

# DTI Guidance Note - UN Sanctions against Iraq

The following notes are for general guidance only - they do not represent an exhaustive survey of all relevant legislation.

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# UN Sanctions against Iraq

## *Background*

Sanctions against Iraq were introduced by the United Nations (UN) following the invasion of Kuwait. Before sanctions can be lifted Iraq must meet certain obligations laid down by the UN: these include recognition of the sovereignty and boundaries of Kuwait, the return of Kuwaiti detainees and improved human rights, and the elimination under international supervision of its weapons of mass destruction. Iraq has met these obligations, and so sanctions remain in place.

UN Security Council Resolution (UNSCR) 660 of 2 August 1990 condemned the invasion of Kuwait. Of the subsequent UNSCRs that relate to Iraq, those particularly relevant to sanctions are:

- UNSCR 661 (1990), which imposed a ban on trade in all goods except medical goods and foodstuffs;
- UNSCR 670 (1990), which extended the embargo to Iraqi ships and imposed restrictions on flights to and from Iraq;
- UNSCR 687 (1991), which lifted sanctions on food and put in place an accelerated approval procedure for humanitarian aid;
- UNSCR 986, (1995) as amended and extended by subsequent Resolutions, which permits Iraq to export petroleum and petroleum products, the revenue to be spent mainly on the import of humanitarian goods.

## *Implementation in UK law*

Sanctions are implemented in the UK by a number of Orders in Council. The main Order relating to the supply of goods and services is the Iraq and Kuwait (United Nations Sanctions) Order 1990 (SI 1990/1651)<sup>1</sup>, as amended. There are also EC Regulations implementing the UNSCRs and these are directly applicable in the UK. The principal Regulations in force are listed in Annex (II) to these Notes.

## *Overview of Sanctions*

The focus of sanctions is a ban on:

- the export of any goods to Iraq (except certain humanitarian goods; see below);
- the supply of any goods to any person (whether or not in Iraq) if you know or believe that the goods are intended to be exported to or from Iraq;
- the import of any goods from Iraq, including oil (except under UNSCR 986, see below);

any act calculated to promote the supply of any goods to Iraq or the export of any goods from Iraq;

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<sup>1</sup> The prohibitions in the Order apply to Kuwait as well as to Iraq. Following the liberation of Kuwait the restrictions on that country were effectively lifted by the Open General Licence and Permission (Kuwait) - see below.

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These restrictions apply to all goods; and to anyone in UK jurisdiction, to all British subjects anywhere, and to all companies incorporated in the UK.

However, UNSCRs 661 (1990) and 687 (1991) allow the supply to Iraq of certain goods essential for civilian needs (foodstuffs, medical products and such other goods as the United Nations Sanctions Committee may decide on a case-by-case basis); and, in addition, UNSCR 986 and its successor Resolutions allow the supply of other parts and equipment as listed in those Annexes to Distribution Plans (see page 16) which have been approved by the Secretary General of the United Nations. But even for such goods as these, you **must** be in possession of a valid Export Licence before they can be supplied to Iraq.

Besides these restrictions that relate to goods, there is also a strict assets-freeze with restrictions on any payments to Iraq; and restrictions on direct flights to any destination in Iraq (flights from the UK require UN Sanctions Committee authorisation).

### *Types of Licence*

Where you require permission to perform a particular act, this permission will usually take the form of a Licence, normally granted by the DTI. The type of licence will depend on the circumstances of the case. Below is a brief summary of the main classes of licence, and how to apply for them. If you are unsure please contact us.

### **Licences to Communicate**

If you plan to discuss **with anyone** (in Iraq or elsewhere) any possible exports to Iraq, you must have permission from the DTI. In the first instance, check the provisions of the Open General Licence to Communicate (essential civilian supplies, pipeline parts, and other parts and equipment: Iraq) - see below under **Open General Licences**. If you feel that this does not already authorise your proposed discussions, you should contact the Sanctions Licensing Unit, giving full details of what is to be discussed, with whom and when, so that DTI can decide whether or not to issue an individual Licence to Communicate.

Before the issue of the first Open General Licence to Communicate in August 1996, Licences to Communicate were only issued on an individual basis. Individual licences have not been invalidated or revoked by the Open General Licence.

If a UK registered company or UK national is asked to provide advice in connection with a commercial contract for the provision of goods and technology entered into by the Iraqi Government prior to sanctions, the Open General Licence to communicate (essential civilian supplies, pipeline parts and other parts and equipment: Iraq) should be examined. An individual licence would be required to do any acts not authorised by this licence. Any advice on such contracts would also need to take into account the provisions of Council Regulation (EC) No 3541/92 of 7 December 1992 "prohibiting the satisfying of Iraqi claims with regard to contracts and transactions the performance of which was affected by UNSCR 661 (1990) and related resolutions.

You may also wish to contact the Sanctions Licensing Unit for advice if you receive enquiries that may not mention Iraq explicitly but which relate to the supply of goods or services that you believe are bound ultimately for Iraq.

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### Export Licence

If you have a confirmed order to supply goods to Iraq you should apply to DTI on the UN's approved application form for an Export Licence. This will also function as an application for UN Authorisation where required. The application form is shown at Annex(I:AF). You can take copies of this form as required. You will have to give a full description of the goods, including quantities and values, and origin. In Box 14, you **must** indicate the country from which you intend to export the goods. For instance, under "Other information", it would be sufficient to state "UK by sea to Aqaba then overland to Trebil". But "By sea to Aqaba then overland to Trebil" is inadequate. Applications without this information will be returned to the sender. When completed, the form must be submitted to DTI's Sanctions Licensing Unit, **not** sent directly to the UN. Wherever necessary DTI will forward your application to the UN Sanctions Committee for their authorisation.

The application form (Box 15) also requests details of method of payment, in order to establish whether the goods are to be paid for from funds in the Escrow Account, in accordance with UNSCR 986 (1995) and its successor resolutions, or by some alternative payment arrangement that is not in breach of the assets freeze provisions of the sanctions regime.

To ensure that the assets freeze is not breached, you are required to provide full details on the application form where payment is to be made by a letter of credit or money transfer, including cash. You must provide, where appropriate, the name of the issuing/confirming bank, the number of the account to be debited and the name the account is held in. Applications that do not contain this information, including any details that may have to be obtained from the importer, will be returned to the sender. This information will not be required for applications under UNSCR 986 (1995) and its successor resolutions or where the exporter is to be paid directly from UN aid agency funds.

*All applications are considered on a case-by-case basis.*

The UN Sanctions Committee has requested Member States not to submit applications which they judge are certain to be refused. Where a UK application is submitted to the Committee, a decision by DTI to issue or to refuse an Export Licence will only be made on receipt of the Committee's reply. The UN's response time varies: it can sometimes be completed in a matter of days, but some especially complicated or contentious cases can take much longer. All Export Licences are valid for a set period and some UN Authorisations also have a set validity period. Only Member States, UN agencies (e.g. UNICEF), and some international organisations (e.g. the Red Cross) can make applications to the Committee.

