

**Legislative Council
Subcommittee to Examine the Implementation
in Hong Kong of Resolutions of the United Nations
Security Council in relation to Sanctions**

**UNITED NATIONS SANCTIONS (IRAQ) (AMENDMENT)
REGULATION 2004**

INTRODUCTION

At the meeting of the Executive Council on 29 June 2004, the Council advised and the Chief Executive ordered that the United Nations Sanctions (Iraq) (Amendment) Regulation 2004 (“the Amendment Regulation”) (at Annex A) should be made under section 3 of the United Nations Sanctions Ordinance (“the Ordinance”) (Cap. 537). The Amendment Regulation was gazetted on 9 July 2004 and came into effect on the same day.

A

BACKGROUND

Obligation and Authority

2. Under section 3(1) of the Ordinance, the Chief Executive (“CE”) is required to make regulations to give effect to an instruction of the Ministry of Foreign Affairs (“MFA”) of the People’s Republic of China to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In May 2003, the CE received specific instruction from MFA which requested the Government of the Hong Kong Special Administrative Region (“HKSARG”) to implement United Nations Security Council Resolution (“UNSCR”) 1483. A copy of the document issued by the Chief Secretary for Administration confirming MFA’s instruction is at Annex B. The Amendment Regulation was made in pursuance of that part of the instruction relating to the lifting of trade sanctions against Iraq as set out in paragraph 10 of UNSCR 1483.

B

Sanctions against Iraq

3. Upon MFA's instruction to implement UNSCRs 661, 687 and 986 against Iraq, HKSARG has done so through the following two Regulations -

C

(a) **the United Nations Sanctions (Iraq) Regulation** (at Annex C) which prohibited the exportation of goods intended for Iraq and importation of goods from Iraq unless under the authority of a licence granted by the CE or with the approval of the Security Council Committee of the United Nations. This Regulation has been amended by the Amendment Regulation; and

D

(b) **the United Nations Sanctions (Iraq) (Control of Gold, Securities, Payments and Credits) Regulation** (at Annex D) which prohibits the carrying out of any direction given by the Government of the Republic of Iraq or by any person resident in that country and which involves making payment or parting with any gold or securities, unless permission is granted by the Financial Secretary.

UNSCR 1483

E

4. In May 2003, we received instruction from MFA to implement UNSCR 1483. A copy of the Resolution is at Annex E. UNSCR 1483 was adopted by UNSC on 22 May 2003 which decided, inter alia, that –

- (a) all Member States shall take appropriate steps to facilitate the safe return to Iraqi institutions of Iraqi cultural properties, including measures to prohibit the trade in or transfer of such items where suspicion exists that they have been illegally removed from Iraq (paragraph 7 of UNSCR 1483);
- (b) prohibitions related to trade with Iraq and the provision of financial or economic resources to Iraq shall no longer apply. However, prohibitions related to the sale or supply to Iraq of arms and related material, save for 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, shall continue to apply (paragraph 10 of UNSCR 1483);

- (c) the Development Fund for Iraq shall enjoy privileges and immunities equivalent to those enjoyed by the United Nations (paragraph 22 of UNSCR 1483); and
- (d) funds or other financial assets or economic resources that have been removed from Iraq, or acquired, by certain individuals and entities shall be frozen and transferred to the Development Fund for Iraq (paragraph 23 of UNSCR 1483).

5. That part of paragraph 10 of UNSCR 1483 relating to the lifting of prohibitions on the provision of financial or economic resources to Iraq (ref. paragraph 4(b) above) is being implemented under the United Nations Sanctions (Iraq) (Control of Gold, Securities, Payments and Credits) Regulation (ref. paragraph 3(b) above).

THE AMENDMENT REGULATION

6. The Amendment Regulation implements that part of paragraph 10 of UNSCR 1483 relating to the lifting of trade sanctions against Iraq (ref. paragraph 4(b) above) by amending the United Nations Sanctions (Iraq) Regulation. The opportunity is taken to review and amend the United Nations Sanctions (Iraq) Regulation having regard to other regulations made under the Ordinance since 1997 (when the United Nations Sanctions (Iraq) Regulation was made). The main amendments are as follows -

- (a) repeal section 2 to remove the prohibition against importation of goods from Iraq into the Hong Kong Special Administrative Region (“HKSAR”);
- (b) repeal section 3 to remove the prohibition against exportation of goods from Iraq;
- (c) add a new section 3A to provide for the granting of licences for the supply or delivery of arms and related material in cases where

exemptions provided for in UNSCR 1483 are satisfied;

- (d) add a new section 3B to make it an offence in providing false information or documents for the purpose of obtaining licences and to provide for the penalties;
- (e) amend section 4 to limit the prohibition on supply of goods to Iraq to “prohibited goods”, i.e. arms and related material etc.
- (f) repeal section 6 as “supply” of goods comprehends the “export” of goods;
- (g) amend section 7 so that its scope of application is consistent with other prevailing regulations under the Ordinance;
- (h) amend section 8 to provide for the power to search suspected vehicles and a time limit for detaining ships, aircrafts and vehicles;
- (i) add a new section 11A to require an authorized officer to produce evidence of his identity and authority before or on exercising a power conferred by the United Nations Sanctions (Iraq) Regulation;
- (j) repeal section 12(1) so that the United Nations Sanctions (Iraq) Regulation will no longer apply to any ship, aircraft or body corporate that purports to be registered in the HKSAR;
- (k) repeal section 1 of the Schedule to remove the power to request any person to furnish information for the purpose of securing compliance with or detecting evasion of the United Nations Sanctions (Iraq) Regulation; and
- (l) delete the provisions on offences relating to customs in the United Nations Sanctions (Iraq) Regulation (i.e. sections 8(6)(d), 9 and section 2(1)(a) and 2(5)(d) of the Schedule).

RELATED MATTERS

7. Between receipt of MFA's instruction and the making of the Amendment Regulation, that part of paragraph 10 of UNSCR 1483 relating to the lifting of trade sanctions against Iraq was implemented by the exercise of CE's power to grant a licence under section 3 or section 4 of the United Nations Sanctions (Iraq) Regulation for exportation, supply or delivery of goods other than arms and related material. In the circumstances, no application for the said licences was received during the period from May 2003 to July 2004.

8. Paragraphs 7, 22 and 23 of UNSCR 1483 (ref. paragraph 4(a), (c) and (d) above) cannot be fully implemented under the Ordinance or other existing legislation. The Administration is actively considering how best to implement these provisions. To date, we are not aware of the presence in Hong Kong of any Iraqi cultural properties and other items referred to in paragraph 7 of UNSCR 1483; and no one has come forward to seek privileges and immunities for the Development Fund for Iraq as referred to in paragraph 22 of UNSCR 1483. Paragraph 23 of UNSCR 1483 is presently implemented in part by the permission requirement under the United Nations Sanctions (Iraq) (Control of Gold, Securities, Payments and Credits) Regulation (ref. paragraph 3(b) above).

ADVICE SOUGHT

9. Members are invited to note the implementation of that part of paragraph 10 of UNSCR 1483 relating to the lifting of trade sanctions against Iraq by the Amendment Regulation.

