

1990 No. 1652

UNITED NATIONS

The Iraq and Kuwait (United Nations Sanctions)
(Dependent Territories) Order 1990

<i>Made - - - -</i>	<i>8th August 1990</i>
<i>Laid before Parliament</i>	<i>8th August 1990</i>
<i>Coming into force</i>	<i>9th August 1990</i>

At the Court at HM Yacht Britannia the 8th 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, Extent and Interpretation

1.—(1) This Order may be cited as the Iraq and Kuwait (United Nations Sanctions) (Dependent Territories) Order 1990.

(2) This Order shall come into force on the 9th August 1990.

(3) (a) This Order shall extend to the territories listed in Schedule 2 to this Order.

(b) In the application of this Order to any of the said territories the expression "the Territory" in this Order means that territory.

(4) In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say:-

"commander", in relation to an aircraft, means the person designated as commander of the aircraft by the operator thereof, and includes any person who is for the time being in charge of command of the aircraft;

"Governor", means the Governor or other officer administering the government of the Territory.

"land transport vehicle" includes a barge;

“master”, in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

“operator”, in relation to an aircraft or to a land transport vehicle, means the person for the time being having the management of the aircraft or the vehicle;

“owner”, where the owner of a ship is not the operator, means the operator and any person to whom it is chartered; and

“person in Iraq or Kuwait” includes any body constituted or incorporated under the law of Iraq or Kuwait and any body carrying on business (whether within Iraq or Kuwait or not) which is controlled by persons or bodies resident in Iraq or Kuwait or constituted or incorporated as aforesaid.

Importation of Goods into the Territory

2.—(1) Except under the authority of a licence granted by the Governor or specified in Article 2(1) of the Iraq and Kuwait (United Nations Sanctions) Order 1990(a) any goods exported from either Iraq or Kuwait after the 6th August 1990 are prohibited from being imported into the Territory.

(2) Any person who imports any goods into the Territory in contravention of paragraph 1 of this Article shall be guilty of an offence.

(3) Nothing in this Article shall be construed so as to prejudice any other provision of law prohibiting or restricting the importation of goods into the Territory.

Exportation of Goods from Iraq or Kuwait

3.—(1) Except under the authority of a licence granted under Article 2(1) of the Iraq and Kuwait (United Nations Sanctions) Order 1990 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 which would promote or is calculated to promote the exportation of any goods from either Iraq or Kuwait.

(2) No person shall deal in any goods that have been exported from Iraq or Kuwait after the 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. Provided that the aforesaid prohibition shall not apply, if a licence has been granted under paragraph (1) of this Article and is in force, to any dealing authorised by the said licence.

Supply of goods to Iraq and Kuwait

4.—Except under the authority of a licence granted by the Governor under this Order or under the Export of Goods (Control) (Iraq and Kuwait Sanctions) Order 1990(b) 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 a person in either Iraq or Kuwait or that they will be used for the purposes of any business carried on in or operated from Iraq or Kuwait; or

(a) S.I. 1990/1651.

(b) S.I. 1990/1640.

- (c) do any act calculated to promote the supply or delivery of any goods to any person in Iraq or Kuwait or for the purpose of any business carried on in Iraq or Kuwait in contravention of the foregoing provisions of this paragraph.

Application of Articles 3 and 4

5.—(1) The provisions of Articles 3 and 4 shall apply to any person within the Territory to which this Order extends and to any person elsewhere who:

- (a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, or a British protected person and is ordinarily resident in the Territory; or
(b) is a body incorporated or constituted under the law of the Territory.

(2) Any person specified in paragraph 1 of this Article who contravenes the provisions of Article 3(1) or (2) or Article 4 shall be guilty of an offence.

Exportation of Certain Goods from the Territory

6.—(1) Except under the authority of a licence specified in Article 4 of this Order all goods are prohibited from being exported to Iraq or Kuwait.

