

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15.7.2004
COM(2004) 502 final

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 1210/2003 concerning certain specific restrictions on economic and financial relations with Iraq

(presented by the Commission)

EXPLANATORY MEMORANDUM

(1) On 22 May 2003, the United Nations Security Council adopted Resolution 1483(2003), which provides, *inter alia*, that certain immunities should be granted to petroleum, petroleum products and natural gas exported by Iraq, the proceeds of such export sales and the Development Fund for Iraq. This point of the Resolution was implemented by means of Common Position 2003/495/CFSP and Council Regulation (EC) No 1210/2003.

(2) At the time only one exception to these immunities was made. It concerns Iraq's liability for damages as assessed in connection with ecological accidents. On 8 June 2004, the Security Council adopted Resolution 1546(2004) which provides that these immunities should cease to apply to final judgments arising out of contractual obligations entered into by Iraq after 30 June 2004.

(3) Pursuant to Common Position 2004/…/CFSP amending Common Position 2003/495/CFSP, the Commission proposes to amend Regulation (EC) No 1210/2003 in order to add this exception pertaining to new contractual obligations of Iraq. As a result, litigation and enforcement actions in relation to such contractual obligations shall be subject to the immunities of that Regulation only to the extent that such execution or enforcement would affect funds and economic resources frozen pursuant to Article 4 of that Regulation.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60 and 301 thereof,

Having regard to Common Position 2004/…/CFSP[1] amending Common Position 2003/495/CFSP on Iraq,[2]

Having regard to the proposal from the Commission,[3]

Whereas:

(1) In line with Resolution 1483(2003) of the UN Security Council, Regulation (EC) No 1210/2003[4] grants certain immunities from legal proceedings and enforcement measures to certain Iraqi funds and commodities which will apply until 31 December 2007.

(2) Resolution 1546(2004) of the UN Security Council provides that the immunities applicable to Iraq's export of petroleum and to the Development Fund for Iraq shall not apply to final judgments arising out of contractual obligations entered into by Iraq after 30 June 2004. It is implicit that these immunities should not prevent legal proceedings to obtain such judgments.

(3) Common Position 2004/…/CFSP amends the corresponding provision of Common Position 2003/495/CFSP on Iraq to bring it in line with Resolution 1546(2004).

(4) Regulation (EC) No 1210/2003 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

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1 OJ L …, p. …

2 OJ L 169, 8.7.2003, p. 72.

3 OJ C , , p. .

4 OJ L 169, 8.7.2003, p. 6. Regulation as last amended by Commission Regulation (EC) No 1086/2004 (OJ L 207, 10.6.2004, p. 10).

Article 1

The following paragraph is added to Article 10 of Regulation (EC) No 1210/2003:

"3. Paragraph 1 shall not apply to legal proceedings concerning any contractual obligation entered into by Iraq, including in particular its Interim Government, the Central Bank of Iraq and the Development Fund for Iraq, after 30 June 2004.

With respect to the execution or enforcement of a final judicial, administrative or arbitral judgment arising out of a contractual obligation entered into by Iraq after the said date, paragraph 1 shall apply only to the extent that such execution or enforcement would affect funds and economic resources frozen pursuant to Article 4."

Article 2

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

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

Done at Brussels,

For the Council
The President