Commerce, Industry and Technology Bureau
May 2005

L.N. 132 of 2004**UNITED NATIONS SANCTIONS (IRAQ) (AMENDMENT)
REGULATION 2004****CONTENTS**

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**UNITED NATIONS SANCTIONS (IRAQ) (AMENDMENT)
REGULATION 2004**

(Made under section 3 of the United Nations Sanctions
Ordinance (Cap. 537) on the instruction of the
Ministry of Foreign Affairs of the
People's Republic of China and
after consultation with the
Executive Council)

1. Interpretation

(1) Section 1(1) of the United Nations Sanctions (Iraq) Regulation (Cap. 537 sub. leg. B) is amended—

(a) by repealing the definition of “authorized officer” and substituting—

““authorized officer” (獲授權人員) means—

(a) a police officer;

(b) any person holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap. 342); or

(c) a public officer employed in the Customs and Excise Department in the Trade Controls Officer Grade;”;

(b) in the definition of “commander”, by repealing everything after “means” and substituting “the member of the flight crew designated as the commander of the aircraft by the operator of the aircraft, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;”;

(c) in the definition of “operator”, by repealing “land transport”;

(d) by repealing the definitions of “customs officer”, “land transport vehicle”, “petroleum”, “petroleum products” and “Security Council Committee”;

(e) by adding—

““Authority” (管理當局) means the occupying powers of Iraq under unified command and referred to as “the Authority” in the Preamble to Resolution 1483;

“Commissioner” (關長) means the Commissioner of Customs and Excise and any Deputy or Assistant Commissioner of Customs and Excise;

“licence” (特許) means a licence granted under section 3A;

“prohibited goods” (禁制物品) means—

(a) arms and related material of all types, including all forms of conventional military equipment (including equipment for paramilitary forces); and

(b) any spare parts, components or their means of production for such equipment;

“Resolution 1483” (《第 1483 號決議》) means Resolution 1483 (2003) adopted by the Security Council of the United Nations on 22 May 2003;

“ship” (船舶) includes every description of vessel used in navigation not propelled by oars.”.

(2) Section 1(2) is repealed.

2. Importation of goods into the HKSAR

Section 2 is repealed.

3. Exportation of goods from Iraq

Section 3 is repealed.

4. Sections added

The following are added—

“3A. Power of Chief Executive to grant licences

The Chief Executive shall grant a licence for the supply, delivery or carriage of prohibited goods or the doing of an act calculated to promote the supply or delivery of prohibited goods if it is proved to the satisfaction of the Chief Executive that the goods is required by the Authority to serve the purposes of Resolution 1483 and other resolutions of the Security Council of the United Nations related to it.

3B. Provision of false information or documents for purposes of obtaining licences

(1) No person shall—

(a) make any statement or provide or produce any information or document that he knows to be false in a material particular; or

(b) recklessly make any statement or provide or produce any information or document that is false in a material particular,

for the purposes of obtaining a licence.

(2) A person who contravenes subsection (1) commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.”.

5. Supply or delivery of prohibited goods to Iraq

(1) Section 4(1) is amended—

- (a) by repealing “Subject to subsection (2), except under the authority of a licence granted by the Chief Executive” and substituting “Except under the authority of a licence”;
- (b) in paragraph (a), by adding “prohibited” before “goods”;
- (c) in paragraph (b), by repealing “such” and substituting “prohibited”;
- (d) in paragraph (c)—
 - (i) by adding “prohibited” before “goods”;
 - (ii) by adding “or operated from” before “Iraq in”.

(2) Section 4(2) and (3) is repealed.

(3) Section 4 is amended by adding—

“(4) This section applies to—

- (a) a person within the HKSAR; and
- (b) a person acting elsewhere who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.

(5) A person who contravenes subsection (1) commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

(6) In any proceedings for an offence under this section, it is a defence for a person charged to prove that he did not know and had no reason to believe—

- (a) that the goods were prohibited goods; or
- (b) that the goods were to be supplied or delivered—
 - (i) to, or to the order of, a person in Iraq; or
 - (ii) for the purposes of any business carried on in or operated from Iraq.”.

6. Application of sections 3 and 4

Section 5 is repealed.

7. Exportation of certain goods from the HKSAR

Section 6 is repealed.

8. Carriage of prohibited goods destined for Iraq

- (1) Section 7(1) is repealed.
- (2) Section 7(2) is amended—
 - (a) by repealing everything before “goods” and substituting—

“(2) Without prejudice to the generality of section 4, no ship, aircraft or vehicle to which this section applies shall, except under the authority of a licence, be used for the carriage of any prohibited”;
 - (b) by repealing “destination therein” and substituting “place in Iraq”.
- (3) Section 7 is amended by adding—

“(2A) This section does not apply if—

 - (a) the carriage of the prohibited goods is performed in the course of the supply or delivery of the prohibited goods; and
 - (b) the supply or delivery was authorized by a licence.”.
- (4) Section 7(3) is amended by repealing everything after “applies” and substituting—

“to—

 - (a) a ship that is registered in the HKSAR;
 - (b) an aircraft that is registered in the HKSAR;
 - (c) any other ship or aircraft that is for the time being chartered to a person who is—
 - (i) within the HKSAR;
 - (ii) both a Hong Kong permanent resident and a Chinese national; or
 - (iii) a body incorporated or constituted under the law of the HKSAR; and
 - (d) a vehicle within the HKSAR.”.
- (5) Section 7(4) is repealed.
- (6) Section 7(5) is amended by repealing everything after “aircraft or” and substituting—

“vehicle is used in contravention of subsection (2), each specified person commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.”.
- (7) Section 7 is amended by adding—
 - “(5A) For the purposes of subsection (5), “specified person” (指明人士) means—
 - (a) in relation to a ship registered in the HKSAR, the owner or master of the ship;
 - (b) in relation to any other ship—
 - (i) the person to whom the ship is for the time being chartered; or
 - (ii) the master of the ship if the master is a person who is—
 - (A) within the HKSAR; or
 - (B) both a Hong Kong permanent resident and a Chinese national;
 - (c) in relation to an aircraft registered in the HKSAR, the operator or commander of the aircraft;
 - (d) in relation to any other aircraft—
 - (i) the person to whom the aircraft is for the time being chartered;
 - (ii) the operator of the aircraft if the operator is a person who is—
 - (A) within the HKSAR;
 - (B) both a Hong Kong permanent resident and a Chinese national; or
 - (C) a body incorporated or constituted under the law of the HKSAR; or
 - (iii) the commander of the aircraft if the commander is a person who is—
 - (A) within the HKSAR; or
 - (B) both a Hong Kong permanent resident and a Chinese national; or
 - (e) in relation to a vehicle, the operator or driver of the vehicle.
 - “(5B) In any proceedings for an offence under this section, it is a defence for a person charged to prove that he did not know and had no reason to believe—
 - (a) that the goods were prohibited goods; or
 - (b) that the carriage of the goods was, or formed part of, carriage from any place outside Iraq to any place in Iraq or to any person for the purposes of any business carried on in or operated from Iraq.”.
- (8) Section 7(6) is repealed.

(9) Section 7(7) is amended by repealing “land transport”.

9. Investigation, etc. of suspected ships, aircraft and vehicles

(1) Section 8(1) is repealed and the following substituted—

“(1) If an authorized officer has reason to suspect that a ship has been, is being or is about to be used in contravention of section 7(2), he may—

- (a) either alone or accompanied and assisted by any person acting under his authority, board the ship and search it and, for that purpose, use or authorize the use of reasonable force; and
- (b) request the master or charterer of the ship to furnish such information relating to the ship and its cargo and produce for his inspection such documents so relating and such cargo as he may specify.

