I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3155/90

of 29 October 1990

extending and amending Regulation (EEC) No 2340/90 preventing trade by the Community as regards Iraq and Kuwait

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Whereas, on 1, 6 and 7 October 1990, the Ministers for Foreign Affairs of the Member States reaffirmed their conviction that full implementation of the embargo adopted by the United Nations Security Council in respect of Iraq was the essential condition for a peaceful settlement of the crisis;

Whereas, on 8 August 1990, the Council adopted Regulation (EEC) No 2340/90 [1], which is aimed at preventing trade by the Community as regards Iraq and Kuwait;

Whereas, taking account of the worsening of the situation since the adoption of the said Regulation, the Community and its Member States, in their Declarations of 7 and 17 September 1990, confirmed the necessity of implementing United Nations Security Council Resolutions 660, 661 and 666 (1990) and expressed their determination to take effective action; whereas the Community and its Member States have agreed to adopt a Community instrument to ensure uniform implementation, throughout the Community, of the measures relating to trade with Iraq and Kuwait decided upon by the United Nations Security Council;

Whereas, in Resolution 670 (1990), the United Nations Security Council decided that States should take all appropriate measures to ensure effective application of the embargo to air transport;

Whereas, taking account of the abovementioned United Nations Security Council Resolutions, certain bodies in Kuwait, controlled and recognized by the legitimate Government of Kuwait, should be allowed to carry out their activities under certain conditions in accordance with the national law of the Member States;

Whereas Article 3 (1) of Regulation (EEC) No 2340/90 exempts from the strict prohibition on exports to Iraq and Kuwait the supply of, among other things, products for strictly medical use listed in the Annex to the said Regulation;

Whereas the list of medical products contained in that Annex includes certain products or substances which could be used for ends and purposes which are not strictly medical;

Whereas the said products or substances should therefore be deleted from the list of products for strictly medical use and their export to Iraq or Kuwait should be prohibited;

Whereas, with a view to exercising sufficiently effective control over exports to Iraq or Kuwait of the products listed in the Annex, such exports should require prior authorization, to be issued by the competent authorities of the Member States;

Whereas rapid exchange of information between the Member States and the Commission on the authorizations granted in the context of emergency food aid would seem necessary;

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament [2],

HAS ADOPTED THIS REGULATION:

Article 1

1. Without prejudice to the prohibitions introduced by Regulation (EEC) No 2340/90, the provision of non-financial services with the object or effect of promoting the economy of Iraq or Kuwait carried out in or from Community territory, including its air space, or by the

[1] OJ No L 213, 9. 8. 1990, p. 1.

[2] Opinion delivered on 26 October 1990 (not yet published in the Official Journal).

intermediary of aircraft or ships flying the flag of a Member State, or by any Community national:

(i) for the purposes of any economic activity carried out in or from Iraq or Kuwait; or

(ii) to one of the following persons:

— any natural person in Iraq or Kuwait,

— any legal person so constituted or incorporated under Iraqi or Kuwaiti law,

— any organization exercising an economic activity (whether or not in Iraq or Kuwait) controlled by persons resident in Iraq or Kuwait or by organizations constituted or incorporated under the laws of either of those countries, shall be prohibited as from the entry into force of this Regulation,

The terms of the prohibition on air transport are defined in Annex I.

2. The prohibition shall not apply to postal or telecommunications services, nor to medical services necessary for the operation of existing hospitals, nor to non-financed services resulting from contracts or amendments to contracts concluded before the entry into force of the ban laid down in Regulation (EEC) No 2340/90, where their execution began before that date.

Article 2

1. Article 2 (2) of Regulation (EEC) No 2340/90 and Article 1 (1) of this Regulation does not preclude the carrying-out of commercial transactions or the provision of non-financial services outside Iraq or Kuwait with Kuwaiti bodies controlled and recognized by the legitimate Government of Kuwait.

2. The list of such bodies shall be published in the *Official Journal of the European Communities*, 'C' series.

Article 3

The Annex to Regulation (EEC) No 2340/90 is hereby replaced by that given in Annex II to this Regulation.

Article 4

Export of the products listed in the Annex to Regulation (EEC) No 2340/90 shall be subject to a prior export authorization, to be issued by the competent authorities of the Member States.

Article 5

Prior export authorization for the products listed under heading B of Annex II may be granted only for consignments of food products supplied free of charge.

Article 6

Member States shall notify the Commission of their emergency food aid operations within two days of the grant of authorization referred to in Article 5.

Article 7

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

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

Done at Luxembourg, 29 October 1990.

For the Council

The President

A. BATTAGLIA

ANNEX I

1. Member States, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted before the entry into force of this Regulation, shall deny permission to any aircraft to take off from their territory if the aircraft were carrying any cargo to or from Iraq or Kuwait other than food in humanitarian circumstances, subject to authorization by the United Nations Security Council or the Committee established by Resolution 661 (1990) and in accordance with Resolution 666 (1990), or supplies intended strictly for medical purposes or solely for UNIIMOG.

2. Member States shall deny permission to any aircraft destined to land in Iraq or Kuwait, whatever its State of registration, to overfly its territory unless :

   (a) the aircraft lands at an airfield designated by that Member State outside Iraq or Kuwait, in order to permit its inspection to ensure that there is no cargo on board in violation of Resolution 661 (1990) or Resolution 670 (1990), and for this purpose the aircraft may be detained for as long as necessary ; or

   (b) the particular flight has been approved by the Committee established by Resolution 661 (1990) ; or

   (c) the flight is certified by the United Nations as solely for the purposes of UNIIMOG.

3. Member States shall take all necessary measures to ensure that any aircraft registered in their territory or operated by an operator who has his principal place of business or permanent residence in their territory complies with the provisions of Resolutions 661 (1990) and 670 (1990).

ANNEX II

'ANNEX

LIST OF PRODUCTS REFERRED TO IN ARTICLE 3 (1)

A. **Medical products**

3001 Glands and other organs for organotherapeutic uses, dried, whether or not powdered ; extracts of glands or other organs or of their secretions for organotherapeutic uses ; heparin and its salts ; other human or animal substances prepared for therapeutic or prophylactic uses, not elsewhere specified or included

ex 3002 Human blood ; animal blood prepared for therapeutic, prophylactic or diagnostic uses ; antisera and other blood fractions ; vaccines for human medicine

3004 Medicaments (excluding goods of heading Nos 3002, 3005 or 3006) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses or in forms or packings for retail sale

3005 Wadding, gauze, bandages and similar articles (for example, dressings, adhesive plasters, poultices), impregnated or coated with pharmaceutical substances or put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes

3006 Pharmaceutical goods specified in note 3 to this chapter

ex 9018 Syringes, needles, catheters, canulae and the like ; blood transfusion apparatus.

B. **Foodstuffs**

Any foodstuff intended for humanitarian purposes as part of emergency aid operations.'