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The Export Licence must be surrendered to HM Customs & Excise at the time of export. It is permissible to export the goods specified on an Export Licence in several shipments where necessary, subject to Customs procedures (you should make clear in advance to Customs that you intend to re-use the Licence). The total quantities specified on the Licence must not be exceeded and its expiry date must be adhered to. If you request it, the value of an export may be shown on the licence in a currency other than Sterling, but in such cases Customs have requested that the invoice and other supporting documents produced with the export entry are in the same currency as shown on the licence. The exchange rate used to convert values to sterling on the export entry (which should be the rate prevailing on the date the export entry is produced to Customs) must also be entered on the export entry.

You should always include photocopies of any UN Letter of Authorisation and your Export Licence in the shipping documentation to assist other Customs administrations en route to Iraq.

If you feel that you will be unable to complete an approved export before the expiry of the Licence, you should apply in good time for an extension. The UN will consider the extension of an Authorisation once only, and only while that Authorisation is still valid.

### **Supply Licence**

You need a licence to supply goods to Iraq even from outside the UK. A Supply Licence may be issued to British nationals under UK law, but it confers no legal immunity from the law of the exporting country, which must also approve the supply under its own licensing procedures. The government of the third country is responsible for dealing with the United Nations Sanctions Committee. DTI would normally issue a Supply Licence on sight of a letter of authorisation/acknowledgement from the UN.

A Supply Licence is only appropriate if you yourself are to supply goods to Iraq from a third country. If you are merely promoting the supply by someone else, then see above under "Licences to Communicate". To give an example: if a British commodities broker arranged the export of sugar to Iraq by a British sugar grower in Brazil, then the sugar grower would require a Supply Licence, but the broker would be referred to the Open General Licence to Communicate (essential civilian supplies, pipeline parts and other parts and equipment: Iraq).

### **UK Supply Licence**

Without a licence, you may not supply goods to anyone in the UK if you have reason to believe that the goods are then to be supplied to Iraq. However, this licensing requirement is removed when an export licence is issued for that supply (ref: Article 3 of the 1990 Sanctions Order, as amended). Anyone supplying goods to an exporter to Iraq is therefore advised to satisfy himself that the exporter has been granted an export licence. The supplier then needs no licence to supply the goods to the exporter.

If you require permission to supply goods to an exporter before an export licence has been issued to the exporter, you should apply in writing for a UK Supply Licence, stating clearly the reason for your application.

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### Other Licences

There may be instances where UK banks or insurers are required to guarantee or insure shipments of duly-authorised supplies to Iraq. In those case, the provision of such cover would be an act calculated to promote the supply and permission would be required.

### Open General Licences

Open General Licences stand in contrast to Individual Licences. Only one of each is ever issued, and that one is held by DTI; but copies are available from the Sanctions Licensing Unit and may also be viewed on our website (<http://www.dti.gov.uk/export.control>). Each one may be used by anyone subject to the conditions set out on it.. Briefly those specifically related to Iraq are:

- the **Open General Export Licence (Ships' Stores, Aircraft Stores)** authorises the carriage of stores on board a ship or aircraft to Iraq.
- the **Open General Supply Licence (Essential Goods)** authorises the supply to Iraqi persons *in any place other than Iraq* of essential goods, as listed in a schedule, intended for their own consumption or use.
- the **Open General Export Licence (Personal Effects)** authorises the carriage of personal effects as defined in the licence to any destination in Iraq.
- the **Open General Import Export and Supply Licence (Documents)** authorises the export of specified documents to and the import of specified documents from Iraq. Also authorises agreements or acts calculated to promote exportation of specified documents.
- the **Open General Licence and Permission (Kuwait)** authorises exports to and from Kuwait, and dealing with goods exported from Kuwait after March 1991. It also authorises overflying of Kuwait-bound aircraft over UK territory. It effectively removed the effect of Sanctions from Kuwait following its liberation.
- the **Open General Medical Goods Licence** authorises the supply of specified medical goods to Iraq on condition that they are supplied or delivered by the International Committee of the Red Cross.
- the **Open General Export Licence (Human Remains)** of 6 March 1997 permits the return of human remains to Iraq for funeral ceremonies, together with a coffin and grave goods.
- the **Open General Licence to Communicate (Petroleum Exports and Petroleum Products from Iraq)** authorises any act calculated to promote the export from Iraq of petroleum and petroleum products in accordance with UNSCR 986; and dealing in those products once exported from Iraq.
- the **Open General Trading and Import Licence (Petroleum and Petroleum Products) (Iraq) (UNSCR 986)** permits any person to discuss, negotiate, make and carry out contracts for the purchase of exported Iraqi oil. It also permits the subsequent sale (and purchase) of that oil and its import into the UK.
- the **Open General Processing and Transport Licence (Petroleum and Petroleum Products) (Iraq) (UNSCR 986)** permits the transportation and processing of Iraqi oil.

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- the **Open General Licence to Communicate (essential civilian supplies, pipeline parts and other parts and equipment: Iraq)** of 19 November 1998 authorises the negotiation of (and other acts calculated to promote) the supply to Iraq of :-
  - (a) medicine, health supplies, foodstuffs, materials and supplies for essential civilian needs;
  - (b) parts and equipment essential for the safe operation of the Kirkuk-Yurmurtalik pipeline system;
  - (c) parts and equipment listed in those Annexes to Distribution Plans submitted under UNSCR 986 (1995) as amended and extended by subsequent Resolutions, including Resolutions passed after the date of the licence, which have been approved by the Secretary General of the United Nations.

This licence does not extend to acts relating to goods that would require an Export Licence to be exported to any other destination other than Iraq (dual-use goods controlled for strategic reasons and goods on the UK military list). No goods may be supplied to anyone, anywhere under this Licence.

### *Goods sourced from third countries*

The Sanctions Committee will accept applications where goods are sourced from third countries. However, the exporter must obtain a written statement to accompany their application from the appropriate authorities in the third country, confirming that the goods will not be exported until UN authorisation is given for the application. If this information is not provided, the Committee will not process the application further until it has been supplied.

### *Imports from Iraq*

Apart from imports of oil covered by the Open General Trading and Import Licence (Petroleum and Petroleum Products) (Iraq) (UNSCR 986), all imports of goods originating in Iraq are prohibited to be imported into the UK except under the authority of an individual import licence issued by the Import Licensing Branch of the Department of Trade and Industry (see contacts below). It is the DTI's policy not to issue import licences.

### *Effect of the assets freeze on business transactions*

If you are exporting to Iraq, or travelling to Iraq on business, the assets freeze provisions of the sanctions legislation will have a bearing on financial transactions so you will wish to be familiar with them. Amongst other things it affects the ability of a customer in Iraq to pay for goods. The granting of an export licence does not remove the effects of the assets freeze.

(UNSCR 986 (1995) and successor resolutions provide a method by which Iraq can pay for imports, but Iraqi assets already frozen are not affected - see below.)

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The Bank of England's Financial Sanctions Unit can advise on the implications of the assets freeze (a Bank of England notice giving full guidance is at Annex(BoE:I)). You should be aware that under the Iraq (United Nations Sanctions) Order 2000 (SI 2000/3241) it is an offence to make funds available to the Republic of Iraq or an Iraq resident, or to otherwise remit or remove any funds from the UK to a destination in Iraq.