(1A) If an authorized officer has reason to suspect that a ship is being or is about to be used in contravention of section 7(2), he may (either there and then or on consideration of any information furnished or document or cargo produced in pursuance of a request made under subsection (1)(b)), with a view to preventing the commission, or the continued commission, of such a contravention or in order that enquiries may be pursued, take one or more of the following actions—

- (a) direct the master or charterer of the ship to refrain, except with the consent of an authorized officer, from unloading such part of the ship's cargo at such port as the authorized officer may specify;
- (b) request the master or charterer of the ship to take one or more of the following steps—
 - (i) to cause the ship and any of its cargo not to proceed with the voyage on which it is then engaged or about to engage until the master or charterer is notified by an authorized officer that the ship and its cargo may so proceed;
 - (ii) (if the ship is in the HKSAR) to cause the ship and any of its cargo to remain in the HKSAR until the master or charterer is notified by an authorized officer that the ship and its cargo may depart;
 - (iii) (if the ship is in any other place) to take the ship and any of its cargo to such port as is specified by an authorized officer and to cause the ship and its cargo to remain in that port until the master or charterer is

notified by an authorized officer that the ship and its cargo may depart;

- (iv) to take the ship and any of its cargo to such other destination as may be specified by an authorized officer in agreement with the master or charterer.”.

(2) Section 8(2) is repealed and the following substituted—

“(2) Without prejudice to subsection (8), if an authorized officer has reason to suspect that a request that has been made under subsection (1A)(b) in respect of a ship may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorize entry, on any land and on that ship;
- (b) detain, or authorize the detention of, that ship and any of its cargo; and
- (c) use, or authorize the use of, reasonable force.”.

(3) Section 8(3) is amended—

- (a) by repealing “Where the Chief Executive or any” and substituting “If an”;
- (b) by repealing everything after “that any aircraft” and before “has been”;
- (c) by repealing “7(1) or (2), then the Chief Executive or” and substituting “7(2),”;
- (d) by repealing “and the Chief Executive or” and substituting “and”;
- (e) by repealing “, the Chief Executive or” and substituting a comma;
- (f) by repealing “to remain in the HKSAR until notified that the aircraft” and substituting “and any of its cargo to remain in the HKSAR until the charterer, operator or commander is, or (if the further request is made to all of them) all of them are, notified by an authorized officer that the aircraft and its cargo”.

(4) Section 8(4) is amended—

- (a) by repealing “where the Chief Executive or any” and substituting “if an”;
- (b) by adding “and any of its cargo” after “an aircraft”;
- (c) by repealing “with the Chief Executive or” and substituting “with,”;
- (d) in paragraph (a), by repealing “進入任何土地，以及登上或授權” and substituting “他人進入任何土地，以及登上或授權他人”;
- (e) in paragraph (b), by repealing the semicolon and substituting “and any of its cargo; and”;
- (f) in paragraph (c), by adding “他人” after “權”.

(5) Section 8 is amended by adding—

“(4A) If an authorized officer has reason to suspect that a vehicle has been, is being or is about to be used in contravention of section 7(2), he may—

- (a) either alone or accompanied and assisted by any person acting under his authority, board the vehicle and search it and, for that purpose, use or authorize the use of reasonable force;
- (b) request the operator or driver of the vehicle to furnish such information relating to the vehicle and any articles carried on it and produce for his inspection such documents so relating and such articles as he may specify; and
- (c) (either there and then or on consideration of any information furnished or document or articles produced in pursuance of a request made under paragraph (b)) further request the operator or driver to take the vehicle and any articles carried on it to such place as is specified by an authorized officer and to cause the vehicle and the articles to remain in that place until the operator or driver is notified by an authorized officer that the vehicle and the articles may depart.

(4B) Without prejudice to subsection (8), if an authorized officer has reason to suspect that a request that has been made under subsection (4A)(c) in respect of a vehicle may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorize entry on, any land and enter, or authorize entry of, that vehicle;
- (b) detain, or authorize the detention of, that vehicle and any articles carried on it; and
- (c) use, or authorize the use of, reasonable force.

(4C) Subject to subsections (4D) and (4E), subsections (2), (4) and (4B) do not authorize—

- (a) the detention for more than 12 hours of any ship;
- (b) the detention for more than 6 hours of any aircraft; or
- (c) the detention for more than 12 hours of any vehicle.

(4D) The Chief Secretary for Administration may, by order in writing under his hand, authorize the detention of a ship referred to in subsection (4C)(a) for further periods of not more than 12 hours each or authorize the detention of an aircraft referred to in subsection (4C)(b) for further periods of not more than 6 hours each, and any such order shall state the times from which and for which the order shall be effective.

(4E) The Commissioner may, by order in writing under his hand, authorize the detention of a vehicle referred to in subsection (4C)(c) for further periods of not more than 12 hours each, and any such order shall state the times from which and for which the order shall be effective.”.

(6) Section 8(5) is repealed.

(7) Section 8(6) is amended—

(a) by repealing “提交” wherever it appears and substituting “交出”;

(b) in paragraph (d), by repealing everything after “under this Regulation” and substituting a full stop.

(8) Section 8(7) is amended—

(a) by adding “or of articles” after “of cargo”;

(b) by adding “or articles should be” after “or cargo”.

(9) Section 8(8) is repealed and the following substituted—

“(8) A person who—

(a) fails to comply with any direction given to him under subsection (1A);

(b) without reasonable excuse, refuses or fails to comply with a request made of him under subsection (1), (1A), (3) or (4A) within a reasonable time; or

(c) obstructs an authorized officer (or any person acting under the authority of an authorized officer) in the exercise of his powers under subsection (1), (1A), (2), (3), (4), (4A) or (4B),

commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.”.

(10) Section 8 is amended by adding—

“(8A) A person who, in response to a request made of him under subsection (1), (3) or (4A), furnishes or produces to an authorized officer any information, explanation or document that he knows to be false in a material particular, or recklessly furnishes or produces to the officer any information, explanation or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.”.

(11) Section 8(9) is amended by repealing “or aircraft” and substituting “, aircraft or vehicles”.

10. Section added

The following is added—

“8A. Offences in relation to evasion of this Regulation

A person who destroys, mutilates, defaces, secretes or removes any document or article with intent to evade any of the provisions of this Regulation commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.”.

11. Section substituted

Section 9 is repealed and the following substituted—

“9. Obtaining of evidence

The provisions of the Schedule shall have effect in order to facilitate the obtaining of evidence relating to an offence under this Regulation.”.

12. Offences committed by body corporate and proceedings

Section 10(1) is repealed.

13. Exercise of powers of the Chief Executive

Section 11(2) is repealed.

14. Section added

The following is added—

“11A. Production of proof of identity and authority

Before or on exercising a power conferred by this Regulation, an authorized officer shall, on request, produce evidence of his identity and authority.”.

15. Miscellaneous

- (1) Section 12(1) is repealed.
- (2) Section 12(2) is amended by repealing “granted by the Chief Executive”.

