

1990 No. 1768

UNITED NATIONS

The Iraq and Kuwait (United Nations Sanctions)
(Amendment) Order 1990

<i>Made - - - -</i>	<i>29th August 1990</i>
<i>Laid before Parliament</i>	<i>29th August 1990</i>
<i>Coming into force</i>	<i>30th August 1990</i>

At the Court at Balmoral, the 29th day of August 1990

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations have, by a resolution adopted on 6th August 1990, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to a decision of that Council in relation to the situation between Iraq and Kuwait;

Now therefore Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation and commencement

1.—(1) This Order may be cited as the Iraq and Kuwait (United Nations Sanctions) (Amendment) Order 1990 and shall come into force on 30th August 1990.

(2) This Order and the Iraq and Kuwait (United Nations Sanctions) Order 1990(b) (hereinafter referred to as "the principal Order") may be cited together as the Iraq and Kuwait (United Nations Sanctions) Orders 1990.

(3) This Order shall be construed as one with the principal Order.

Amendment of Article 2 of the principal Order

2. Article 2 of the principal Order shall be replaced by the following article—

"Exportation of goods from Iraq or Kuwait and dealing and processing

2.—(1) Except under the authority of a licence granted by the Secretary of State under this Order or the Import of Goods (Control) Order 1954(c), or a permission granted under the Control of Gold, Securities, Payments and Credits (Republic of Iraq) Directions 1990(d), the Control of Gold, Securities, Payments and Credits (Kuwait) Directions 1990(e), the Hong Kong (Control of Gold, Securities, Payments and Credits: Kuwait and Republic of Iraq) Order 1990, the Caribbean Territories (Control of Gold, Securities, Payments and Credits: Kuwait and

(a) 1946 c.54. (b) S.I. 1990/1651. (c) S.I. 1954/23, amended by S.I. 1954/627, 1975/2117 and 1978/806.
(d) S.I. 1990/1616. (e) S.I. 1990/1591.

Republic of Iraq) Order 1990(a) or the Iraq and Kuwait (United Nations Sanctions) (Bermuda) Order 1990(b) no person shall—

- (a) make or carry out any contract for the exportation of any goods from either Iraq or Kuwait;
- (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 either Iraq or Kuwait; or
- (c) do any act calculated to promote the exportation of any goods from either Iraq or Kuwait.

(2) Except under the authority of a licence granted by the Secretary of State under this Order, no person shall deal in any goods that have been exported from Iraq or Kuwait after 6th 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 or 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.

(3) Nothing in paragraph 1(b) or (c) or (2) of this article shall apply where the exportation of the goods from Iraq or Kuwait is authorised by a licence granted by the Secretary of State under this Order, or the importation of the goods into the United Kingdom or any place to which this Order extends is authorised by a licence granted by the Secretary of State under the Import of Goods (Control) Order 1954.”

Amendment of Article 3 of the principal Order

3. Article 3 of the principal Order shall be replaced by the following Article—

“Supply of Goods to Persons in Iraq or Kuwait

3.—(1) Except under the authority of a licence granted by the Secretary of State under this Order or under the Export of Goods (Control) (Iraq and Kuwait Sanctions) Order 1990(c) no person shall—

- (a) supply or deliver or agree to supply or deliver to or to the order of any person in either Iraq or Kuwait any goods that are not in either country;
- (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 any person in either Iraq or Kuwait or to any person for the purposes of any business carried on in or operated from Iraq or Kuwait; or
- (c) do any act calculated to promote the supply or delivery of any such goods to any person in Iraq or Kuwait or to any person for the purposes of any business carried on in or operated from Iraq or Kuwait.

(2) Nothing in paragraph (1)(b) or (c) of this article shall apply where the supply or delivery of the goods to or to the order of the person concerned is authorised by a licence granted by the Secretary of State under this Order or under the Export of Goods (Control) (Iraq and Kuwait Sanctions) Order 1990.”

Addition of New Article 4A to principal Order

4. The following article shall be inserted in the principal Order immediately after article 4—

“Payments under bonds

4A.—(1) Except under the authority of permission granted by or on behalf of

- (a) the Treasury under this Order or under the Control of Gold, Securities, Payments and Credits (Republic of Iraq) Directions 1990(d) or the Control of Gold, Securities, Payments and Credits (Kuwait) Directions 1990(e)
- (b) the Financial Secretary under the Hong Kong (Control of Gold, Securities, Payments and Credits: Kuwait and Republic of Iraq) Order 1990, or
- (c) the Governor under the Caribbean Territories (Control of Gold, Securities, Payments and Credits: Kuwait and Republic of Iraq) Order 1990(f) or the

(a) S.I. 1990/1625.

(d) S.I. 1990/1616.

(b) S.I. 1990/1769.

(e) S.I. 1990/1591.

(c) S.I. 1990/1640.

(f) S.I. 1990/1625.

Iraq and Kuwait (United Nations Sanctions) (Bermuda) Order 1990(a), no person shall make any payment to or to the order of any person in Iraq or Kuwait under or in respect of a bond to which this article applies.

(2) Except under the Authority of a permission granted by or on behalf of the Treasury under this Order no person shall do any act to the purpose of obtaining payment, or make any payment, in respect of any right to indemnity in respect of any bond to which this article applies, where payment under the bond is, or would if payment were to be made by a person referred to in paragraph (6) below be, unlawful by virtue of paragraph (1) above.

(3) A bond to which this article applies is a bond given in respect of a contract the performance of which is unlawful wholly or in part by virtue of this Order, or the Export of Goods (Control) (Iraq and Kuwait Sanctions) Order 1990.