### ***Performance bonds and guarantees***

Companies which had contracts with Iraq before sanctions were imposed were normally required by their Iraqi customers to arrange for a bank bond guaranteeing the performance of the contract in question. The banks usually required the bond to be backed by an indemnity from the contractor.

Where the sanctions legislation made unlawful, in whole or in part, the performance of a contract, it also prohibited any act to obtain payment, relating to any right or indemnity in respect of any bond guaranteeing that contract.

Paragraph 29 of UNSCR 687 (1991) called on Member States to prevent Iraq from making claims for contracts that were uncompleted *because of sanctions*. Article 4 of the Iraq and Kuwait (United Nations Sanctions) Order 1990 (as amended by the Iraq and Kuwait (United Nations Sanctions) (Amendment) Order 1990 (SI 1990/1768) and EC Regulation 3541/92 implement this provision and prohibit the satisfaction of any such Iraqi claims.

### ***Oil-for-Food***

UNSCR 986 (1995) and successor resolutions authorise the sale of Iraqi petroleum and petroleum products. The revenue generated from these sales is paid into a special Escrow Account (the "Iraq Account") at the Banque Nationale de Paris in New York. Some of the funds in this account are made available for the purchase by Iraq of goods but funds can only be released with the UN's approval. This is not a relaxation of Sanctions. The existing trade embargoes remain.

Further information on the oil for food programme is set out below.

### ***The Export/Import Mechanism***

This notification system enables monitoring of certain goods supplied to Iraq. It neither affects nor replaces the current Sanctions regime.

All UN Member States must inform UNMOVIC (the United Nations Monitoring, Verification and Inspection Commission) and IAEA (the International Atomic Energy Agency) Joint Unit in New York whenever they intend to give - or deny - permission for the export of certain goods to Iraq. The Joint Unit will monitor the import into Iraq of goods with the potential to be used for the production of Weapons of Mass Destruction: i.e. chemical and biological weapons, missiles and nuclear warheads.

Even under the current sanctions regime, some humanitarian goods are subject to the Export/Import Mechanism. In the main these will be "low-tech" goods such as chemicals and pumps for water treatment, or certain agricultural crop sprayers.

There is further guidance on the Export/Import Mechanism below.

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### ***Iraqi visitors to the UK***

Should it be necessary in the course of your business dealings with Iraq for any Iraqis to visit this country, each one will have to apply for an entry visa. For information about the procedures involved, contact the Joint Entry Clearance Unit (see contacts below) or visit the FCO's website <http://www.fco.gov.uk/travel/>.

### ***British visitors to Iraq***

UK Sanctions legislation does not prohibit travel to Iraq, but the Foreign and Commonwealth Office Travel Advice Unit (tel: 020 7008 0232/0233) advises against it. The UK has no diplomatic representation in Iraq.

### ***Legal advice***

It is in your interest to seek independent legal advice if you are contemplating discussions or contracts relating to the export or supply of goods or services to Iraq.

DTI will be happy to help with your queries, and will give advice in relation to procedures applicable in the UK. We will also try to help whenever we can with your questions about the law itself, but please bear in mind that DTI does not offer legal services.

We respond on a case-by-case basis and need full details in writing before we can offer advice. For contact details see below.

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### Contacts

To contact the Sanctions Licensing Unit in the Export Control Organisation:

write to: **Department of Trade & Industry**  
Export Control Organisation  
Sanctions Licensing Unit  
4 Abbey Orchard Street  
London SW1P 2HT  
call: 020 7215 0594  
fax: 020 7215 0593

To contact the Import Licensing Branch:

write to: **Department of Trade & Industry**  
Import Licensing Branch  
Queensway House  
West Precinct  
Billingham  
TS23 2NF  
call: 01642-364348  
fax: 01642-361956

To contact the Bank of England Financial Sanctions Unit:

write to: **Bank of England**  
Financial Sanctions Unit  
Threadneedle Street  
London EC2R 8AH  
call: 020 7601 4607/3500/3848  
fax: 020 7601 4309

To contact the Joint Entry Clearance Unit:

write to: **Joint Entry Clearance Unit**  
89 Albert Embankment  
London SE1 7TP  
call: 020 7238 3838  
fax: 020 7238 3763

# DTI Guidance Note - UN Sanctions against Iraq

## Annex(I:AF) - Application Form for authorisation to supply to Iraq

SECURITY COUNCIL COMMITTEE ESTABLISHED BY RESOLUTION 661 (1990) CONCERNING THE SITUATION BETWEEN IRAQ AND KUWAIT NOTIFICATION OR REQUEST TO SHIP GOODS TO IRAQ (TO BE COMPLETED BY THE SECRETARIAT)						
COMM No		REGISTRATION DATE			DEADLINE FOR OBJECTION	
(TO BE COMPLETED BY PROSPECTIVE EXPORTING COUNTRY OR INT'L ORG)						
1. MISSION OR INTERNATIONAL ORGANISATION				CERTIFYING SIGNATURE AND OFFICIAL SEAL		
2. DATE OF SUBMISSION			3. MISSION REFERENCE NO			
4a. Sector/item code (SCR986) 4b HS tariff code	5. GOODS TO BE SHIPPED (Name and/or description. Attach additional sheet if necessary)	6. QUANTITY IN NUMBERS	7. UNIT OF MEASUREMENT	8. VALUE PER ITEM	9. TOTAL VALUE	10. CURRENCY ISO CODE
1 a)						
1 b)						
2 a)						
2 b)						
3 a)						
3 b)						
11. EXPORTER Name and Address			12. ORIGIN of GOODS (if different from applicant State)			
13. RECEIVING COMPANY / ORG Name and Address			14. SHIPPING ARRANGEMENTS			
b) Means of Transportation			a) Border Point or Port of Entry into Iraq			
			c) Other Information (e.g. route, major ports, etc.)			
<input type="checkbox"/> From the Iraq Account in accordance with SC resolution 986 (1995) (relevant documentation including contract(s) must be attached)			15. METHOD OF PAYMENT		<input type="checkbox"/> By other arrangement (Provide as many details as possible)	
16. ADDITIONAL INFORMATION: End-use and End-user (Attach additional sheet if necessary)						

### IMPORTANT NOTICE

- 1 Provide only one item per line in Box 5.
- 2 Sector/item codes (Box 4a) are mandatory, and are found in the Annexes to the relevant Distribution Plan.
- 3 HS Tariff Codes (Box 4b), if used, must be 6-digit codes of the International Harmonised System of Tariff Nomenclature as determined by the Customs Cooperation Council in Brussels, Belgium.
- 4 Information entered must match shipping documents presented to customs officials.
- 5 Incomplete, incorrect or illegible applications will be returned by the Committee's Secretariat for completion.