16. Evidence and information

The Schedule is amended—

- (a) in the heading, by repealing “AND INFORMATION”;
- (b) by repealing section 1;
- (c) in section 2(1)—
 - (i) by repealing “a police officer, customs officer or” and substituting “an”;
 - (ii) in paragraph (a)—
 - (A) by repealing everything after “under this Regulation” and before “the offence” and substituting “has been or is being committed and that evidence relating to”;
 - (B) by repealing “; or” at the end and substituting a comma;
 - (iii) by repealing paragraph (b);
 - (iv) by repealing “vessel” wherever it appears and substituting “ship”;
 - (v) by repealing “any police or customs officer” and substituting “an authorized officer”;
 - (vi) by repealing “and any other police or customs officers”;
- (d) in section 2(2)—
 - (i) by repealing “vessel” wherever it appears and substituting “ship”;
 - (ii) by repealing everything after “evidence” and before “or to take” and substituting “relating to an offence under this Regulation,”;
- (e) in section 2(3), by repealing “vessel” and substituting “ship”;
- (f) in section 2(5)—
 - (i) by repealing everything after “No” and before “document seized”;
 - (ii) in paragraph (a)—
 - (A) by repealing “the person by whom the information was furnished or the document was produced or”;
 - (B) in the proviso, by repealing “has obtained information or”;
 - (C) in the proviso, by repealing “that information or to”;
 - (iii) by repealing paragraph (b);
 - (iv) in paragraph (c), by repealing “information or”;
 - (v) in paragraph (d), by repealing everything after “under this Regulation” and substituting a full stop;

(g) by repealing section 3 and substituting—

“3. A person who obstructs another person in the exercise of his powers under this Schedule commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.”.

TUNG Chee-hwa
Chief Executive

2 July 2004

Explanatory Note

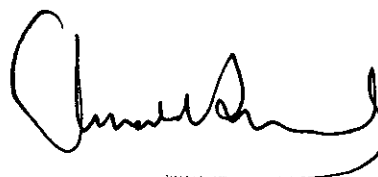
This Regulation is made under the United Nations Sanctions Ordinance (Cap. 537). It gives effect to a decision of the Security Council of the United Nations to lift all prohibitions related to trade with Iraq that is set out in paragraph 10 of Resolution 1483 adopted by the Security Council on 22 May 2003. Under that decision, however, the prohibitions related to the sale or supply to Iraq of arms and related material, save for 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 (referred to as “the Authority” in the Resolution), shall continue to apply. Textual amendments have also been made to certain provisions of the Chinese text of the United Nations Sanctions (Iraq) Regulation (Cap. 537 sub. leg. B) so as to achieve consistency with the corresponding provisions in the English text.

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Iraq) (Amendment) Regulation 2004

This is to confirm that the Chief Executive received specific instruction from the Ministry of Foreign Affairs of the People's Republic of China in May 2003 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution No. 1483 of the Security Council of the United Nations, and that the United Nations Sanctions (Iraq) (Amendment) Regulation 2004 was made in pursuance of that part of the instruction relating to the lifting of trade sanctions against Iraq as set out in paragraph 10 of Resolution No. 1483.

Dated this 30 day of August 2004



(Donald Tsang)
Chief Secretary for Administration

Chapter:	537B	UNITED NATIONS SANCTIONS (IRAQ) REGULATION	Gazette Number	Version Date
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Section:	1	Interpretation	L.N. 420 of 1997	22/08/1997
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- (1) In this Regulation, unless the context otherwise requires-
- "authorized officer" (獲授權人員) means a person authorized in writing by the Chief Executive for the purposes of this Regulation;
- "commander" (機長), in relation to an aircraft, means the person designated as commander of the aircraft by the operator thereof, and includes any person who is for the time being in charge or command of the aircraft;
- "customs officer" (海關人員) means any member of the Customs and Excise Service holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap 342);
- "HKSAR" (特區) means the Hong Kong Special Administrative Region of the People's Republic of China;
- "land transport vehicle" (陸上運輸載具) includes a barge;
- "master" (船長), in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;
- "operator" (營運人), in relation to an aircraft or to a land transport vehicle, means the person for the time being having the management of the aircraft or the vehicle;
- "owner" (擁有人), where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;
- "person in Iraq" (在伊拉克的人) includes any body constituted or incorporated under the law of Iraq and any body carrying on business (whether within Iraq or not) which is controlled by persons or bodies resident in Iraq or constituted or incorporated under the law of Iraq;
- "petroleum" (石油) means a naturally occurring mixture including hydrocarbons;
- "petroleum products" (石油產品) means any products, other than chemicals, which may be obtained by primary distillation or secondary refining from petroleum and includes natural gas, petroleum ether, solvents, benzene, naphtha, motor spirits (including aviation spirit), kerosenes (including jet fuel), heavy oils, fuel oils, lubricating oils, greases, petroleum jelly, paraffin wax and asphaltic bitumen;
- "Security Council Committee" (安全理事會委員會) means the Committee established by the Security Council of the United Nations in Resolution No. 661 of 6 August 1990.

(2) No licence shall be granted under this Regulation except with the approval of the instructing authority given generally or in a particular case.

Section:	2	Importation of goods into the HKSAR	L.N. 420 of 1997	22/08/1997
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- (1) Subject to subsection (2), except under the authority of a licence granted by the Chief Executive any goods exported from Iraq are prohibited from being imported into the HKSAR.
- (2) Petroleum or petroleum products exported from Iraq may be imported into the HKSAR by a person who has the approval of the Security Council Committee to do so.
- (3) A person seeking an approval referred to in subsection (2) shall make an application for the approval to the Chief Executive who shall then transmit the application to the Security Council Committee through the instructing authority.
- (4) Any person who imports any goods into the HKSAR in contravention of subsection (1) shall be guilty of an offence.
- (5) Nothing in this section shall be construed so as to prejudice any other provision of law

prohibiting or restricting the importation of goods into the HKSAR.

Section:	3	Exportation of goods from Iraq	L.N. 420 of 1997	22/08/1997
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- (1) Except under the authority of a licence granted by the Chief Executive, no person shall-
 - (a) make or carry out any contract for the exportation of any goods from Iraq;
 - (b) make or carry out any contract for the sale of any goods which he intends or has reason to believe that another person intends to export from Iraq; or
 - (c) do any act which would promote or is calculated to promote the exportation of any goods from Iraq.
- (2) No person shall deal in any goods that have been exported from Iraq after 6 August 1990, that is to say, shall, by way of trade or otherwise for gain, acquire or dispose of such goods or of any property of interest in them or any right to or charge upon them or process them or do any act calculated to promote any such acquisition, disposal or processing by himself or any other person:

Provided that this subsection shall not apply, if a licence has been granted under subsection (1) and is in force, to any dealing authorized by the licence.

Section:	4	Supply or delivery of goods to Iraq	L.N. 420 of 1997	22/08/1997
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- (1) Subject to subsection (2), except under the authority of a licence granted by the Chief Executive, no person shall-
 - (a) supply or deliver or agree to supply or deliver to or to the order of any person in Iraq any goods that are not in Iraq;
 - (b) supply or deliver or agree to supply or deliver any such goods to any person, knowing or having reasonable cause to believe that they will be supplied or delivered to or to the order of a person in Iraq or that they will be used for the purposes of any business carried on in or operated from Iraq; or
 - (c) do any act calculated to promote the supply or delivery of any goods to any person in Iraq or for the purpose of any business carried on in Iraq in contravention of any of the provisions of this section.
- (2) Subsection (1) shall not apply to any goods-
 - (a) which are foodstuffs, medicines or health supplies, or any other materials or supplies, to be supplied or delivered for essential civilian needs in Iraq on humanitarian grounds; and
 - (b) the supply or delivery of which is by a person who has the approval of the Security Council Committee to do so.
- (3) A person seeking an approval referred to in subsection (2)(b) shall make an application for the approval to the Chief Executive who shall then transmit the application to the Security Council Committee through the instructing authority.

