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COUNCIL COMMON POSITION 2003/495/CFSP

of 7 July 2003

on Iraq and repealing Common Positions 96/741/CFSP and 2002/599/CFSP

(OJ L 169, 8.7.2003, p. 72)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Council Common Position 2003/735/CFSP of 13 October 2003	L 264	40	15.10.2003
► <u>M2</u>	Council Common Position 2004/553/CFSP of 19 July 2004	L 246	32	20.7.2004
► <u>M3</u>	Council Common Position 2008/186/CFSP of 3 March 2008	L 59	31	4.3.2008
► <u>M4</u>	Council Common Position 2009/175/CFSP of 5 March 2009	L 62	28	6.3.2009
► <u>M5</u>	Council Decision 2010/128/CFSP of 1 March 2010	L 51	22	2.3.2010
► <u>M6</u>	Council Decision 2011/100/CFSP of 14 February 2011	L 41	9	15.2.2011
► <u>M7</u>	Council Decision 2012/812/CFSP of 20 December 2012	L 352	54	21.12.2012
► <u>M8</u>	Council Decision 2014/484/CFSP of 22 July 2014	L 217	38	23.7.2014

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

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

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- (4) Council Common Positions 96/741/CFSP ⁽¹⁾ and 2002/599/CFSP ⁽²⁾ should therefore be repealed.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

HAS ADOPTED THIS COMMON POSITION:

▼M2*Article 1*

1. The sale, supply, transfer or export of arms and related material of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, to Iraq by nationals of Member States or from the territories of Member States or using their flag vessels or aircraft shall be prohibited whether originating or not in their territories.

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

⁽²⁾ Common Position 2002/599/CFSP of 22 July 2002 supplementing Common Position 96/741/CFSP concerning the derogations from the embargo with regard to Iraq (OJ L 194, 23.7.2002, p. 47).

▼ M2

2. Without prejudice to the prohibitions on or obligations of Member States related to items specified in paragraphs 8 and 12 of UNSCR 687 (1991) of 3 April 1991 or activities described in paragraph 3(f) of UNSCR 707 (1991) of 15 August 1991, paragraph 1 of this Article shall not apply to the sale, supply, transfer or export of arms and related material required by the Government of Iraq or the multinational force established under UNSCR 1511 (2003) to serve the purposes of UNSCR 1546 (2004).

3. The sale, supply, transfer or export of arms and related material referred to in paragraph 2 shall be subject to an authorisation granted by the competent authorities of the Member States.

▼ M7*Article 2*

All funds or other financial assets or economic resources:

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

shall be frozen without delay and, unless those funds or other financial assets or economic resources are themselves the subject of a prior judicial, administrative or arbitral lien or judgement, in which case they may be used to satisfy such lien or judgement, Member States shall immediately cause their transfer to the successor arrangements to the Development Fund for Iraq put in place by the Government of Iraq under the conditions set out in Security Council Resolutions 1483 (2003) and 1956 (2010).

▼ M8*Article 2a*

No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of the persons and entities referred to in Article 2(b).

Exemptions may be made for funds and economic resources which are:

- (a) necessary to satisfy basic needs of the persons referred to in Article 2(b), and their dependent family members, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;

▼ M8

- (b) intended exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services;
- (c) intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds and economic resources; or
- (d) necessary for extraordinary expenses, provided that the relevant competent authority has notified the grounds on which it considers that a specific authorisation should be granted to the competent authorities of the other Member States and to the Commission at least two weeks prior to the authorisation.

▼ B*Article 3*

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

▼ M3*Article 4*

All proceeds from all export sales of petroleum, petroleum products and natural gas from Iraq as of 22 May 2003 shall be deposited into the Development Fund for Iraq under the conditions set out in UNSC Resolution 1483 (2003).

▼ B*Article 5*

1. Petroleum, petroleum products, and natural gas originating in Iraq will be immune, until title passes to the initial purchaser, from legal proceedings against them and not be subject to any form of attachment, garnishment, or execution.
2. Privileges and immunities equivalent to those enjoyed by the United Nations will be enjoyed by:
 - (a) proceeds and obligations arising from the sale of products referred to in paragraph 1;
 - (b) the Development Fund for Iraq;
 - (c) funds, other financial assets or economic resources to be transferred to the Development Fund for Iraq in accordance with Article 2.

▼ B

3. The privileges and immunities referred to in paragraph 2(a) will not apply with respect to any legal proceeding in which recourse to such proceeds and obligations is necessary to satisfy liability for damages assessed in connection with an ecological accident, including an oil spill, that occurs after 22 May 2003.

▼ M3

4. The privileges and immunities referred to in paragraphs 1, 2(a) and 2(b) shall not apply with respect to any final judgment arising out of a contractual obligation entered into by Iraq after 30 June 2004.

▼ B*Article 6*

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

Article 7

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

▼ M6

Articles 4 and 5 shall apply until 30 June 2011.

▼ B*Article 8*

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