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Part VIII

Department of the Treasury

Office of Foreign Assets Control

**31 CFR Part 575
Implementation of Executive Order 13315
with Respect to Iraq; General License No.
1; Final Rule**

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****31 CFR Part 575****Implementation of Executive Order 13315 with Respect to Iraq; General License No. 1**

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; publication of general license.

SUMMARY: The Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury is amending the Iraqi Sanctions Regulations, in light of the President's termination of the national emergency declared in Executive Order 12722. OFAC is also issuing General License No. 1 under Executive Order 13315 to allow certain transactions related to Iraq under that Executive Order.

DATES: This rule is effective July 30, 2004, except that 31 CFR 575.533(a), (b)(1), (b)(3), (b)(4) and (b)(5) are effective May 23, 2003.

FOR FURTHER INFORMATION CONTACT: OFAC's Chief of Licensing, tel. 202/622-2480, Chief of Policy Planning and Program Management, tel. 202/622-4855, or Chief Counsel, tel. 202/622-2410.

SUPPLEMENTARY INFORMATION:**Background**

On August 2, 1990, upon Iraq's invasion of Kuwait, the President issued Executive Order 12722, declaring a national emergency with respect to Iraq. This order, issued under the authority of, inter alia, the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the U.S. Code, imposed economic sanctions against Iraq, including a complete trade embargo and a freeze of Government of Iraq property and interests in property. In keeping with United Nations Security Council Resolution 661 of August 6, 1990, and under the United Nations Participation Act (22 U.S.C. 287c), the President also issued Executive Order 12724 of August 9, 1990, which imposed additional restrictions. The Iraqi Sanctions Regulations, 31 CFR part 575 (the "Regulations"), implement Executive Orders 12722 and 12724 and are administered by the Treasury Department's Office of Foreign Assets Control ("OFAC").

On May 22, 2003, the United Nations Security Council adopted Resolution 1483, which substantially lifted the

multilateral economic sanctions with respect to Iraq. On May 23, 2003, the Treasury Department issued a general license consistent with Resolution 1483. That general license was published as new section 575.533 of the Regulations.

On August 28, 2003, President Bush signed Executive Order 13315, "Blocking Property of the Former Iraqi Regime, Its Senior Officials and Their Family Members, and Taking Certain Other Actions," invoking the authority of, inter alia, the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the United Nations Participation Act (22 U.S.C. 287c), and section 301 of title 3 of the U.S. Code. This Executive Order expands a national emergency first declared in Executive Order 13303 of May 22, 2003, regarding the reconstruction of Iraq. Both Executive Orders were issued in view of obligations established in United Nations Security Council Resolution 1483.

The national emergency declared in Executive Order 13303 and expanded in Executive Order 13315 is distinct from the national emergency declared in Executive Order 12722, upon which the Iraqi Sanctions Regulations are based. Although based on distinct national emergencies, however, the sanctions imposed in Executive Order 13315 overlap in some respects with the sanctions imposed by the Iraqi Sanctions Regulations. Consequently, on March 16, 2004, to synchronize the legal effects of both the Regulations and Executive Order 13315, the Treasury Department revised section 575.533 of the Regulations and issued General License No. 1 under Executive Order 13315.

The President has issued an Executive order terminating the national emergency declared in Executive Order 12722. Notwithstanding the termination of the national emergency, this new Executive order, pursuant to the President's authority under section 207 of IEEPA (50 U.S.C. 1706), continues prohibitions with regard to transactions involving any property blocked pursuant to Executive Order 12722 or Executive Order 12724 that remains blocked as of July 30, 2004. Moreover, the new Executive order indicates that the termination "shall not affect any action taken or proceeding pending but not concluded" as of July 30, 2004, nor will it affect "any rights or duties that had matured" prior to that date. However, among other things, the President's termination of the national emergency in Executive Order 12722 will end as of July 30, 2004, the import

and export prohibitions imposed pursuant to that order, Executive Order 12724, and related regulations, including the Iraqi Sanctions Regulations, 31 CFR part 575.

1. Revision of 31 CFR 575.533

In light of the President's action terminating the national emergency declared in Executive Order 12722, the Treasury Department is further revising section 575.533 to clarify the impact of the President's action, and to clarify the impact of a revised rule regarding Iraq issued today by the Commerce Department, on certain specific licenses issued by OFAC pursuant to Executive Order 12722 and the Iraqi Sanctions Regulations, 31 CFR part 575. In addition, today's amendment to section 575.533 will recognize the transfer to the Commerce Department of licensing jurisdiction over exports from the United States to Iraq. Effective July 30, 2004, all applications for exportation or reexportation to Iraq of any items controlled by the Department of Commerce under the Export Administration Regulations (15 CFR parts 730 through 799) for exportation to Iraq are to be submitted to the Department of Commerce, Bureau of Industry and Security.