Section:	5	Application of sections 3 and 4	L.N. 420 of 1997	22/08/1997
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- (1) The provisions of sections 3 and 4(1) shall apply to any person who is-
 - (a) within the HKSAR; or
 - (b) a body incorporated or constituted under the law of the HKSAR.
- (2) Any person specified in subsection (1) who contravenes the provisions of section 3(1) or (2) or 4(1) shall be guilty of an offence.

Section:	6	Exportation of certain goods from the HKSAR	L.N. 420 of 1997	22/08/1997
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(1) Except under the authority of a licence specified in section 4(1) or pursuant to section 4(2), all goods are prohibited from being exported to Iraq.

(2) Any person who exports any goods from the HKSAR in contravention of subsection (1) shall be guilty of an offence.

(3) Nothing in this section shall be construed so as to prejudice any other provision of law prohibiting or restricting the exportation of goods from the HKSAR.

Section:	7	Carriage of certain goods exported from or destined for Iraq	L.N. 420 of 1997	22/08/1997
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(1) Without prejudice to the generality of section 3, no ship or aircraft to which this section applies and no land transport vehicle within the HKSAR shall be used for the carriage of any goods if those goods are being or have been exported from Iraq in contravention of section 3.

(2) Without prejudice to the generality of section 4, no ship or aircraft to which this section applies and no land transport vehicle within the HKSAR shall be used for the carriage of any goods if the carriage is, or forms part of, carriage from any place outside Iraq to any destination therein or to any person for the purposes of any business carried on in or operated from Iraq.

(3) This section applies to ships registered in the HKSAR, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is-

- (a) within the HKSAR; or
- (b) a body incorporated or constituted under the law of the HKSAR.

(4) If any ship, aircraft or land transport vehicle is used in contravention of subsection (1), then each of the following persons-

- (a) in the case of a ship registered in the HKSAR, or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft;
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in subsection (3)(a) or (b), the master of the ship or, as the case may be, the operator and the commander of the aircraft;
- (c) in the case of a land transport vehicle, the operator of the vehicle,

shall be guilty of an offence unless he proves that he did not know and had no reason to suppose that the goods were being or had been exported from Iraq in contravention of section 2(1).

(5) If any ship, aircraft or land transport vehicle is used in contravention of subsection (2), then-

- (a) in the case of a ship registered in the HKSAR, or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft;
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in subsection (3)(a) or (b), the master of the ship or, as the case may be, the operator and the commander of the aircraft;
- (c) in the case of a land transport vehicle, the operator of the vehicle,

shall be guilty of an offence unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Iraq to any destination therein or to any person for the purposes of any business carried on in or

operated from Iraq.

(6) Nothing in this section applies to goods in respect of which a licence granted by the Chief Executive is in force under section 2(1) or 3 or in respect of which an approval granted by the Security Council Committee is in force under section 2(2).

(7) Nothing in this section shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or land transport vehicles.

Section:	8	Investigation, etc. of suspected HKSAR ships and aircraft	L.N. 420 of 1997	22/08/1997
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(1) Where any authorized officer has reason to suspect that any ship registered in the HKSAR has been or is being or is about to be used in contravention of section 7(1) or (2), he may (either alone or accompanied and assisted by persons under his authority) board the ship and search the ship and, for that purpose, may use or authorize the use of reasonable force, and he may request the master of the ship to furnish such information relating to the ship and its cargo and produce for his inspection such documents so relating and such cargo as he may specify; and an authorized officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may, in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of section 7(2), exercise the following further powers with a view to the prevention of the commission (or the continued commission) of any such contravention or in order that enquiries into the matter may be pursued, that is to say, he may either direct the master to refrain, except with the consent of an authorized officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified or request the master to take any one or more of the following steps-

- (a) to cause the ship not to proceed with the voyage on which it is then engaged or about to engage until the master is notified by any authorized officer that the ship may so proceed;
- (b) if the ship is then in the HKSAR, to cause it to remain there until the master is notified by any authorized officer that the ship may depart;
- (c) if the ship is then in any other place, to take it to any such port specified by the officer and to cause it to remain there until the master is notified as mentioned in paragraph (b); and
- (d) to take it to any other destination that may be specified by the officer in agreement with the master,

and the master shall comply with any such request or direction.

(2) Without prejudice to the provisions of subsection (8), where a master refuses or fails to comply with a request made under this section that his ship shall or shall not proceed to or from any place or where an authorized officer otherwise has reason to suspect that such a request that has been so made may not be complied with, any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorize entry upon, that ship and use, or authorize the use of, reasonable force.

(3) Where the Chief Executive or any authorized officer has reason to suspect that any aircraft registered in the HKSAR or any aircraft for the time being chartered to any person specified in section 7(3) has been or is being or is about to be used in contravention of section 7(1) or (2), then the Chief Executive or that authorized officer may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify, and the Chief Executive or that authorized officer may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorize the use of reasonable force; and, if the aircraft is then in the HKSAR, the Chief Executive or any such authorized officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a

request) may further request the charterer, the operator and the commander or any of them to cause the aircraft to remain in the HKSAR until notified that the aircraft may depart; and the charterer, the operator and the commander shall comply with any such request.

(4) Without prejudice to the provisions of subsection (8), where the Chief Executive or any authorized officer has reason to suspect that any request that an aircraft should remain in the HKSAR that has been made under subsection (3) may not be complied with the Chief Executive or that authorized officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose-

- (a) enter, or authorize entry, upon any land and upon that aircraft;
- (b) detain, or authorize the detention of, that aircraft;
- (c) use, or authorize the use of, reasonable force.

(5) An authorized officer shall, if requested to do so, produce evidence of his authority before exercising any power under subsection (1), (2), (3) or (4).

(6) No information furnished or document produced by any person in pursuance of a request made under this section shall be disclosed except-

- (a) with the consent of the person by whom the information was furnished or the document was produced:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;

- (b) to any person who would have been empowered under this section to request that it be furnished or produced;
- (c) on the authority of the Chief Executive, subject to the information or document being transmitted through and with the approval of the instructing authority, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any place outside the People's Republic of China for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Iraq decided upon by the Security Council of the United Nations; or
- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation or, with respect to any of the matters regulated by this Regulation, for an offence against any enactment relating to customs.

(7) Any power conferred by this section to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(8) Each of the following persons shall be guilty of an offence, that is to say-

- (a) a master of a ship who disobeys any direction given under subsection (1) with respect to the landing of any cargo;
- (b) a master of a ship or a charterer or an operator or a commander of the aircraft who, without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under this section by any person empowered to make it or who intentionally furnishes false information or produces false documents to such a person in response to such a request;
- (c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft who intentionally obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under this section.

(9) Nothing in this section shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships or aircraft.

Section:	9	Obtaining of evidence and information	L.N. 420 of 1997	22/08/1997
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The provisions of the Schedule shall have effect in order to facilitate the obtaining, by or on behalf of the Chief Executive, of evidence and information for the purpose of securing compliance with or detecting evasion of this Regulation and in order to facilitate the obtaining, by or on behalf of the Chief Executive, of evidence of the commission of an offence under this Regulation or, with respect to any of the matters regulated by this Regulation, of an offence relating to customs.