(2) Any person who exports any goods from the Territory in contravention of paragraph (1) of this Article shall be guilty of an offence against this Order.

(3) Nothing in this Article shall be construed so as to prejudice any other provision of law prohibiting or restricting the exportation of goods from the Territory.

Carriage of certain goods exported from or destined for Iraq or Kuwait

7.—(1) Without prejudice to the generality of Article 3 of this Order, no ship or aircraft to which this Article applies and no land transport vehicle within the Territory shall be used for the carriage of any goods if those goods are being or have been exported from Iraq or Kuwait in contravention of Article 3 of this Order.

(2) Without prejudice to the generality of Article 4 of this Order, no ship or aircraft to which this Article applies and no land transport vehicle within the Territory 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.

(3) This Article applies to British ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is –

- (a) a British citizen, a British Dependent Territories citizen, a British Overseas citizen or a British protected person and is ordinarily resident in the Territory; or
(b) a body incorporated or constituted under the law of the Territory.

(4) If any ship, aircraft or land transport vehicle is used in contravention of paragraph (1) of this Article, then each of the following persons –

- (a) in the case of a British ship registered in the Territory, or any aircraft so registered, the owner and master of the ship or, as the case may be, the operator and commander of the aircraft; or
(b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in sub-paragraph (a) or sub-paragraph (b) of paragraph (3) of this Article, the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
(c) in the case of a land transport vehicle, the operator of the vehicle;

shall be guilty of an offence against the Order unless he proves that he did not know and had no reason to suppose that the goods were being or had been exported from Iraq or Kuwait in contravention of Article 2(1) of this Order.

(5) If any ship, aircraft or land transport vehicle is used in contravention of paragraph (2) of this Article, then –

- (a) in the case of a British ship registered in the Territory, or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in sub-paragraph (a) or sub-paragraph (b) of paragraph (3) of this Article, the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (c) in the case of a land transport vehicle, the operator of the vehicle,

shall be guilty of an offence against this Order unless he proves that he did not know and had no reason to suppose that the carriage of goods in question was, or formed 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.

(6) Nothing in this Article applies to goods in respect of which a licence granted by the Secretary of State or the Governor is in force under:

- (a) Article 2(1) of this Order; or
- (b) Article 3 of this Order.

(7) Nothing in this Article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or land transport vehicles.

Investigation, etc. of suspected British ships and aircraft

8.—(1) Where any authorised officer, that is to say, any such officer as is referred to in section 692(1) of the Merchant Shipping Act 1894^(a), has reason to suspect that any British ship registered in the United Kingdom or in any other country or 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 the Order, he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force, and he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and an authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may, in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of Article 5(2) of this Order, exercise the following further powers with a view to the prevention of the commission (or the continued commission) of any such contravention or in order that enquiries into the matter may be pursued, that is to say, he may either direct the master to refrain, except with the consent of an authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified or request the master to take any one or more of the following steps:—

- (a) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by any authorised officer that the ship may so proceed;
- (b) if the ship is then in a port in the United Kingdom or in any other country or place to which this Order extends, to cause her to remain there until the master is notified by any authorised officer that the ship may depart;
- (c) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (b) of this paragraph; and
- (d) to take her to any other destination that may be specified by the officer in agreement with the master;

and the master shall comply with any such request or direction.

(a) 1894 c.60.

(2) Without prejudice to the provisions of paragraph (8) of this Article, where a master refuses or fails to comply with a request made under this Article that his ship shall or shall not proceed to or from any place or where an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with, any such 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 enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(3) Where the Governor of the Territory or any person authorised by him for that purpose either generally or in a particular case has reason to suspect that any aircraft registered in the United Kingdom or in any other country or place to which this Order extends or any aircraft for the time being chartered to any person specified in paragraph 3 of Article 7 of this Order has been or is being or is about to be used in contravention of paragraph (1) or paragraph (2) of Article 7 of this Order then the Governor or that authorised person or that officer may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for their or his inspection such documents so relating and such cargo 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 aircraft and search it and, for that purpose, may use or authorise the use of reasonable force; and, if the aircraft is then in the Territory, the Governor or any such authorised person or any such officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may further request the charterer, operator and the commander or any of them to cause the aircraft to remain in the Territory until notified that the aircraft may depart; and the charterer, the operator and the commander shall comply with any such request.