Paragraph (a) of section 575.533 indicates that between May 23, 2003 and July 30, 2004, all transactions were authorized that were otherwise prohibited by subpart B of the Regulations, with three exceptions addressed in paragraph (b). Paragraph (b)(1) of section 575.533 provides that all property and interests in property, including accounts, that were blocked as of May 23, 2003, pursuant to Executive Order 12722 or Executive Order 12724, or subpart B of the Regulations, remain blocked and subject to the prohibitions and requirements of the Regulations.

As mentioned above, the President's termination of the national emergency in Executive Order 12722, as of July 30, 2004, ends the Treasury Department's jurisdiction over exports and reexports to Iraq and that jurisdiction transfers to the Department of Commerce. Consequently, paragraph (b)(2) of section 575.533 is revised to remove reference to OFAC's issuance of specific licenses for the exportation of certain goods to Iraq. That paragraph is further revised to indicate that as of July 30, 2004, OFAC will not accept license applications for exports or reexports to Iraq. On or after July 30, 2004, all inquiries or applications regarding exports or reexports to Iraq should be made to the Bureau of Industry and Security, Department of Commerce. All

OFAC licenses for the exportation or reexportation of goods, software or technology to Iraq issued pursuant to part 575 shall remain valid until the expiration date stated in the license, or if no expiration date is provided in the license, until July 30, 2005. It also indicates that OFAC license holders will be subject to certain additional requirements consistent with the revised rule regarding Iraq that Department of Commerce issued today. These include requirements to keep certain records, to secure Commerce Department approval prior to transfer of OFAC-licensed exports to new end-users, and to conform any OFAC-licensed reexports from Iraq to another country to the relevant provisions based on the items being reexported and the country to which they are being reexported.

Paragraph (b)(3) of section 575.533 removes the prior reference to two of three classes of persons with whom transactions were not authorized: (ii) persons on the Defense Department's 55-person Watch List referred to in what had been paragraph (b)(3)(ii), and (iii) persons identified by the 661 Committee pursuant to paragraphs 19 and 23 of United Nations Security Council Resolution 1483, adopted May 22, 2003, referred to in what had been (b)(3)(iii). Transactions with these two classes of person are now prohibited pursuant to Executive Order 13315. As revised, paragraph (b)(3) of section 575.533 now specifically refers only to those persons who are listed in Appendix A to chapter V of title 31, Code of Federal Regulations (commonly referred to as the "Specially Designated Nationals List"—or "SDN List").

Notwithstanding paragraph (b)(3), paragraph (b)(4) of section 575.533 lifts economic sanctions for certain specified entities even though they are Iraqi SDNs and appear on the list in Appendix A of chapter V, title 31, Code of Federal Regulations. This revision makes clear that U.S. persons may engage in economic transactions with these entities and, thereby, contribute to the orderly and expeditious reconstruction of Iraq.

Paragraph (b)(5) of section 575.533 provides that the general license does not authorize transactions with respect to Iraqi cultural property or other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since August 6, 1990. Any trade in or transfer of such items, including items with respect to which reasonable suspicion exists that they have been illegally removed,

remains prohibited. The note to paragraph (b) (5) refers inquiries concerning particular Iraqi cultural property to the Cultural Property Office at the Department of State.

Paragraph (c) of section 575.533 provides that the effective date paragraphs (a), (b)(1), (b)(3), (b)(4) and (b)(5) of the section is May 23, 2003. The effective date of paragraph (b)(2) of the section is July 30, 2004.

2. Promulgation of General License No. 1 Under Executive Order 13315

Paragraph (a) of General License No. 1 under Executive Order 13315 permits all transactions with state bodies, corporations, or agencies of the former Iraqi regime that are prohibited by section 1 of Executive Order 13315, with four exceptions described in paragraph (b). Paragraph (b)(1) of General License No. 1 specifies that all property and interests in property of those persons named in the Annex to Executive Order 13315 or later determined to be subject to the Executive Order are to remain blocked and subject to the prohibitions and requirements of the Executive Order.

Paragraph (b)(2) of General License No. 1 states that all property and interests in property, including accounts, that were blocked pursuant to subpart B of the Iraqi Sanctions Regulations, 31 CFR part 575, as of May 23, 2003, shall remain blocked. Paragraph (b)(3) of General License No. 1 states that the general license does not permit transactions with those persons that are listed in Appendix A to chapter V of title 31, Code of Federal Regulations (commonly referred to as the "Specially Designated Nationals List"—or "SDN List"), except for those organizations listed in paragraph (b)(4).