Section:	10	Penalties and proceedings	L.N. 420 of 1997	22/08/1997
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- (1) Any person guilty of an offence under this Regulation shall be liable-
 - (a) on conviction on indictment to a fine and to imprisonment for 2 years;
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) Where any body corporate is guilty of an offence against this Regulation and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (3) Summary proceedings for an offence under this Regulation, being an offence alleged to have been committed outside the HKSAR, may be commenced at any time not later than 12 months from the date on which the person charged first enters the HKSAR after committing the offence.
- (4) No proceedings for an offence against this Regulation shall be instituted except by or with the consent of the Secretary for Justice.

Section:	11	Exercise of powers of the Chief Executive	L.N. 420 of 1997	22/08/1997
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- (1) The Chief Executive may to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorize the delegation of any of his powers under this Regulation to any person, or class or description of persons, approved by him, and references in this Regulation to the Chief Executive shall be construed accordingly.
- (2) Any licences granted under this Regulation may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the Chief Executive.

Section:	12	Miscellaneous	L.N. 420 of 1997	22/08/1997
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- (1) This Regulation applies to or in relation to any ship or aircraft or any body corporate that purports to be registered in the HKSAR or, as the case may be, that purports to be incorporated or constituted under the law of the HKSAR as it applies to or in relation to any ship or aircraft that is so registered or any body corporate that is so incorporated or constituted.
- (2) Any provision of this Regulation which prohibits the doing of a thing except under the authority of a licence granted by the Chief Executive shall not have effect in relation to any such thing done in a place outside the HKSAR by a person who is ordinarily resident in, or by a body

corporate incorporated or constituted under the law of, that place, provided that it is so done under the authority of a licence or with permission granted, in accordance with any law in force in that place (being a law substantially corresponding to the relevant provision of this Regulation), by the authority competent in that behalf under that law.

Schedule:	SCHEDULE	L.N. 420 of 1997	22/08/1997
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[section 9]

EVIDENCE AND INFORMATION

1. (1) Without prejudice to any other provision of this Regulation, or any provision of any other law, the Chief Executive (or an authorized officer) may request any person in or resident in the HKSAR to furnish to the Chief Executive (or to that authorized officer) any information in his possession or control, or to produce to the Chief Executive (or to that authorized officer) any document in his possession or control which the Chief Executive (or that authorized officer) may require for the purpose of securing compliance with or detecting evasion of this Regulation, and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in subsection (1) shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this section, the magistrate or court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this section to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

2. (1) If any magistrate or judge is satisfied by information on oath given by a police officer, customs officer or authorized officer-

- (a) that there is reasonable ground for suspecting that an offence under this Regulation or, with respect to any of the matters regulated by this Regulation, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, vessel or aircraft so specified; or
- (b) that any documents which ought to have been produced under section 1 and have not been produced are to be found on any such premises or in any such vehicle, vessel or aircraft,

he may grant a search warrant authorizing any police or customs officer, together with any other persons named in the warrant and any other police or customs officers, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, vessel or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises or, as the case may be, the vehicle, vessel or aircraft.

(2) A person authorized by any such warrant to search any premises or any vehicle, vessel or aircraft may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle, vessel or aircraft and may seize any document or article found on the premises or in the vehicle, vessel or aircraft or on such person which he has reasonable ground to believe to be evidence of the commission of any offence as aforesaid, or any document which he has reasonable ground to believe ought to have been produced under section 1, or to take in relation to any such document or article any other

steps which may appear necessary for preserving it and preventing interference with it:

Provided that no person shall in pursuance of any warrant issued under this section be searched except by a person of the same sex.

(3) Where, by virtue of this section, a person is empowered to enter any premises, vehicle, vessel or aircraft he may use such force as is reasonably necessary for that purpose.

(4) Any documents or articles of which possession is taken under this section may be retained for a period of 3 months or, if within that period there are commenced any proceedings for an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

(5) No information furnished or document produced (including any copy or extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under subsection (2) shall be disclosed except-

- (a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced;
- (c) on the authority of the Chief Executive, subject to the information or document being transmitted through and with the approval of the instructing authority, to any organ of the United Nations or to any person in the service of the United Nations or to the Government of any place outside the People's Republic of China for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Iraq decided upon by the Security Council of the United Nations; or
- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation or, with respect to any of the matters regulated by this Regulation, for an offence against any enactment relating to customs.

3. Any person who-

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it;
- (b) intentionally furnishes false information or a false explanation or otherwise intentionally obstructs any person in the exercise of his powers under this Schedule; or
- (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes, or removes any document,

shall be guilty of an offence.

Chapter:	537A	UNITED NATIONS SANCTIONS (IRAQ) (CONTROL OF GOLD, SECURITIES, PAYMENTS AND CREDITS) REGULATION	Gazette Number	Version Date
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		Empowering section	L.N. 419 of 1997	22/08/1997
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(Cap 537 section 3)

[22 August 1997]

(L.N. 419 of 1997)

Section:	1	Control of gold, securities, payments and credits	L.N. 419 of 1997	22/08/1997
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(1) Except with permission granted by or on behalf of the Financial Secretary, no direction given by or on behalf of the Government of the Republic of Iraq, or by or on behalf of any person resident in the Republic of Iraq at the time of the commencement of this Regulation or at any later time while this Regulation is in force shall be carried out insofar as the direction-

- (a) requires the person to whom the direction is given to make any payment or part with any gold or securities; or
- (b) requires any change to be made in the persons to whose credit any sum is to stand or to whose order any gold or security is to be held.

(2) In this section-

"gold" (黃金) means gold coin or gold bullion;

"security" (證券) includes-

- (a) shares, stocks, bonds, notes, debentures and debenture stocks;
- (b) a deposit receipt in respect of the deposit of securities;
- (c) a negotiable receipt or other negotiable certificate or document evidencing the deposit of a sum of money;
- (d) a promissory note;
- (e) a unit or a sub-unit of a unit trust;
- (f) an annuity or a life insurance policy or other contract entered into with an assurance company for securing a payment in the future of any capital sums or of an annuity;
- (g) a warrant conferring an option to acquire a security;
- (h) a share in an oil royalty.

(3) Any permission granted by or on behalf of the Financial Secretary under this section may be granted either absolutely or subject to conditions.

(4) No permission shall be granted under this section except with the approval of the instructing authority given generally or in a particular case.

Section:	2	Penalties	L.N. 419 of 1997	22/08/1997
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(1) If any person contravenes or fails to comply with this Regulation, he shall be guilty of an offence and shall be liable-

- (a) on conviction on indictment to a fine and to imprisonment for 2 years;

(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

(2) Where an offence under this Regulation committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to, any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) No proceedings for an offence against this Regulation shall be instituted except by or with the consent of the Secretary for Justice.