(4) Without prejudice to the provisions of paragraph (8) of this Article, where the Governor or any person authorised by him as aforesaid or any such officer as aforesaid has reason to suspect that any request that an aircraft should remain in the Territory that has been made under paragraph (3) of this Article may not be complied with the Governor or 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 aircraft;
- (b) detain, or authorise the detention of, that aircraft; and
- (c) use, or authorise the use of, reasonable force.

(5) A person authorised by the Governor to exercise any power for the purposes of paragraph (3) or paragraph (4) of this Article shall, if requested to do so, produce evidence of this authority before exercising that power.

(6) No information furnished or document produced by any person in pursuance of a request made under this Article shall be disclosed except –

- (a) with the consent of the person by whom the information was furnished or the document was produced:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right; or

- (b) to any person who would have been empowered under this Article to request that it be furnished or produced or to any person holding or acting in any office under or in the service of the Crown in respect of the Government of the United Kingdom or under or in the service of the Government of any other territory to which this Order extends; or
- (c) on the authority of the Governor to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Iraq or Kuwait decided upon by the Security Council of the United Nations; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence against this Order or (whether in the Territory or in any other territory to which this Order extends), with respect to any of the matters regulated by this Order, for an offence against any enactment relating to customs or for an offence against any provision of law with respect to similar matters that is for the time being in force in any country or place to which this Order extends.

(7) Any power conferred by this Article to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(8) Each of the following persons shall be guilty of an offence against this Order, that is to say:-

- (a) A master of a ship who disobeys any direction given under paragraph (1) of this Article with respect to the landing of any cargo;
- (b) A master of a ship or a charterer or an operator or a commander of the aircraft who, without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under this Article by any person empowered to make it or who wilfully furnishes false information or produces false documents to such a person in response to such a request;
- (c) A master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under this Article.

(9) Nothing in this Article shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships or aircraft.

Obtaining of evidence and information

9. The provisions of Schedule 1 to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Governor of the Territory of evidence and information for the purpose of securing compliance with or detecting evasion of this Order and in order to facilitate the obtaining, by or on behalf of the Governor of the Territory of evidence of the commission of an offence against this Order or with respect to any of the matters regulated by this Order, of an offence relating to customs.

Penalties and Proceedings

10.—(1) Any person guilty of an offence against this Order shall be liable -

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £2,000 or its equivalent or to both.

(2) Where any body corporate is guilty of an offence against this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Summary proceedings for an offence against this Order, being an offence alleged to have been committed outside the Territory, may be commenced at any time not later than twelve months from the date on which the person charged first enters the Territory after committing the offence.

(4) Proceedings against any person for an offence against this Order may be taken before the appropriate court in the Territory, or in any territory to which this Order extends, having jurisdiction in the place where that person is for the time being.

(5) No proceedings for an offence against this Order shall be instituted in a scheduled

territory except by or with the consent of the principal public officer of the territory having responsibility for criminal prosecutions.

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

Exercise of powers of the Governor of the Territory

11.—(1) The Governor of the Territory may to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order (other than the power to give authority under Schedule 1 to this Order to apply for a search warrant) to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

(2) Any licences granted under this Order 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 them.

Miscellaneous

12.—(1) This Order applies to or in relation to any ship or aircraft or any body corporate that purports to be registered in any particular place or, as the case may be, that purports to be incorporated or constituted under the law of that place as it applies to or in relation to any ship or aircraft that is so registered or any body corporate that is so incorporated or constituted.