(4) In this article—

(a) “bond” means an agreement under which a person (“the obligor”) agrees that, if called upon to do so, or if a third party fails to fulfil contractual obligations owed to another, the obligor will make payment to or to the order of the other party to the agreement; and

(b) “make payment” means make payment by any method, including but not restricted to, the grant or any agreement to the exercise of, any right of set off, accord and satisfaction and adjustment of any account.

(5) Any person who does any act for the purpose of obtaining payment, or who makes payment, in contravention of paragraph (1) or (2) of this article shall be guilty of an offence against this Order.

(6) Paragraphs (1) and (2) of this article shall apply to any person within the United Kingdom or any place to which this Order extends, and to any person elsewhere who

(a) is a British Citizen, a British Dependent Territory citizen, a British overseas citizen or a British protected person; or

(b) is a body incorporated or constituted under the law of any part of the United Kingdom or the law of any other place to which this Order extends.

(7) Any permission granted under this Article 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 authority that granted it.”

Amendment of Article 5 of the principal Order

5.—(1) The following paragraphs shall be substituted for paragraphs (1) and (2) of article 5 of the principal Order—

“5.—(1) Without prejudice to the generality of article 2 of this Order and except under the authority of a licence granted by the Secretary of State under this Order, no ship or aircraft to which this article applies and no land transport vehicle within the United Kingdom or any place to which this Order extends shall be used for the carriage of any goods if those goods are being or have been exported from Iraq or Kuwait after 6th August 1990.

(2) Without prejudice to the generality of article 3 of this Order and except under the authority of a licence granted by the Secretary of State under this Order, no ship or aircraft to which this article applies and no land transport vehicle within the United Kingdom or any place to which this Order extends shall be used for the carriage of any goods if the carriage is, or forms part of, carriage from any place outside Iraq or Kuwait to any destination therein, or to any person for the purposes of any business carried on in or operated from Iraq or Kuwait”.

(2) In paragraph (4) of article 5 for the words “in contravention of article 2(1) of this Order” which appear at the end of that paragraph there shall be substituted the words “after 6th August 1990”.

(a) S.I. 1990/1769.

(3) Paragraph (6) of article 5 shall be replaced by the following paragraph—

“(6) Nothing in paragraph (1) of this article shall apply where the exportation of the goods concerned from Iraq or Kuwait was authorised by a licence granted by the Secretary of State under this Order, or the importation of the goods concerned into the United Kingdom or any place to which this Order extends was authorised by a licence granted by the Secretary of State under the Import of Goods (Control) Order 1954.”

(4) The following paragraph shall be inserted after paragraph (6) of Article 5—

“(6A) Nothing in paragraph (2) of this article shall apply where the supply or delivery or exportation from the United Kingdom of the goods concerned to that destination was authorised by a licence granted by the Secretary of State under this Order or the Export of Goods (Control) (Iraq and Kuwait Sanctions) Order 1990(a)”

Amendment of Article 6 of the principal Order

6.—(1) Paragraph (3) of article 6 of the principal Order shall be amended by the insertion, after the words “United Kingdom” where they appear for the second and third time in that paragraph, of the words “or in any other place to which this Order extends”.

(2) Paragraph (4) of article 6 of the principal Order shall be amended by the insertion after the words “United Kingdom” of the words “or in any other place to which this Order extends”.

(3) The following paragraphs shall be inserted in article 6 of the principal Order immediately after paragraph (4)—

“(4A) Where any officer of customs and excise or any person authorised by the Secretary of State for that purpose either generally or in a particular case has reason to suspect that any land transport vehicle in the United Kingdom or in any place to which this Order extends has been or is being or is about to be used in contravention of paragraph (1) or paragraph (2) of article 5 of this Order, that authorised person or that officer may request the operator and driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for their or his inspection such documents so relating and such goods as they or he may specify, and that authorised person or that officer may (either alone or accompanied and assisted by persons under his authority) board the vehicle and, for that purpose, may use or authorise the use of reasonable force; any such authorised person or such officer (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of such a request) may further require the operator or driver to cause the vehicle to remain in the United Kingdom or any other place to which this Order extends until notified that the vehicle may depart; and the operator and the driver shall comply with any such request.

(4B) Without prejudice to the provisions of paragraph (8) of this article where any person authorised as aforesaid has reason to suspect that a request that a land transport vehicle should remain in the United Kingdom or in any other place to which this Order extends that has been made under paragraph (4A) of this article may not be complied with, that authorised person or that 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 authorise entry, upon any land and upon that vehicle;
- (b) detain, or authorise the detention of, that vehicle; and
- (c) use, or authorise the use of reasonable force.”

(4) Paragraph (8) of article 6 of the principal Order shall be amended by insertion after the word “aircraft” in sub-paragraphs (b) and (c) of the words “or an operator or a driver of the land transport vehicle”.

(a) S.I. 1990/1640.

Amendment of Article 10 of the principal Order

7. Paragraph (2) of article 10 of the principal Order shall be amended by the deletion of the words "granted by the Secretary of State" in line 2, and by the insertion in the same line immediately after the words "of a licence", of the words "or permission".

R. P. Bulling
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under the United Nations Act 1946 and amends the Iraq and Kuwait (United Nations Sanctions) Order 1990 ("the principal Order"). It inserts a new Article 4A which prohibits payments under any bond in respect of a contract the performance of which is unlawful by virtue of the principal Order or the Export of Goods (Control) (Iraq and Kuwait Sanctions) Order 1990. It also prohibits the making of or obtaining payments under certain indemnities arising under such bonds.

This Order extends the enforcement powers under the principal Order to land transport vehicles. It also introduces minor amendments to articles 2, 3, 5, 6 and 10 of the principal Order.

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