United Nations

S/RES/1483 (2003)



Security Council

Distr.: General

22 May 2003

Resolution 1483 (2003)

**Adopted by the Security Council at its 4761st meeting, on
22 May 2003**

The Security Council,

Recalling all its previous relevant resolutions,

Reaffirming the sovereignty and territorial integrity of Iraq,

Reaffirming also the importance of the disarmament of Iraqi weapons of mass destruction and of eventual confirmation of the disarmament of Iraq,

Stressing the right of the Iraqi people freely to determine their own political future and control their own natural resources, *welcoming* the commitment of all parties concerned to support the creation of an environment in which they may do so as soon as possible, and *expressing* resolve that the day when Iraqis govern themselves must come quickly,

Encouraging efforts by the people of Iraq to form a representative government based on the rule of law that affords equal rights and justice to all Iraqi citizens without regard to ethnicity, religion, or gender, and, in this connection, *recalls* resolution 1325 (2000) of 31 October 2000,

Welcoming the first steps of the Iraqi people in this regard, and *noting* in this connection the 15 April 2003 Nasiriyah statement and the 28 April 2003 Baghdad statement,

Resolved that the United Nations should play a vital role in humanitarian relief, the reconstruction of Iraq, and the restoration and establishment of national and local institutions for representative governance,

Noting the statement of 12 April 2003 by the Ministers of Finance and Central Bank Governors of the Group of Seven Industrialized Nations in which the members recognized the need for a multilateral effort to help rebuild and develop Iraq and for the need for assistance from the International Monetary Fund and the World Bank in these efforts,

Welcoming also the resumption of humanitarian assistance and the continuing efforts of the Secretary-General and the specialized agencies to provide food and medicine to the people of Iraq,

Welcoming the appointment by the Secretary-General of his Special Adviser on Iraq,

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Affirming the need for accountability for crimes and atrocities committed by the previous Iraqi regime,

Stressing the need for respect for the archaeological, historical, cultural, and religious heritage of Iraq, and for the continued protection of archaeological, historical, cultural, and religious sites, museums, libraries, and monuments,

Noting the letter of 8 May 2003 from the Permanent Representatives of the United States of America and the United Kingdom of Great Britain and Northern Ireland to the President of the Security Council (S/2003/538) and recognizing the specific authorities, responsibilities, and obligations under applicable international law of these states as occupying powers under unified command (the "Authority"),

Noting further that other States that are not occupying powers are working now or in the future may work under the Authority,

Welcoming further the willingness of Member States to contribute to stability and security in Iraq by contributing personnel, equipment, and other resources under the Authority,

Concerned that many Kuwaitis and Third-State Nationals still are not accounted for since 2 August 1990,

Determining that the situation in Iraq, although improved, continues to constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Appeals* to Member States and concerned organizations to assist the people of Iraq in their efforts to reform their institutions and rebuild their country, and to contribute to conditions of stability and security in Iraq in accordance with this resolution;

2. *Calls upon* all Member States in a position to do so to respond immediately to the humanitarian appeals of the United Nations and other international organizations for Iraq and to help meet the humanitarian and other needs of the Iraqi people by providing food, medical supplies, and resources necessary for reconstruction and rehabilitation of Iraq's economic infrastructure;

3. *Appeals* to Member States to deny safe haven to those members of the previous Iraqi regime who are alleged to be responsible for crimes and atrocities and to support actions to bring them to justice;

4. *Calls upon* the Authority, consistent with the Charter of the United Nations and other relevant international law, to promote the welfare of the Iraqi people through the effective administration of the territory, including in particular working towards the restoration of conditions of security and stability and the creation of conditions in which the Iraqi people can freely determine their own political future;

5. *Calls upon* all concerned to comply fully with their obligations under international law including in particular the Geneva Conventions of 1949 and the Hague Regulations of 1907;

6. *Calls upon* the Authority and relevant organizations and individuals to continue efforts to locate, identify, and repatriate all Kuwaiti and Third-State Nationals or the remains of those present in Iraq on or after 2 August 1990, as well as the Kuwaiti archives, that the previous Iraqi regime failed to undertake, and, in this regard, *directs* the High-Level Coordinator, in consultation with the

International Committee of the Red Cross and the Tripartite Commission and with the appropriate support of the people of Iraq and in coordination with the Authority, to take steps to fulfil his mandate with respect to the fate of Kuwaiti and Third-State National missing persons and property;

7. *Decides* that all Member States shall take appropriate steps 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 resolution 661 (1990) of 6 August 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, and *calls upon* the United Nations Educational, Scientific, and Cultural Organization, Interpol, and other international organizations, as appropriate, to assist in the implementation of this paragraph;

8. *Requests* the Secretary-General to appoint a Special Representative for Iraq whose independent responsibilities shall involve reporting regularly to the Council on his activities under this resolution, coordinating activities of the United Nations in post-conflict processes in Iraq, coordinating among United Nations and international agencies engaged in humanitarian assistance and reconstruction activities in Iraq, and, in coordination with the Authority, assisting the people of Iraq through:

(a) coordinating humanitarian and reconstruction assistance by United Nations agencies and between United Nations agencies and non-governmental organizations;

(b) promoting the safe, orderly, and voluntary return of refugees and displaced persons;

(c) working intensively with the Authority, the people of Iraq, and others concerned to advance efforts to restore and establish national and local institutions for representative governance, including by working together to facilitate a process leading to an internationally recognized, representative government of Iraq;

(d) facilitating the reconstruction of key infrastructure, in cooperation with other international organizations;

(e) promoting economic reconstruction and the conditions for sustainable development, including through coordination with national and regional organizations, as appropriate, civil society, donors, and the international financial institutions;

(f) encouraging international efforts to contribute to basic civilian administration functions;

(g) promoting the protection of human rights;

(h) encouraging international efforts to rebuild the capacity of the Iraqi civilian police force; and

(i) encouraging international efforts to promote legal and judicial reform;

9. *Supports* the formation, by the people of Iraq with the help of the Authority and working with the Special Representative, of an Iraqi interim administration as a transitional administration run by Iraqis, until an internationally

recognized, representative government is established by the people of Iraq and assumes the responsibilities of the Authority;

10. *Decides* that, with the exception of prohibitions related to the sale or supply to Iraq of arms and related materiel other than those arms and related materiel required by the Authority to serve the purposes of this and other related resolutions, all prohibitions related to trade with Iraq and the provision of financial or economic resources to Iraq established by resolution 661 (1990) and subsequent relevant resolutions, including resolution 778 (1992) of 2 October 1992, shall no longer apply;

11. *Reaffirms* that Iraq must meet its disarmament obligations, *encourages* the United Kingdom of Great Britain and Northern Ireland and the United States of America to keep the Council informed of their activities in this regard, and *underlines* the intention of the Council to revisit the mandates of the United Nations Monitoring, Verification, and Inspection Commission and the International Atomic Energy Agency as set forth in resolutions 687 (1991) of 3 April 1991, 1284 (1999) of 17 December 1999, and 1441 (2002) of 8 November 2002;

12. *Notes* the establishment of a Development Fund for Iraq to be held by the Central Bank of Iraq and to be audited by independent public accountants approved by the International Advisory and Monitoring Board of the Development Fund for Iraq and looks forward to the early meeting of that International Advisory and Monitoring Board, whose members shall include duly qualified representatives of the Secretary-General, of the Managing Director of the International Monetary Fund, of the Director-General of the Arab Fund for Social and Economic Development, and of the President of the World Bank;

13. *Notes further* that the funds in the Development Fund for Iraq shall be disbursed at the direction of the Authority, in consultation with the Iraqi interim administration, for the purposes set out in paragraph 14 below;

14. *Underlines* that the Development Fund for Iraq shall be used in a transparent manner to meet the humanitarian needs of the Iraqi people, for the economic reconstruction and repair of Iraq's infrastructure, for the continued disarmament of Iraq, and for the costs of Iraqi civilian administration, and for other purposes benefiting the people of Iraq;

15. *Calls upon* the international financial institutions to assist the people of Iraq in the reconstruction and development of their economy and to facilitate assistance by the broader donor community, and *welcomes* the readiness of creditors, including those of the Paris Club, to seek a solution to Iraq's sovereign debt problems;