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**ANNEX(I:AF) CONTD**

**MISSION REFERENCE No:**

**Additional sheet to notify or request to ship goods to:**

4a. Sector/item code (SCR986) 4b HS tariff code	5. GOODS TO BE SHIPPED (Name and/or description. Attach additional sheet if necessary)	6. QUANTITY IN NUMBERS	7. UNIT OF MEASUREMENT	8. VALUE PER ITEM	9. TOTAL VALUE	10. CURRENCY ISO CODE
4 a)						
b)						
5 a)						
b)						
6 a)						
b)						
7 a)						
b)						
8 a)						
b)						
9 a)						
b)						
10a)						
b)						
11a)						
b)						
12a)						
b)						
13a)						
b)						
14a)						
b)						
15a)						
b)						
16a)						
b)						
17a)						
b)						
18a)						
b)						
19a)						
b)						
20a)						
b)						

## DTI Guidance Note - UN Sanctions against Iraq

### Annex(I:AF) (UN Application Form): notes

The United Nations has issued this Application Form for applications for authorisation or for notification of the supply of goods to Iraq. Please note the following guide to completion of the form. Any form not correctly filled in may be returned to the applicant.

**Language:** applications should be completed either in English or in French.

**Presentation:** in black and preferably typewritten .

**Boxes 4(a) (only for SCR986) 5, 6, 7, 8, 9, 10, 11, 13, 14 and 15** must be completed by the applicant.

**Box 4(a)** the sector/item codes are to be found in Iraq's Distribution Plan.

**Boxes 4(b) and 16**, if completed, will assist processing procedures and facilitate the shipment of the goods.

**Box 4 (HS Code);**

if used, should be limited to the first six digits of the harmonised system of the tariff.

one item or HS tariff code per line. One total weight and value per item or HS tariff code.

goods covered by the same HS code should be treated as one item; e.g.

medicaments containing other antibiotics packed for retail sale, tariff heading 300420, should not be sub-divided by brand name.

**Box 6 (Quantity)** should be given in whole numbers.

**Box 7 (Units of Measurement)**

for liquids, use litres; for dry goods, use kilos or tons. Exceptions: items like shoes could use "pairs"; heavy items like pumps could use "pieces". Do not use "boxes", "cases", etc.

**Box 8 (Value per Item);** where possible this should reflect the price of a single item; e.g. one lightbulb rather than a box or a kilo of lightbulbs.

**Box 9 (Total Value)** should be given in whole numbers.

**Box 10 (Currency)** should be given in full or abbreviated using the ISO code; e.g. GBP for Pounds Sterling.

**Boxes 14(a) and (c)** must be completed for shipments made in connection with UNSCR 986 (1995) as amended and extended by subsequent resolutions; and in other cases they should still be completed whenever the information is available.

**Box 14(a)** (Border point or point of entry): only one may be cited per application. For supplies made in accordance with UNSCR 986 (1995) and successor Resolutions, only Trebil, Zakho and Umm Qasr will be accepted.

**Box 14(c)** (Other information); give the exporting country, plus details of the shipping arrangements (major ports) and any other relevant information relating to the shipping arrangements.

**Box 15 (Method of Payment)** Tick one box.

if payment is requested from the Iraq Account in accordance with UNSCR 986 (1995) and successor Resolutions , the application must be accompanied by all relevant documentation, including the concluded contractual arrangements.

if marked "By other arrangement" and the arrangement is to be by Letter of Credit, the issuing bank and date of payment should be given if possible.

# DTI Guidance Note - UN Sanctions against Iraq

## Annex(I:1) - Legislation relating to sanctions against Iraq

This is not intended to be an exhaustive list of all legislation relevant to exporters. To order copies of legislation by telephone ring The Stationery Office Limited on 0870 600 5522 or visit their website <http://www.the-stationery-office.co.uk/howtoorder.htm>

### *Acts of Parliament*

**United Nations Act 1946**  
**Import, Export and Customs Powers (Defence) Act 1939**  
**Emergency Laws (Re-enactment's and Repeals) Act 1964**  
**Customs and Excise Management Act 1979**

### *Orders<sup>2</sup>*

**The Export of Goods (Control) Order 1994** (SI 1994/1191)  
**The Dual-Use Items (Export Control) Regulations 2000** (SI 2000/2620)  
• (Amendments to the Order are made from time to time as necessary)  
**The Export of Goods (Control) (Iraq and Kuwait Sanctions) Order 1990** (SI 1990/1640)  
**The Iraq and Kuwait (United Nations Sanctions) Order 1990** (SI 1990/1651, as amended by SI 1990/1768 and SI 1990/2144)  
**The Iraq and Kuwait (United Nations Sanctions) (No.2) Order 1990** (SI 1990/1907)  
**The Iraq (United Nations) (Sequestration of Assets) Order 1993** (SI 1993/1244)  
**The Iraq and Kuwait (United Nations Sanctions) (Amendment) Order 1998** (SI 1998/3163)  
**The United Nations (Sanctions) Amendment) Order 2000** (SI 2000/1106)  
**The Iraq (United Nations Sanctions) Order 2000** (SI 2000/3241)

### *EC Council Regulations*

**EC 3541/92** prohibiting the satisfaction of Iraqi claims with regard to contracts and transactions the performance of which was affected by sanctions.  
**EC 2465/96** concerning trade between the Community and Iraq in the light of Security Council Resolution 986

### *Decision*

**96/740/ECSC** Decision of the European Coal and Steel Community repealing 90/414/ECSC preventing trade as regards Iraq and Kuwait.

### **DTI Export Control Organisation**

**March 2001**

<sup>1</sup> The orders listed here are supplemented by similar regulations for the Dependent Territories, the Channel Islands and the Isle of Man

## The Oil for Food Programme

### Background

Resolution 986 (1995) adopted on 14 April 1995 authorised the sale of \$1 billion of Iraqi petroleum and petroleum products every 90 days, for an initial period of 180 days, in return for the supply of humanitarian goods. The ceiling on oil sales was eased during 1998 and finally lifted in 1999 enabling the programme to broaden its focus to include purchase of goods to repair Iraq's essential infrastructure including the oil industry. The money raised from Iraq's oil sales is paid into a special Escrow Account at the New York branch of the Banque Nationale de Paris (called the Iraq Account). Funds can only be released to pay for Iraq's humanitarian imports subject to UN approval.

UNSCR 986 (1995) came into effect on 10 December 1996; its main provisions have been extended for further 180 day periods by new resolutions as follows UNSCR 1111 (Phase II) June 1997, UNSCR 1143 (Phase III) December 1997, UNSCR 1153 (Phase IV) May 1998, UNSCR 1210 (Phase V) November 1998, UNSCR 1242 (Phase VI) May 1999, UNSCR 1281 (Phase VI) December 1999, UNSCR 1302 (Phase VIII) June 2000 and UNSCR 1330 (Phase XI) December 2000. This is not a relaxation of Sanctions against Iraq; it is a humanitarian measure to alleviate the suffering of the Iraqi people.

### Arrangements for the export of petroleum and petroleum products from Iraq

UN Overseers scrutinise contracts for the purchase of Iraqi oil, and Oil Inspectors supervise the export of oil. The Overseers take into account the following factors: price, quality, export route, method of payment, duration of contract and pricing mechanism. The Inspectors based at Ceyhan, Mina Al-Bakr and other appropriate points ensure Iraqi compliance.

Once a contract has been successfully negotiated, the purchaser must obtain the Overseers' approval for the purchase. The application form is at Annex(986) 1. The Overseers can be contacted in New York at: tel: 212 963 1515; fax: 212 963 1628. They will inform the applicant of their decision.