(2) Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor or under the Iraq and Kuwait (United Nations Sanctions) Order 1990 or the Export of Goods (Control) (Iraq and Kuwait Sanctions) Order 1990 shall not have effect in relation to any such thing done in a country or place other than the Territory to which this Order extends or done elsewhere outside the Territory by a person who is ordinarily resident in, or by a body incorporated or constituted under the law of, that country or place, provided that it is so done under the authority of a licence or with permission granted, in accordance with any law in force in that country or place (being a law substantially corresponding to the relevant provision of this Order), by the authority competent in that behalf under that law.

G. I. de Deney
Clerk of the Privy Council

SCHEDULE 1

Article 9

EVIDENCE AND INFORMATION

1.—(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Governor (or any person authorised by him for that purpose either generally or in a particular case) may request any person in or resident in the Territory to furnish to the Governor (or to that authorised person) any information in his possession or control, or to produce to the Governor (or to that authorised person) any document in his possession or control, which the Governor (or that authorised person) may require for the purpose of securing compliance with or detecting evasion of this Order; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(3) Where a person is convicted before a superior court for failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

2.—(1) If any judge, magistrate or justice of the peace is satisfied by information on oath given by a person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case—

(a) that there is reasonable ground for suspecting that an offence against this Order has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, vessel or aircraft so specified; or

(b) that any documents which ought to have been produced under paragraph 1 of this Schedule and have not been produced are to be found on any such premises or in any such vehicle, vessel or aircraft, he may grant a search warrant authorising any police officer, together with any other persons named in the warrant and any other police officers, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, vessel or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or, as the case may be, the vehicle, vessel or aircraft.

(2) A person authorised by any such warrant as aforesaid to search any premises or any vehicle, vessel or aircraft may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle, vessel or aircraft and may seize any document or article found on the premises or in the vehicle, vessel or aircraft or on such person which he has reasonable ground to believe to be evidence of the commission of any offence against this Order or any document which he has reasonable ground to believe ought to have been produced under paragraph 1 of this Schedule or to take in relation to any such article or document any other steps which may appear necessary for preserving it and preventing interference with it:

Provided that no female shall, in pursuance of any warrant issued under this paragraph, be searched except by a female.

(3) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, vessel or aircraft he may use such force as is reasonably necessary for that purpose.

(4) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for an offence against this Order to which they are relevant, until the conclusion of those proceedings.

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy or extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) of this Schedule shall be disclosed except —

(a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right; or

(b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or to any person holding or acting in any office under or in the service of the Crown in respect of the Government of the United Kingdom or under or in the service of the Government of any territory to which this Order extends; or

(c) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence against this Order (whether in the Territory or any other territory to which this Order extends) or for an offence against any provision of law with respect to matters

similar to those regulated by this Order that is for the time being in force in the United Kingdom.

5. Any person who —

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or
 - (b) wilfully furnishes false information or a false explanation or otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
 - (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes, or removes any document,
- shall be guilty of an offence against this Order.

SCHEDULE 2

Article 1

TERRITORIES TO WHICH THE ORDER EXTENDS

Anguilla
Bermuda
British Antarctic Territory
British Indian Ocean Territory
Cayman Islands
Falkland Islands
South Georgia and South Sandwich Islands
Gibraltar
Hong Kong
Montserrat
Pitcairn
St Helena and its dependencies
Turks and Caicos Islands
Virgin Islands

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the United Nations Act 1946, applies to each of the territories specified in Schedule 1. It prohibits the importation into the territory of certain goods exported from Iraq or Kuwait and the exportation from the territory of certain goods intended for Iraq or Kuwait. It also prohibits certain activities and dealings relating to the exportation from Iraq or Kuwait of the former goods and the supply to Iraq or Kuwait of the latter goods, including carriage of these goods in British ships or aircraft. It also makes provision for the investigation of ships and aircraft that are suspected of contravening this Order. It confers certain powers relating to the obtaining of evidence and information for the purposes of the Order.

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