shall apply from 10 December 1996.

*For the Council*  
*The President*  
I. YATES