If the Overseers approve the contract, the purchaser must transmit the full price to the Iraq Account in New York by Letter of Credit (see Annex(I:986:LoC)). After checking the details of the payment, the Banque Nationale de Paris informs the UN Oil Inspectors in Iraq.

**The inspectors have full authority to stop any export if there is any evidence of irregularity.**

## UN Sanctions against Iraq - The Oil for Food Programme

### **Communicating with the UN overseers about the purchase of Iraqi petroleum and petroleum products**

Only those purchasers nominated as Oil Purchasers by their Government may deal directly with the UN Overseers in New York. To be nominated from the UK, you must apply formally to the DTI Sanctions Licensing Unit. Anyone not nominated in this way must communicate with the Overseers via the DTI, rather than directly.

### **UK licensing arrangements for purchase of Iraqi petroleum and petroleum products**

The DTI has issued the following licences:

- **Open General Licence to Communicate (Petroleum Exports and Petroleum Products for Iraq)** authorises any act calculated to promote the export from Iraq of petroleum and petroleum products in accordance with UNSCR 986, or to promote dealing in those products once exported from Iraq.
- **Open General Trading and Import Licence (Petroleum and Petroleum Products) (Iraq) (UNSCR 986)** dated 15 August 1996. This Licence permits any person to discuss, negotiate, make and carry out contracts for the purchase of exported Iraqi oil. It also permits the subsequent sale (and purchase) of that oil and its import into the UK. In the case of the initial purchase of oil from Iraq, the permission granted is subject both to registration at the DTI and to approval of the purchase by the UN Overseers.
- **Open General Processing and Transport Licence (Petroleum and Petroleum Products) (Iraq) (UNSCR 986)** dated 18 August 1996. This gives permission for exported Iraqi oil to be transported and processed.

### **Arrangements for exports to Iraq under UNSCR 986 et seq.**

- The Government of Iraq or the United Nations Inter-Agency Humanitarian Programme (for the three northern governorates of Dohuk, Erbil and Sulaymaniyah) will contract directly with suppliers to arrange the purchase of humanitarian supplies and will conclude the appropriate contractual arrangements;
- the UN application form at annex I:AF must be completed for **all** exports to Iraq.
- All contracts for goods to be exported will be examined by the Sanctions Committee in accordance with its procedures
- All exports to Iraq require a UK export licence issued by the DTI.
- payment for exports under UNSCR 986 et seq. are made from the Escrow Account in New York.

## **The Distribution Plan**

Iraq has been required to submit a distribution plan approved by the UN Secretary General for each phase of the scheme. The Plan includes a series of Annexes listing the goods that Iraq wishes to import from funds generated by the oil sales. The plan is available for downloading from the UN's website at the following address: <http://www.un.org/Depts/oip>. The final decision on whether any particular supply will be authorised from the Plan rests with the United Nations Sanctions Committee and ultimately with the Government of the exporting country. The fact that Iraq may have included something in their Distribution Plan is no guarantee that its supply will be permitted.

## **Procedures Established by the UN Sanctions Committee for the Oil for Food Programme**

The UN's Office of the Iraq Programme has compiled comprehensive guidance on all aspects of contract and approval procedures for oil for foods business. This can be viewed on the UN's website at <http://www.un.org/Depts/oip>

## **Exporters who have been re-imbursed by ECGD for pre-sanctions business conducted with an Iraqi customer**

Companies that have been reimbursed, in full or in part, by ECGD in respect of prior unpaid business in Iraq (pre sanctions), should be aware that under Article 19 of their ECGD cover they may be liable to repay to ECGD moneys received as a result of new business with the same Iraqi customer. Anyone who thinks they may be affected by this should contact ECGD Cardiff to discuss the situation (Tel: 01222 78515/784874/784630).

## UN Sanctions against Iraq - The Oil for Food Programme

### **Annex(986)1 - Standard format of application to request approval of contracts for purchase of Iraqi petroleum and/or petroleum products**

The attached contract with the Iraqi State Oil Marketing Organisation (SOMO) for the purchase of petroleum and/or petroleum products is submitted for approval in accordance with paragraph 1(a) of Security Council resolution 986 (1995) and the procedures of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait adopted at its 142nd meeting held on 8 August 1996 (S/1996/636).

#### **Information about the purchaser**

Name of purchasing entity:

Place of registration:

Address:

Contact person:

Telephone:

Telefax:

Telex:

# UN Sanctions against Iraq - The Oil for Food Programme

## Summary of contract terms (Purchase of Iraqi Oil)

Quantity of crude petroleum and/or petroleum products

Quality of crude petroleum and/or petroleum products

Pricing formula and/or price per US barrel:

Date(s) of loading at Ceyhan:

Date of loading at Mina Al-Bakr;

Name of vessel and destination (if available);

Payment details (draft irrevocable letter of credit, etc):

Please find attached a copy of the contract, draft irrevocable letter of credit to be opened and all supporting documents.

Signature

Name of signatory

Title

## UN Sanctions against Iraq - The Oil for Food Programme

### Annex(986)2 - Information to be included in the letter of credit (Purchase of Iraqi Oil)

As provided for in paragraph 2 of Annex II of the Memorandum of Understanding between the Secretariat of the United Nations and the Government of Iraq on the implementation of Security Council resolution 986 (1995), signed on 20 May 1996, the following clauses must be inserted in each letter of credit:

“- Provided all terms and conditions of this letter of credit are complied with proceeds of this letter of credit will be irrevocably paid into the “Iraq Account” with the Banque Nationale de Paris.”

“- All charges within Iraq are for the beneficiary’s account, whereas all charges outside Iraq are to be borne by the purchaser”.

Other information to be included:

- nature of the petroleum or petroleum product
- forecast quantity of petroleum or petroleum product
- date of loading
- unit price
- forecast amount of the transaction

### UN Sanctions against Iraq (the Import-Export Mechanism)

#### *Background*

The Export/Import mechanism is a notification system whereby Governments notify the United Nations of the supply of certain goods to Iraq.

It was originally drawn up by UNSCOM (the United Nations Special Commission) and IAEA (the International Atomic Energy Agency) to monitor the import by Iraq of goods with any potential to be used for the production of Weapons of Mass Destruction (WMD - i.e. chemical and biological weapons, nuclear warheads and missiles). United Nations Security Council Resolution (UNSCR) 1051 adopted on 27 March 1996 approved the Export/Import Mechanism.

On 17 December 1999 UNSCR 1284 was adopted. This established the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) as the successor to UNSCOM. Amongst its duties it is charged with establishing and operating a reinforced, ongoing monitoring and verification system. It has the same powers as UNSCOM but offers a fresh start and an opportunity for the remaining disarmament questions to be cleared up quickly.

Under the mechanism, UN Member States must inform the UNSMOVIC/IAEA Joint Unit, at the UN headquarters in New York, whenever they intend to give - or refuse - permission for the export of certain goods to Iraq. The goods to which the mechanism applies are any that are described in Annexes to the Handbook issued to governments by the Joint Unit.

The Mechanism was implemented by all States from 1 October 1996.