16. *Requests* also that the Secretary-General, in coordination with the Authority, continue the exercise of his responsibilities under Security Council resolution 1472 (2003) of 28 March 2003 and 1476 (2003) of 24 April 2003, for a period of six months following the adoption of this resolution, and terminate within this time period, in the most cost effective manner, the ongoing operations of the "Oil-for-Food" Programme (the "Programme"), both at headquarters level and in the field, transferring responsibility for the administration of any remaining activity under the Programme to the Authority, including by taking the following necessary measures:

- (a) to facilitate as soon as possible the shipment and authenticated delivery of priority civilian goods as identified by the Secretary-General and representatives

designated by him, in coordination with the Authority and the Iraqi interim administration, under approved and funded contracts previously concluded by the previous Government of Iraq, for the humanitarian relief of the people of Iraq, including, as necessary, negotiating adjustments in the terms or conditions of these contracts and respective letters of credit as set forth in paragraph 4 (d) of resolution 1472 (2003);

(b) to review, in light of changed circumstances, in coordination with the Authority and the Iraqi interim administration, the relative utility of each approved and funded contract with a view to determining whether such contracts contain items required to meet the needs of the people of Iraq both now and during reconstruction, and to postpone action on those contracts determined to be of questionable utility and the respective letters of credit until an internationally recognized, representative government of Iraq is in a position to make its own determination as to whether such contracts shall be fulfilled;

(c) to provide the Security Council within 21 days following the adoption of this resolution, for the Security Council's review and consideration, an estimated operating budget based on funds already set aside in the account established pursuant to paragraph 8 (d) of resolution 986 (1995) of 14 April 1995, identifying:

(i) all known and projected costs to the United Nations required to ensure the continued functioning of the activities associated with implementation of the present resolution, including operating and administrative expenses associated with the relevant United Nations agencies and programmes responsible for the implementation of the Programme both at Headquarters and in the field;

(ii) all known and projected costs associated with termination of the Programme;

(iii) all known and projected costs associated with restoring Government of Iraq funds that were provided by Member States to the Secretary-General as requested in paragraph 1 of resolution 778 (1992); and

(iv) all known and projected costs associated with the Special Representative and the qualified representative of the Secretary-General identified to serve on the International Advisory and Monitoring Board, for the six month time period defined above, following which these costs shall be borne by the United Nations;

(d) to consolidate into a single fund the accounts established pursuant to paragraphs 8 (a) and 8 (b) of resolution 986 (1995);

(e) to fulfil all remaining obligations related to the termination of the Programme, including negotiating, in the most cost effective manner, any necessary settlement payments, which shall be made from the escrow accounts established pursuant to paragraphs 8 (a) and 8 (b) of resolution 986 (1995), with those parties that previously have entered into contractual obligations with the Secretary-General under the Programme, and to determine, in coordination with the Authority and the Iraqi interim administration, the future status of contracts undertaken by the United Nations and related United Nations agencies under the accounts established pursuant to paragraphs 8 (b) and 8 (d) of resolution 986 (1995);

(f) to provide the Security Council, 30 days prior to the termination of the Programme, with a comprehensive strategy developed in close coordination with the Authority and the Iraqi interim administration that would lead to the delivery of all

relevant documentation and the transfer of all operational responsibility of the Programme to the Authority;

17. *Requests further* that the Secretary-General transfer as soon as possible to the Development Fund for Iraq 1 billion United States dollars from unencumbered funds in the accounts established pursuant to paragraphs 8 (a) and 8 (b) of resolution 986 (1995), restore Government of Iraq funds that were provided by Member States to the Secretary-General as requested in paragraph 1 of resolution 778 (1992), and *decides* that, after deducting all relevant United Nations expenses associated with the shipment of authorized contracts and costs to the Programme outlined in paragraph 16 (c) above, including residual obligations, all surplus funds in the escrow accounts established pursuant to paragraphs 8 (a), 8 (b), 8 (d), and 8 (f) of resolution 986 (1995) shall be transferred at the earliest possible time to the Development Fund for Iraq;

18. *Decides* to terminate effective on the adoption of this resolution the functions related to the observation and monitoring activities undertaken by the Secretary-General under the Programme, including the monitoring of the export of petroleum and petroleum products from Iraq;

19. *Decides* to terminate the Committee established pursuant to paragraph 6 of resolution 661 (1990) at the conclusion of the six month period called for in paragraph 16 above and *further decides* that the Committee shall identify individuals and entities referred to in paragraph 23 below;

20. *Decides* that all export sales of petroleum, petroleum products, and natural gas from Iraq following the date of the adoption of this resolution shall be made consistent with prevailing international market best practices, to be audited by independent public accountants reporting to the International Advisory and Monitoring Board referred to in paragraph 12 above in order to ensure transparency, and *decides further* that, except as provided in paragraph 21 below, all proceeds from such sales shall be deposited into the Development Fund for Iraq until such time as an internationally recognized, representative government of Iraq is properly constituted;

21. *Decides further* that 5 per cent of the proceeds referred to in paragraph 20 above shall be deposited into the Compensation Fund established in accordance with resolution 687 (1991) and subsequent relevant resolutions and that, unless an internationally recognized, representative government of Iraq and the Governing Council of the United Nations Compensation Commission, in the exercise of its authority over methods of ensuring that payments are made into the Compensation Fund, decide otherwise, this requirement shall be binding on a properly constituted, internationally recognized, representative government of Iraq and any successor thereto;

22. *Noting* the relevance of the establishment of an internationally recognized, representative government of Iraq and the desirability of prompt completion of the restructuring of Iraq's debt as referred to in paragraph 15 above, *further decides* that, until December 31, 2007, unless the Council decides otherwise, petroleum, petroleum products, and natural gas originating in Iraq shall 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, and that all States shall take any steps that may be necessary under their respective domestic legal systems to assure this protection, and that proceeds and obligations arising from sales thereof, as well as the Development Fund for Iraq, shall enjoy privileges and

immunities equivalent to those enjoyed by the United Nations except that the above-mentioned privileges and immunities will not apply with respect to any legal proceeding in which recourse to such proceeds or obligations is necessary to satisfy liability for damages assessed in connection with an ecological accident, including an oil spill, that occurs after the date of adoption of this resolution;

23. *Decides* that all Member States in which there are:

(a) funds or other financial assets or economic resources of the previous Government of Iraq or its state bodies, corporations, or agencies, located outside Iraq as of the date of this resolution, or

(b) funds or other financial assets or economic resources 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,

shall freeze without delay those funds or other financial assets or economic resources 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, immediately shall cause their transfer to the Development Fund for Iraq, it being understood that, unless otherwise addressed, claims made by private individuals or non-government entities on those transferred funds or other financial assets may be presented to the internationally recognized, representative government of Iraq; and *decides further* that all such funds or other financial assets or economic resources shall enjoy the same privileges, immunities, and protections as provided under paragraph 22;

24. *Requests* the Secretary-General to report to the Council at regular intervals on the work of the Special Representative with respect to the implementation of this resolution and on the work of the International Advisory and Monitoring Board and *encourages* the United Kingdom of Great Britain and Northern Ireland and the United States of America to inform the Council at regular intervals of their efforts under this resolution;

25. *Decides* to review the implementation of this resolution within twelve months of adoption and to consider further steps that might be necessary;

26. *Calls upon* Member States and international and regional organizations to contribute to the implementation of this resolution;

27. *Decides* to remain seized of this matter.
