

NON-PAPER ON THE IMPLEMENTATION
OF PARAGRAPH 23 OF RESOLUTION 1483 (2003)

The Chairman of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait wishes to share the following non-paper with Member States to provide information concerning the obligations of Member States with respect to paragraph 23 of resolution 1483 (2003). The non-paper has been discussed among Committee members and it reflects their common understanding. The definitions set forth below are indicative, not exclusive, and not legally binding. They are designed for reference by Member States and the Committee when implementing resolution 1483 (2003).

The list of individuals identified pursuant to paragraphs 19 and 23 of resolution 1483 (2003) is available at the following website:
http://www.un.org/Docs/sc/committees/IraqKuwait/1483_lst.htm. A list of entities to be identified pursuant to paragraphs 19 and 23 of Security Council resolution 1483 (2003) will be issued at a later stage, and will be included together with the list of individuals in a consolidated list of the Committee.

- **Freezing of funds or other financial assets or economic resources:**
 - o **Funds or other financial assets:** Financial assets and economic benefits of every kind, including but not limited to cash, cheques, claims on money, drafts, money orders and other payment instruments; deposits with financial institutions or other entities, balances on accounts, debts and debt obligations; publicly and privately traded securities and debt instruments, including stocks and shares, certificates presenting securities, bonds, notes, warrants, debentures, derivatives contracts; interest, dividends or other income on or value accruing from or generated by assets; credit, rights of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export-financing; and bullion.
 - o **Economic resources:** Assets of every kind, whether tangible or intangible, movable or immovable, which are not funds.
 - o **Freezing of funds:** Preventing any move, transfer, alteration, use of or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the use of the funds, including portfolio management but not including the accrual of commercially reasonable rates of interest.
 - o **Freezing of economic resources:** Preventing their use, including their use to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them.
- **State bodies, corporations or agencies (of the previous GoI):**
 - o Includes the State of Iraq, the former government of Iraq, and any political subdivision, agency or instrumentality, partnership, association, corporations or other organization owned or controlled by the State of Iraq or the former government of Iraq.

- o It is understood that paragraph 23 of resolution 1483 (2003) does not apply to the funds or other financial assets or economic resources of diplomatic and consular missions of Iraq, and that resolution 1483 does not affect the application of the Vienna Conventions on Diplomatic and Consular Relations of 1961 and 1963 to such funds, other financial assets or economic resources.

- **Other senior officials of the former Iraqi regime:**

- o Cabinet officials including Deputy ministers
- o Members of Parliament
- o The heads and senior members of the military and security forces, intelligence services, military police and paramilitary police
- o The heads and senior members of state-owned /state controlled enterprises (banks, transport services, industries, utilities, media, insurance agencies etc.)
- o Senior members of the Baath Party
- o Officials of a lower rank but performing crucial functions such as certain accountants, buyers, technical experts etc.

- **Their immediate family members:**

- o includes parents, spouses, children, and siblings of the senior official
- o adoptions to be treated equivalently
- o other relatives as appropriate

- **Entities owned or controlled, directly or indirectly, by them:**

- o Entities owned includes, but is not necessarily limited to, being in possession of 50% or more of the proprietary rights of a company, undertaking, institution or other entity or having a majority interest therein
- o Entities controlled include, but is not necessarily limited to, any of the following:
 - Having the right to appoint or remove a majority of the members of the administrative, management or supervisory body of a company, undertaking, institution or other entity;
 - Having appointed solely as a result of the exercise of one's voting rights a majority of the members of the administrative, management or supervisory body of a company, undertaking, institution or other entity who have held office during the present and previous financial year;
 - Controlling alone, pursuant to an agreement with other shareholders in or members of a company, undertaking, institution or other entity, a majority of shareholders' or members' voting rights in that company, undertaking, institution or other entity;
 - Having the right to exercise a dominant influence over a company, undertaking, institution or other entity pursuant to an agreement entered into with that company, undertaking,

institution or other entity, or to a provision in its Memorandum or Articles of Association, where the law governing that company, undertaking, institution or other entity permits its being subject to such agreement or provision;

- Having the power to exercise the right to exercise a dominant influence referred to above, without being the holder of that right;
- Having the right to use all or part of the assets of a company, undertaking, institution or other entity;
- Managing a company, undertaking, institution or other entity on a unified basis, while publishing consolidated accounts;
- Sharing jointly and severally the financial liabilities of a company, undertaking, institution or other entity, or guaranteeing them.

* * * * *