Notwithstanding paragraph (b)(3), paragraph (b)(4) of General License No. 1 lifts economic sanctions on certain entities, even though they are Iraqi SDNs and are listed in Appendix A to chapter V of Title 31, Code of Federal Regulation. This provision makes clear that U.S. persons may engage in economic transactions with these entities and, thereby, contribute to the orderly and expeditious reconstruction of Iraq. Note that the list of entities in paragraph (b)(4) of section 575.533 and the list in paragraph (b)(4) of General License No. 1 are identical.

Finally, paragraph (b)(5) of General License No. 1 provides that the general license does not authorize transactions with respect to Iraqi cultural property or other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National

Library, and other locations in Iraq since August 6, 1990. Any trade in or transfer of such items, including items with respect to which reasonable suspicion exists that they have been illegally removed, remains prohibited by subpart B of the Regulations. The note to paragraph (b)(4) refers inquiries concerning particular Iraqi cultural property to the Cultural Property Office at the Department of State.

Paragraph (c) of General License No. 1 indicates that the effective date of this license is August 29, 2003. That is the date that Executive Order 13315 became effective.

3. Transactions Authorized Under 31 CFR 575.533 and General License No. 1

Examples of transactions authorized by section 575.533 and General License No. 1 include investment by U.S. persons in Iraq, the importation of goods or services of Iraqi origin (with the exception of the cultural properties described in paragraph (b)(3)), travel-related transactions involving Iraq, the transfer of funds to or from Iraq, and transactions related to transportation to or from Iraq. This authorization, however, does not eliminate the need to comply with other provisions of 31 CFR chapter V or with other applicable provisions of law, including any aviation, financial, or trade requirements of agencies other than OFAC. Such requirements include the Export Administration Regulations (15 CFR parts 730 *et seq.*) administered by the Bureau of Industry and Security, Department of Commerce, and the International Traffic in Arms Regulations (22 CFR chapters 120–130) administered by the Department of State.

Procedural Matters

Because this rule involves a foreign affairs function of the United States, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) (the "APA") requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. Chapter 6) do not apply.

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Paperwork Reduction Act

The collections of information related to these regulations can be found in 31 CFR part 501. Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been previously approved by the Office of Management and Budget under control number 1505-0164.

List of Subjects in 31 CFR Part 575

Administrative practice and procedure, Banks, banking, Blocking of assets, Exports, Foreign trade, Humanitarian aid, Imports, Iran, Iraq, Oil imports, Penalties, Petroleum, Petroleum products, Reporting and recordkeeping requirements, Specially designated nationals, Terrorism, Travel restrictions.

■ For the reasons stated in the preamble, 31 CFR part 575 is amended as set forth below:

PART 575—IRAQI SANCTIONS REGULATIONS

■ 1. The authority citation for 31 CFR part 575 is revised to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2332d; 22 U.S.C. 287c; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); 31 U.S.C. 321(b); 50 U.S.C. 1601-1651, 1701-1706; Pub. L. 101-513, 104 Stat. 2047-2055 (50 U.S.C. 1701 note); E.O. 12722, 55 FR 31803, 3 CFR, 1990 Comp., p. 294; E.O. 12724, 55 FR 33089, 3 CFR, 1990 Comp., p. 297; E.O. 12817, 57 FR 48433, 3 CFR, 1992 Comp., p. 317.; E.O. 13350 of July 29, 2004.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

■ 2. Section 575.533 is revised to read as follows:

§ 575.533—Certain new transactions.

(a) *New transactions.* Except as provided in paragraph (b) of this section, on or after May 23, 2003 and prior to July 30, 2004, all transactions that are otherwise prohibited by subpart B of this part are authorized.

Note to § 575.533(a): This authorization does not eliminate the need to comply with Executive Order 13315, "Blocking Property of the Former Iraqi Regime, Its Senior Officials and Their Family Members, and Taking Certain Other Actions," or other provisions of 31 CFR chapter V, or with other applicable provisions of law, including any

aviation, financial, or trade requirements of agencies other than the Department of the Treasury's Office of Foreign Assets Control. Such requirements include the Export Administration Regulations (15 CFR parts 730 through 799) administered by the Bureau of Industry and Security, Department of Commerce, and the International Traffic in Arms Regulations (22 CFR parts 120 through 130) administered by the Department of State.