#### *Nature of goods affected by the Export/Import mechanism*

The Mechanism applies to permanent and temporary exports and re-exports to Iraq of goods (whether new or used) which could be used in the development, production, handling, operation, delivery, waste disposal, detection and identification or storage of Weapons of Mass Destruction (which are weapons of any of four main types: nuclear, chemical or biological weapons or missile systems).

#### *Effect on the current sanctions regime*

Under current sanctions, humanitarian goods may be supplied to Iraq as long as an export licence has been issued in advance by the Department of Trade & Industry (DTI). The export must either be notified to, or authorised by, the United Nations Sanctions Committee in New York. Some of these humanitarian goods will also be subject to the Export/Import mechanism - mainly at the "low-tech" end of the list, e.g. water treatment chemicals and pumps, agricultural crop sprayers above a certain spraying capacity, etc. Notification of any such supply is in addition to current dealings with the United Nations Sanctions Committee.

## UN Sanctions against Iraq - The Export/Import Mechanism

### *Role of the Government of Iraq*

The Government of Iraq must notify the Joint Unit both of its intention to procure notifiable items and the actual import itself. For each transaction, Iraq must be the first party to notify the Joint Unit that there is an intent to import a notifiable item. At this point the Joint Unit will allocate a **Transaction Designator Number (TDN)** to the transaction. Iraq should then pass this number to the supplier when the order is placed.

### *UK licensing/notification procedures*

On receipt of your completed Sanctions Committee application form [see Annex(I:AF)] we will examine the details you have provided. If it looks as if some of the items may be covered by the mechanism we will write to you highlighting which goods we are concerned about. We will ask you to provide a description and a full technical specification and ask for information on the following:-

- the exact end-use and end-user including exact location, address and nationality of those monitoring the goods;
- the route the goods will take and details of supervision during the journey;
- where and how the goods will be stored and whether storage will be secure;
- how the goods will be issued and by whom;
- why the specific goods are needed (i.e. could non-export/import rated goods be used as alternatives).

If any goods are covered and the Government is willing to support your application we will send you an **A1 Intent to Export Notifiable Items to Iraq** form (see Annex(I:Imp:3)). The DTI will then process your application and, if there are no difficulties (e.g. the Sanctions Committee is willing to issue its authorisation) the licensing process will proceed. Before an Export Licence can be issued, you will be asked to set out the shipment details on a second notification form **A2 Export of Notifiable Items to Iraq** (see Annex(I:Imp:4)). As soon as this is received, fully completed, DTI will issue the Export Licence and send the shipping details to the Joint Unit.

If the goods are also subject to control by the UK's general export control regime<sup>3</sup>, DTI will notify you of this. If you wish to take your application further, you will then have to complete the standard DTI Export Licence Application Form (**Form A**) which will be sent to you. Only if this application is successful will it be passed to the UN Sanctions Committee for approval.

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<sup>3</sup> The Export of Goods (Control) Order 1994 (SI 1994/1191, as amended; Council Regulation (EC) 1334/2000 on the control of exports of dual-use items and technology and the Dual-Use Items (Export Control) Regulations 2000 (SI 2000/2620).

### *Filling in the notification forms at Annexes(I:Imp:3) and (I:Imp:4)*

Instructions for completing the forms are printed on the back. You can make photocopies of the forms for future applications. The hatched boxes are for official use only. Instructions in [ ] are for DTI officials only.

Whenever possible, you should enter the TDN on both notification forms (A1 - Intent to Export Notifiable Items to Iraq and A2 - Export of Notifiable Items to Iraq). Presentation of the TDN by the supplier will greatly expedite the notification process, but it is not compulsory. If for any reason you do not know the TDN, you should still apply to the DTI Sanctions Licensing Unit. Your notification will be sent to the Joint Unit who will allocate a number or inform us of the number already allocated to the transaction. We will in turn notify you.

### *The Export Licence*

Should an Export Licence be granted for goods covered by the Mechanism, it will be of the usual type except for a distinguishing mark. This is simply to help with paper management when the licence is returned to the DTI by Customs & Excise Officers.

### *Goods in transshipment or in bonded warehouses*

The Joint Unit must be notified by the government of the transshipping country, or the country where the bonded warehouse is located, of attempts to supply notifiable items to Iraq when it becomes clear after the initial export that Iraq is or has become the final destination. Where such instances occur, the government of the transshipping country must pass all pertinent information to the Joint Unit, through the most expeditious means.

### *Exceptions/variations to the mechanism*

- i) **Isotopes** - should Iraq require the import of isotopes for certain medical, agricultural or industrial purposes, she must submit a notification form to IAEA at least 60 days in advance of the intended import. If approved a letter of authorisation and a TDN will be sent to the Government of Iraq. Iraq should then provide the supplier with a copy of the authorisation. If you receive such a letter you must send a copy to DTI along with your completed A1 notification form. The normal notification process then applies.
- ii) **Prohibited chemicals** - should Iraq require the import of any prohibited chemicals (a list is available from DTI), she must submit a notification form to the Joint Unit at least 30 days in advance of the intended import. If approved a letter of authorisation and a TDN will be sent to the Government of Iraq. Iraq should then provide the supplier with a copy of the authorisation. If you receive such a letter you must send a copy to DTI along with your completed A1 notification form. The normal notification process then applies.

## UN Sanctions against Iraq - The Export/Import Mechanism

- iii) **Vaccines** - no prior notification by Iraq is required, but Iraq must notify the Joint Unit immediately if she enters into an arrangement with a non-Iraqi supplier so that the Joint Unit can provide the supplier's Government with its written consent. The TDN number applicable to the transaction will be quoted in the letter. The normal notification process then applies.

### *Access to information provided on the A1 and A2 notification forms*

Staff in DTI's Export Control Organisation, the UK Mission to the United Nations in New York (UKMIS) and the Joint Unit will see these forms. DTI and UKMIS will, of course, treat this information with their customary care and confidentiality. The Joint Unit realises that the information you give them may be sensitive for commercial reasons. Therefore they will treat all information provided as confidential and restrict it to their staff to the extent that this is consistent with their responsibilities under relevant UNSCRs.

### *Communication with the Joint Unit*

This must be routed through the DTI. The Joint Unit has specifically said that they will not accept forms direct from suppliers, nor will they enter into any direct correspondence with them. The responsibility for ensuring that the forms at Annexes (Imp)3 and (Imp)4 are transmitted to the Joint Unit lies with the Government. All correspondence or enquiries must be routed via DTI.



## UN Sanctions against Iraq - The Export/Import Mechanism

### EXPLANATORY NOTES FOR COMPLETION OF BOXES ON A1 NOTIFICATION FORM

**Complete all applicable boxes. Where there is insufficient space in any box continue on separate sheet(s), noting to which box the information refers. Number all additional sheets provided with the notification form. [For further information see UNSCOM/IAEA handbook for Notification of Exports to Iraq.]**

**Transaction Designator Number (TDn)** If the five digit TDN has been provided to the supplier, the number should be entered in this box.

