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NOTE VERBALE DATED 14 SEPTEMBER 1990 FROM THE PERMANENT MISSION OF
ITALY TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Italy to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to transmit herewith, in response to his note SCPC/7/90(1), further details of the measures taken on a national basis as a member State of the European Economic Community (EEC) to implement Security Council resolution 661 (1990).

This note supplements the note verbale of 17 August 1990 which was issued as Security Council document S/21551.

The Permanent Mission of Italy to the United Nations would be grateful if the Secretariat would arrange to have the text of this note verbale circulated as a Security Council document.

Annex

The Italian Government hereby communicates further details of measures taken to date in Italy to implement the economic sanctions decided against Iraq by United Nations Security Council resolution 661 (1990). Hereinafter, the Italian Government indicates the main measures adopted and the procedures established to solve relevant problems encountered in the implementation of United Nations sanctions in the following areas:

- freezing of assets and financial transfers
- trade
- services.

FREEZING OF ASSETS AND FINANCIAL TRANSFERS

Law decrees have been adopted:

(1) Law Decree No. 216 of 4 August 1990 provided, as precaution, the total freezing of Kuwaiti assets in Italy, prohibiting acts of disposition and transactions, made in whichever way, concerning personal property even intangible, real property, firms or other total number of goods, assets or titles of a financial or monetary nature in whatever way they may be denominated, when the above-mentioned property, assets or titles pertain, even through intermediaries, to the State of Kuwait or any agency, institution or organization shared, controlled or directed by the State of Kuwait.

(2) Law Decree No. 220 of 6 August 1990 provided the freezing of Iraqi assets, with the enforceability of the same rules and regulations pursuant to Law Decree 216.

Articles IV of Law Decree 216 and Law Decree 220 provide the possibility of departing from the rules and regulations governing the freezing of assets. Such departure from the law may be granted by decree of the President of the Cabinet after his study of a proposal submitted to him by the Minister of Foreign Affairs.

(3) Law Decree No. 247 of 23 August 1990 prohibits transfers of funds in Kuwait and Iraq from private citizens as well as from transactions involving three parties.

Inasmuch as the aforecited provisions completely bar in Italy the operation of any subject, agency, institution or organization shared, controlled or directed by Iraq and Kuwait, the Italian Government plans to use the instrument of departure from the law, provided by Articles IV of Law Decrees 216 and 220, to regulate any particular case in point which may warrant a treatment different from what is stipulated by United Nations Security Council resolution 661, in keeping with the spirit of the embargo.

In this context, the Decree of 9 August 1990 issued by the President of the Cabinet granted to Oil Company Q8 to operate in Italy, limiting its operations to ordinary administration and prohibiting any financial transfer towards Iraq and Kuwait.

Special cases:

The following cases are under consideration by the Ministries upon which the study of the question is incumbent (Ministry of Foreign Affairs, Ministry of Treasury, Ministry of Trade, Ministry of Justice):

- Case of banks that have Kuwaiti and/or Iraqi non-controlling shareholdings, which have branches operating in Italy.
- Case of payments to be made to residents of Italy for trade operations which are not subject to the embargo (that is, payments of confirmed letters of credit for export operations to Iraq and Kuwait).
- Case of foreign branches of Kuwaiti banks that make transactions with Italian banks, which fall under the asset-freezing provisions.
- Case of the Investment Office of Kuwait, the headquarters of which is in London.
- Case of payments to be made to residents of Italy by Iraqi and Kuwaiti institutions, which are subject to asset-freezing provisions, for work performed and for other expenses related to the maintenance and operations of offices.

TRADE

The trade embargo has been put into effect implementing EEC's Regulation No. 2340/90, which is directly enforceable in Italy, and ECSC's Decision No. 90/414, which was acknowledged by Law Decree published in the Gazzetta Ufficiale.

As to the export of foodstuffs, no problem has been registered. The Italian Government considers that exports may be feasible only within the framework of emergency help operations to be defined by particularly restrictive criteria, in keeping with the spirit of resolution 661. The Italian Government deems it appropriate that the United Nations Verification Committee be in charge of examining national operations to determine their compliance with the requirements established by United Nations resolution 661 and acknowledged in the Community regulations.

As to special materials, all the pending licences have been suspended, and all the norms stipulated by the legislation in effect have been implemented.

SERVICES

Services not explicitly covered under United Nations resolution 661 and ECC rules and regulations are submitted for consideration, on a case-by-case basis, in the light of the spirit of the stipulated sanctions.

Special cases:

- Services related to the trade of goods:

The Italian Government agrees with the ECC Commission that trade services follow on principle the rules and regulations governing trade which were implemented with ECC Regulation No. 2340/90 and ECSC Decision No. 90/414. The Italian Government points out that one of the specific measures taken was the suspension of the concession of additional insurance guarantees to Iraq by that its agency, Export Credit Insurance Society (ECIS).

- Services related to engineering and construction:

It does not appear realistic to implement the prohibitive measures on firms operating in Iraqi and Kuwaiti territories and on their employees, suspending their work activities. Moreover, it seems that a more inflexible position of principle in the current circumstances would negatively affect the local communities, subject to the control of the Iraqi authorities. However, given the system of measures to be implemented, the aforementioned companies will soon have to suspend their activities any way for scarcity in the flows of materials and supplies.

- Air services:

Concerning this question, our position is expressed on a case-by-case basis. Each case is examined and decided upon in the observance of the spirit of United Nations Security Council resolution 661.