(b) *Continued blocking, special provisions for certain exports and reexports, and additional conditions.*

(1) All property and interests in property that were blocked as of May 23, 2003, pursuant to Executive Orders 12722 or 12724, or subpart B of this part, remain blocked and subject to the prohibitions and requirements of this part.

(2)(i) Any specific license issued by the Treasury Department before July 30, 2004, for the exportation from the United States, or, if subject to U.S. jurisdiction, the exportation or reexportation from a third country to Iraq of any items (including technical data or other information) controlled by the Department of Commerce under the Export Administration Regulations (15 CFR parts 730 through 799) for exportation to Iraq shall expire on the date set forth in that license, or, if no expiration date is provided in that license, on July 30, 2005.

Note to § 575.533(b)(2)(i): Effective July 30, 2004, with the termination of the national emergency declared in Executive Order 12722 and the revocation of that Executive order, OFAC's authority to license exports and reexports to Iraq ceases, and the licensing jurisdiction for exports and reexports to Iraq will be transferred back to the Department of Commerce. All OFAC license applications pending but not acted upon before July 30, 2004, will be returned to applicants and applicants will be required to resubmit them to the Department of Commerce using the appropriate Department of Commerce forms. Moreover, as July 30, 2004, OFAC will not accept any applications for licenses for exports or reexports to Iraq. On or after July 30, 2004, all inquiries and applications regarding such exports or reexports are to be made to the Exporter Services Office, Bureau of Industry and Security, Department of Commerce (telephone: 202-482-4811).

(ii) Persons issued a specific license by the Treasury Department before July 30, 2004, for the exportation from the United States, or if subject to U.S. jurisdiction, the exportation or reexportation from a third country to Iraq, of any items (including technical data or other information) controlled by the Department of Commerce under the Export Administration Regulations (15 CFR parts 730 through 799) must

maintain such records as are required by 15 CFR part 746 of the Export Administration Regulations.

Note to § 575.533(b)(2)(ii): Pursuant to an amendment to the Export Administration Regulations (15 CFR parts 730 through 799), effective July 30, 2004, further authorization by the Department of Commerce will not be required for exports or reexports licensed by the Department of the Treasury until the Treasury Department license expires by its own terms, or, if no expiration date is provided in the license, until July 30, 2005. Those holding specific licenses issued by the Treasury Department for exports or reexports to Iraq must comply with the recordkeeping requirements found in 15 CFR 746.3 of the Export Administration Regulations.

(iii) Items licensed by the Treasury Department for exportation or reexportation to Iraq may not be transferred within Iraq to a new end-user without further authorization from the Bureau of Industry and Security, Department of Commerce. Reexportation of items originally authorized pursuant to a specific license issued by the Treasury Department must conform to the relevant provision of the Export Administration Regulations (15 CFR parts 730 through 799) based on the items being reexported and the country to which they are being reexported.

Note to § 575.533(b)(2)(iii): Pursuant to an amendment to the Export Administration Regulations (15 CFR parts 730 through 799), effective July 30, 2004, further authorization by the Department of Commerce will be required for exports or reexports licensed by the Department of the Treasury prior to the transfer of such items within Iraq to a new end-user. The amendment also requires that any reexportation of items pursuant to a specific license issued by the Treasury Department must conform to the relevant provision of the Export Administration Regulations (15 CFR parts 730 through 799) based on the country to which the items are being reexported.

Note to § 575.533(b)(2): The term "controlled by the Department of Commerce" means subject to a license requirement under the Department of Commerce's Export Administration Regulations (EAR). Items subject to a license requirement under the EAR include items on the Commerce Control List that require a license for exportation or reexportation to Iraq pursuant to 15 CFR part 742 or 15 CFR 746.3, as well as items and activities that require a license under the end-use and end-user provisions of 15 CFR part 744. To inquire whether particular items are controlled by the Department of Commerce under the Export Administration Regulations for exportation to Iraq, the exporter or reexporter should contact the Department of Commerce, Bureau of Industry and Security.

(3) This section does not authorize any transactions with persons listed in

appendix A to chapter V of title 31, Code of Federal Regulations, except for those organizations listed in paragraph (b)(4) of this section.