1. Enter full name and address of supplier and appropriate three digit country code, [as given in annex D to the handbook].
2. Enter full name and address of consignee in Iraq. Where more than one consignee is involved in one transaction, give full details, specifying which items will be delivered to each consignee.
3. Enter full name and address of the manufacturer of the item(s), if different to the entity given in Box 1. Where more than one manufacturer is involved in one transaction, give full details specifying the item(s) being supplied by each manufacturer. [Enter the appropriate three digit country code, as given in annex D to the handbook].
4. Enter full name and address of the end-user in Iraq, where known, and where different to the entity(ies) given in Box 2. Where more than one end-user is known, give full details, specifying which items are to be delivered to each end-user.
5. Enter full name and address of any other entity involved in the transaction (e.g. broker, or agent) not already covered above, together with their function in the transaction. [Enter country code for the entity(ies), as given in annex D to the handbook.]
6. Enter estimated, or actual value of notifiable item(s) in words and figures, to nearest whole unit of currency, where available. Enter the appropriate currency code, as given in annex D to the handbook.
7. Where the despatch date is unknown, enter an estimated date. Where goods relating to a single transaction are to be shipped on different dates, give full details, where available.
8. Enter air, ship, road, rail, mail or combination thereof, as appropriate and where known.
9. Enter the normal trade description for each notifiable item, such as trade name and model as appropriate. Give the quantity of each item and, where applicable, its form (e.g. solid, liquid, gas, alloy, etc). Quantity units should be used in accordance with the International System of Units. For example, metric tons/tonne (t[=1,000kg], kilograms (kg), grams(g), milligrams(mg), etc. Volume units should be restricted to liquid and gases. For those items where unit weights are not appropriate (e.g. machines) enter the number of the items.
10. [Enter the Commodity Designator Code for each notifiable items as given in annex C to the handbook].
11. For chemicals, the Chemical Abstracts Service (CAS) Registry number should be also be entered for each item.[ CAS number are given with the Commodity Designator Codes in annex C to the handbook.]
12. Indicate whether the goods are being exported to Iraq on a permanent or temporary basis. If temporary, indicate purpose, (e.g. Trade Fair) and anticipated duration of temporary export to Iraq.
13. Enter the function for which the item(s) will be used in Iraq, if known, otherwise enter the normal function(s) of the item(s).
14. -
15. Enter the approval number(s) given by the Security Council Committee established by resolution 661 (1990) for the export of the item(s) to Iraq, where applicable.
16. Enter details of the authorised company official completing the notification form. Any question relating to the notification form will be forwarded to that official by DTI Sanctions Licensing Unit. Give the total number of additional pages being submitted with the notification form.



## UN Sanctions against Iraq - The Export/Import Mechanism

### EXPLANATORY NOTES FOR COMPLETION OF BOXES ON A2 NOTIFICATION FORM

**This form can only be used to notify the shipment of items already notified on an A1 notification form. Complete all applicable boxes. Where there is insufficient space in any box, continue on separate sheet(s), noting to which box the information refers. Number all additional sheets provided with the notification form. [For further information see UNSCOM/IAEA handbook for Notification of Exports to Iraq.]**

**Transaction Designator Number (TDN)** Enter the five digit TDN as given on the A1 notification form relating to this transaction.

- 1 Enter full name and address of supplier.
- 2 Enter full name and address of consignee in Iraq. Where more than one consignee is involved in one transaction, give full details, specifying which items will be delivered to each consignee.
- 3 Enter the date when the item(s) will be, or have been, dispatched to Iraq from the country of the supplier.
- 4 Enter the date when the item(s) will enter, or have entered, Iraq.
- 5 Enter the mode(s) of transport used to export the item(s) to Iraq. Give details of transport vessels.
- 6 Enter details of freight documents (e.g. bill of lading, air waybill) and reference numbers.
- 7 Enter the place of entry into Iraq.
- 8 Enter contract number and date.
- 9 Enter invoice number and date.
- 10 Describe the form of the consignment (e.g. parcel, box, container, barrel), the number of units in the consignment and the external markings. Where notifiable item(s) are part of a larger consignment, give this information for the whole consignment.
- 11 Enter letter of credit number, if applicable, date and names and addresses of banks. Indicate if the letter of credit is transferable or irrevocable.
- 12 Check box which applies (NB It is not necessary to give any details of non-notifiable items, except for information on the form of the consignment, as requested in box 10).
- 13 Where there are outstanding shipments of notifiable items relating to the transaction, not already described on the A1 notification form, give details.
- 14 Enter short description of items, quantity and serial numbers, if appropriate.
- 15 Check box which applies. Where there are any amendments to the information given in the A1 form, not already notified to the joint unit, give details.
- 16 Enter the approval number(s) given by the Security Council Committee established by resolution 661 (1990) for the export of the item(s) to Iraq, where applicable.
1. Enter details of the authorised company official completing the notification form. Any question relating to the notification form will be forwarded to that official by DTI Sanctions Licensing Unit. Give the total number of additional pages being submitted with the notification form.



## UN Sanctions against Iraq - The Export/Import Mechanism

### EXPLANATORY NOTES FOR COMPLETION OF BOXES ON NOTIFICATION SUPPLEMENT SHEET

**This supplement sheet should only be used in conjunction with an A1 or A2 notification form, where there is insufficient space on the notification form to fill in all relevant information. The words “refer to supplement sheet” should be inserted in the relevant box on the front page of the notification form.**

**Transaction Designator Number (TDN)** Enter TDN on each page of each supplement sheet used, where available.

- 1 Check box which applies.
- 2 Enter box number on the notification form to which the information applies.
- 3 Enter number of supplement page.

**This supplement sheet should be attached to the relevant notification form for submission to DTI Sanctions Licensing Unit.**

## UN Sanctions against Iraq (Bank of England Notice)

### Annex(BoE:I) - Text of a Bank of England Notice

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Bank of England Notice

14 December 2000

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UNITED NATIONS ACT 1946

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IRAQ

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This Notice draws attention in convenient form to the Order in Council made under the United Nations Act 1946 which places financial sanctions on Iraq. This Notice provides guidance on certain aspects only of the Order in Council, and should be read alongside the Order in Council.

HM Treasury has appointed the Bank of England to act as its agents for the purposes of enforcing financial sanctions against Iraq. Accordingly, certain powers have been delegated by HM Treasury to the Bank of England.

This Notice supersedes the guidance set out in the Bank of England's Notice to Banks issued on 7 August 1990, as amended.

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## **INTRODUCTION**

1. The Order in Council made under Section 1 of the United Nations Act 1946 which places financial sanctions on Iraq is the Iraq (United Nations Sanctions) Order 2000 (Statutory Instrument 2000 No 3241), referred to below as 'the Order'. Copies may be obtained from HM Stationery Office.

2. The Order applies to any person within the United Kingdom, and to any person elsewhere who:-

(a) is a British citizen, a British Dependent Territories citizen, a British National (Overseas),

a British overseas citizen, a British subject, or a British protected person; or

(b) is a body corporate incorporated or constituted under the law of any part of the United Kingdom or a Scottish partnership.

The Order therefore applies to banks, other financial institutions, charitable organisations and non-governmental organisations, in the United Kingdom or established under UK Law. The Order does not apply to subsidiaries operating wholly outside the United Kingdom and which do not have legal personality under UK Law.