(4) Notwithstanding paragraph (b)(3) of this section, and except as provided in paragraphs (b)(1), (2) and (5), on or after May 23, 2003, all transactions that are otherwise prohibited by subpart B of this part are authorized for the following Iraqi state bodies, corporations or agencies that are listed in Appendix A to chapter V, title 31, Code of Federal Regulations, but that are now operating under the authority of the coalition, an interim or transitional Iraqi government, or a subsequent permanent Iraqi government:

Agricultural Cooperative Bank
Al-Rafidain Shipping Company
Industrial Bank of Iraq
Iraq Reinsurance Company
Iraqi Airways
Iraqi-Jordan Land Transport Company
Iraqi State Enterprise for Maritime Transport
Rafidain Bank
Rasheed Bank
Real Estate Bank

Note to § 575.533(b)(4): Numerous other Iraqi state bodies, corporations, or agencies are not listed in Appendix A to chapter V, 31 CFR. This section permits transactions with such entities on or after May 23, 2003. But for the operation of this paragraph (b)(4), these entities would be blocked under subpart B because they meet the definition of 'Government of Iraq' in 31 CFR 575.306 or 'entity of the Government of Iraq' in 31 CFR 575.304, whether or not they appeared in appendix A to chapter V, 31 CFR.

(5) This section does not authorize any transactions with respect to Iraqi cultural property or other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since August 6, 1990. Any trade in or transfer of such items, including items with respect to which reasonable suspicion exists that they have been illegally removed.

Note to § 575.533(b)(5): Questions concerning whether particular Iraqi cultural property or other items are subject to this paragraph should be directed to the Cultural Property Office, U.S. Department of State, tel. 202-619-6612, fax 202-260-4893, Web site <http://www.exchanges.state.gov/culprop>, e-mail culprop@pd.state.gov.

(c) *Effective date.* Paragraphs (a), (b)(1), (b)(3), (b)(4) and (b)(5) of this section are effective May 23, 2003. Paragraph (b)(2) of this section is effective July 30, 2004.

[The following General License No. 1 will not appear in the Code of Federal Regulations]

General License No. 1 Issued Pursuant to Executive Order 13315 of August 28, 2003

(a) Except as provided in paragraph (b) of this general license, on or after August 29, 2003, all transactions with state bodies, corporations, or agencies of the former Iraqi regime that are otherwise prohibited by section 1 of Executive Order 13315 are permitted.

Note to paragraph (a): This authorization does not eliminate the need to comply with other provisions of 31 CFR chapter V or with other applicable provisions of law, including any aviation, financial, or trade requirements of agencies other than the Department of the Treasury's Office of Foreign Assets Control. Such requirements include the Export Administration Regulations (15 CFR parts 730 through 799) administered by the Bureau of Industry and Security, Department of Commerce, and the International Traffic in Arms Regulations (22 CFR parts 120 through 130) administered by the Department of State.

(b)(1) All property and interests in property of persons listed in the Annex to Executive Order 13315 or determined to be subject to the Executive Order pursuant to section 1(b) thereof, remain blocked and subject to the prohibitions and requirements of Executive Order 13315.

(2) All property and interests in property blocked as of May 23, 2003, pursuant to Executive Orders 12722 or 12724, or the Iraqi Sanctions Regulations, 31 CFR part 575, remain blocked.

(3) This general license does not authorize any transactions with persons listed in appendix A to chapter V of title 31, Code of Federal Regulations, except for those

organizations listed in paragraph (b)(4) of this License.

(4) Notwithstanding paragraph (b) (3) of this License, and except as provided in paragraphs (b)(1), (2) and (5), on or after August 29, 2003, all transactions otherwise prohibited by section 1 of Executive Order 13315 are permitted with the following Iraqi state bodies, corporations or agencies that are listed in appendix A to chapter V of title 31, Code of Federal Regulations, but that are now operating under the authority of the coalition, a transitional Iraqi government, or a subsequent permanent Iraqi government:

Agricultural Cooperative Bank
Al-Rafidain Shipping Company
Industrial Bank of Iraq
Iraq Reinsurance Company
Iraqi Airways
Iraqi-Jordan Land Transport Company
Iraqi State Enterprise for Maritime Transport
Rafidain Bank
Rasheed Bank
Real Estate Bank

(5) This License does not authorize any transactions with respect to Iraqi cultural property or other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since August 6, 1990. Any trade in or transfer of such items, including items with respect to which reasonable suspicion exists that they have been illegally removed, remains prohibited by Executive Order 13315.

Note to paragraph (b)(5): Questions concerning whether particular Iraqi cultural property or other items are subject to this paragraph should be directed to the Cultural Property Office, U.S. Department of State, tel. 202/619B6612, fax 202/260B4893, Web site <http://www.exchanges.state.gov/culprop>, e-mail culprop@pd.state.gov.

(c) This general license is effective August 29, 2003.

Dated: July 28, 2004.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: July 28, 2004.

Juan C. Zarate,

*Assistant Secretary (Terrorist Financing),
Department of the Treasury.*

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