3. Article 3 of the Order provides that:

Any person who, except under the authority of a licence granted by the Bank of England in its capacity as HM Treasury's agents:-

(a) makes any funds available to the government of the Republic of Iraq or to any person who is a resident of the Republic of Iraq, or

(b) otherwise remits or removes any funds from the United Kingdom to a destination in the Republic of Iraq, commits an offence.

### **Definition of Funds**

4. "Funds" means financial assets and economic benefits of any kind, including (but not limited to) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders, and other payment instruments; deposits with financial institutions or other entities, balances on accounts, debts and debt obligations; securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts); interest, dividends or other income on value accruing from or generated by assets; credit, rights of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export financing.

### **Residence in Iraq**

5. For the purposes of the Order, a person (including any body corporate) will generally be regarded as resident in the Republic of Iraq if they are normally resident in that country. A business that has a branch in Iraq is likely to be treated as itself resident in Iraq. Persons resident or becoming resident in Iraq should not subsequently be treated as no longer resident there without prior reference to the Bank of England.

## UN Sanctions against Iraq (Bank of England Notice)

6. Residential status should be determined by reference to the facts pertaining to each person. In general, a person is not regarded as being a resident of Iraq if they are exercising a permanent right (that is, a right not limited by time) to live outside Iraq. Other cases where persons have obtained a long term right to live outside of Iraq should be referred to the Bank of England, who will advise in each case whether the persons concerned are to be considered as not resident in Iraq. This will depend upon, for example, the length of any visa granted and the circumstances and conditions under which it was granted.

### **Iraqi Accounts**

7. The sterling, foreign currency and gold bullion accounts of residents of Iraq held in the United Kingdom by persons who have been authorised by the Financial Services Authority, or by European authorised persons, should be designated as Iraqi accounts. Funds held by solicitors and accountants on behalf of such residents should be placed in a separate account that should be designated as an Iraqi account. Payments sought by or on behalf of residents of Iraq 8. Except as provided for in paragraphs 9 and 10 below, a written licence is required for any person subject to the Order to make funds available to a resident of Iraq. This includes both making payments to such a resident and making payments to any other person on the instructions of such a resident. A licence will not normally be given for any funds to be transferred from an Iraqi account to any account held outside the United Kingdom.

### **Payments sought by or on behalf of residents of Iraq**

8. Except as provided for in paragraphs 9 and 10 below, a written licence is required for any person subject to the Order to make funds available to a resident of Iraq. This includes both making payments to such a resident and making payments to any other person on the instructions of such a resident. A licence will not normally be given for any funds to be transferred from an Iraqi account to any account held outside the United Kingdom.

### **Payments to and from Iraqi accounts**

9. No payment or transfer may be made from an Iraqi account, including to another Iraqi account, without a written licence from the Bank of England, which will not normally be granted. Loans and other forms of credit should not be made available to residents of Iraq. A licence is not required to credit funds to Iraqi accounts. A licence will not normally be granted to change the ownership of an Iraqi account, for example by adding or deleting signatories.

10. By this paragraph, which constitutes a general licence granted under the Order, permission is given for the payment from Iraqi accounts of:-

- (a) up to £250 per week in respect of the living or medical, expenses of the account holder(s) only whilst in the United Kingdom.
- (b) distributions and payments to residents of the United Kingdom under wills and intestacies and under trusts set up before 4 August 1990;
- (c) sums due to the Inland Revenue and HM Customs and Excise, provided no overdraft is thereby created on an Iraqi account;
- (d) charges due to banks in the United Kingdom;

It is a condition of this licence that evidence in support of the funds released in accordance with this paragraph should be retained by the persons releasing those funds for possible inspection by the Bank of England (see paragraph 16 below).

## UN Sanctions against Iraq (Bank of England Notice)

11. The Bank of England will consider, on a case by case basis, applications to debit Iraqi accounts for other purposes, such as:-

- (a) living or medical expenses in excess of the amount referred to in paragraph 10(a);
- (b) the costs of education in the United Kingdom;
- (c) the cost of travel to and from the United Kingdom;
- (d) payments for charitable purposes.

12. All applications shall be made to the Bank of England. All licences granted by the Bank of England will be made in writing.

### **Notifying knowledge or suspicion of relevant matters**

13. A bank or other financial institution which knows or suspects that a customer or other person with which it has had business dealings:-

- (a) is a resident of Iraq whose account(s) are not frozen;
- (b) has breached a condition of a licence granted by the Bank of England; or
- (c) has committed an offence under the Order,

must report the information on which its knowledge or suspicion is based to the Bank of England as soon as reasonably practicable. Failure to do so is an offence.

### **Freezing of funds on suspicion**

14. If the Bank of England, in consultation with HM Treasury, considers that there are reasonable grounds to suspect that funds are being held by or on behalf of the government of Iraq or a resident of Iraq, the Bank of England can direct that those funds are not to be made available to that government or resident. Any such direction will be given in writing and will specify for how long the funds are to remain frozen, up to a maximum of five working days. It is an offence under the Order to contravene such a direction.

15. The person holding those funds shall send a copy of this written direction without delay to the owner of those funds. Failure to do so constitutes an offence.

### **Requirements to provide information**

16. The Bank of England can serve a written notice on anyone to whom the Order applies, requiring them to furnish the Bank of England with any information in their possession or control, or produce any document in their possession or control, for the owner of those funds shall furnish the Bank of England with any information in their possession or control, or produce any document in their possession or control, for the purpose of allowing the Bank of England to ensure compliance with, or detect evasion of, the Order.

17. Failure or refusal to furnish such information or documents without reasonable excuse is an offence. Intentionally furnishing false information or a false explanation, or damaging or disposing of a document in order to evade such a requirement, is an offence.

## UN Sanctions against Iraq (Bank of England Notice)

### Transfers of funds to Iraq

18. By this paragraph which constitutes a licence granted under the Order, permission is granted to charitable organisations, non-government organisations, and other persons visiting Iraq for bona fide medical or humanitarian purposes (including for the purposes of conducting business under the oil for food programme) to transfer funds to Iraq subject to the following conditions:-

- (a) the funds are to be used for personal living and travel expenses only;
- (b) the value of funds transferred does not exceed the equivalent of US\$150 per person per day;

Requests by such persons to export funds to Iraq in excess of the amount referred to in paragraph 18(b) will be considered, on a case by case basis, upon written application to the Bank of England.

19. Requests to export funds to Iraq in relation to other medical or humanitarian needs, and any other requests for transfers, will be considered on a case by case basis, upon written application to the Bank of England. Supporting documentation should be provided where appropriate.

### Application and enquiries

20. Applications should be made to the Bank of England in respect of any transaction which is not covered by the licences granted in paragraphs 10 and 18 of this Notice.

21. Enquiries concerning this Notice should be addressed to the Bank of England, Threadneedle Street, London, EC2R 8AH and marked for the attention of the Financial Sanctions Unit (FSU) .

Enquiries may also be made by facsimile transmission (020 76014309) and by Email ([sanctions.unit@bofe.co.uk](mailto:sanctions.unit@bofe.co.uk))

Telephone enquiries may be made to 020 7601 4768/5811/4783.

BANK OF ENGLAND

14 December 2000