

COALITION PROVISIONAL AUTHORITY REGULATION NUMBER 2

DEVELOPMENT FUND FOR IRAQ

Pursuant to my authority as Administrator of the Coalition Provisional Authority (CPA), and consistent with relevant U.N. Security Council resolutions, including Resolution 1483 (2003), and the laws and usages of war,

Noting the letter of May 8, 2003 from Permanent Representatives of the United States of America and the United Kingdom of Great Britain and Northern Ireland to the President of the United Nations Security Council (S/2003/538),

Recognizing that ninety-five percent of the proceeds of all export sales of petroleum, petroleum products, and natural gas from Iraq, as well as funds from other sources, shall be deposited into the Development Fund for Iraq until an internationally recognized, representative government of Iraq is properly constituted, and that five percent of the proceeds referred to in paragraph 20 of Resolution 1483 shall be deposited into the Compensation Fund established in accordance with Resolution 687 (1991),

Reaffirming that a major CPA objective is to ensure that the newly established Development Fund for Iraq and other Iraqi resources, including Iraqi petroleum and petroleum products, are dedicated to the well-being of the Iraqi people,

Committed to ensuring, consistent with paragraph 14 of Resolution 1483, that the Development Fund for Iraq shall be used in a transparent manner to meet the humanitarian needs of the Iraqi people, for the economic reconstruction and repair of Iraq's infrastructure, for the continued disarmament of Iraq, and for the costs of Iraqi civilian administration, and for other purposes benefiting the people of Iraq,

I hereby promulgate the following:

Section 1 Purpose

This Regulation applies to the administration, use, accounting and auditing of the Development Fund for Iraq (the "Fund"). The Regulation is intended and shall be applied to ensure that the Fund is managed in a transparent manner for and on behalf of the Iraqi people, consistent with Resolution 1483, and that all disbursements from the Fund are for purposes benefiting the people of Iraq.

Section 2 Responsibilities

- 1) **Administrator of the CPA (Administrator).** Oversees and controls the establishment, administration and use of the Fund for and on behalf of the Iraqi people, and directs disbursements from the Fund for those purposes he determines to be for the benefit of the people of Iraq.
- 2) **Director, Economic Policy, CPA, or other CPA official designated by the Administrator.** Manages the Fund, in coordination with the Central Bank of Iraq, the U.S. Federal Reserve Bank of New York and, if the Administrator directs that accounts be opened in the Bank for International Settlements (Switzerland) and/or other financial institutions, in coordination with those institutions.
- 3) **CPA Program Review Board (PRB).** Reviews all competing requirements for the relief and recovery of Iraq, assesses all available resources, and, in consultation with the Iraqi interim administration, when established, develops for the approval of the Administrator spending plans, consistent with a comprehensive budgetary framework, that identify prioritized requirements for proposed disbursements from the Fund; considers in this process information provided by the CPA International Coordination Council, the International Advisory and Monitoring Board, and other entities, as appropriate.
- 4) **CPA International Coordination Council.** Advises the PRB on matters relating to international efforts to assist the people of Iraq in the relief, recovery and ~~development of their economy~~, including ~~proposing specific projects for funding consideration~~; supporting efforts to encourage the global donor community to participate in this effort; providing the PRB with information regarding the nature and scope of international assistance to Iraq; and, as requested, making recommendations to the PRB with regard to disbursements from the Fund.
- 5) **International Advisory and Monitoring Board of the Development Fund for Iraq (the "IAMB").** Including duly qualified representatives of the ~~Secretary-General~~ of the United Nations, the ~~Managing Director~~ of the International Monetary Fund, the ~~Director-General~~ of the Arab Fund for Social and Economic Development, and the ~~President~~ of the World Bank, and not to exceed three additional duly qualified members appointed by the IAMB with the approval of the Administrator. The IAMB shall approve independent public accountants responsible for auditing the Fund, the Oil Proceeds Receipts Account referred to in section 2(97), and auditing export sales of petroleum, petroleum products, and natural gas from Iraq. The Administrator, in consultation with the IAMB, may appoint up to five non-voting observers to the IAMB. Consistent with its terms of reference, the IAMB shall perform functions similar to those of outside audit committees and may provide

information and comments to the PRB and the Administrator as appropriate to serve the purposes of Resolution 1483 and this Regulation.

- 6) Central Bank of Iraq. Holds the Fund on its books and administers the Fund as directed by the Administrator or his delegee.
- 7) U.S. Federal Reserve Bank of New York (the "Federal Reserve Bank") (and/or the Bank for International Settlements (Switzerland), and/or other financial institutions, if the Administrator directs that accounts in such institutions be opened). As agreed between such institution(s) and the Administrator, opens and maintains on its books the "Central Bank of Iraq/Development Fund for Iraq" account, as requested by the Administrator. Pursuant to Resolution 1483 and this Regulation, it is understood that the Federal Reserve Bank will be requested to open and maintain on its books an Oil Proceeds Receipts Account (the "Receipts Account") for the initial receipt of proceeds of all export sales of petroleum, petroleum products, and natural gas from Iraq and for the immediate transfer of ninety-five percent of such proceeds to the "Central Bank of Iraq/Development Fund for Iraq" account and five percent of such proceeds to the appropriate United Nations Compensation Fund account.
- 8) Independent public accountants (auditors). Nominated by the Administrator, approved by the IAMB, and reporting to the IAMB and the Administrator, the independent public accountants audit the Fund and audit all export sales of petroleum, petroleum products, and natural gas from Iraq, including the Receipts Account, supporting the objectives of ensuring that the Fund is used in a transparent manner and that such export sales are made consistent with prevailing international market best practices.

Section 3

Establishment of the Fund

The Fund shall be held on the books of the Central Bank of Iraq, and the corpus of the Fund shall be held in an account entitled "Central Bank of Iraq/Development Fund for Iraq," in the Federal Reserve Bank (and/or other financial institution(s), if the Administrator so directs), for the Central Bank of Iraq.

Section 4

Control of the Fund

The Fund shall be controlled by the Administrator of the CPA, for and on behalf of the Iraqi people. The Central Bank of Iraq and the Federal Reserve Bank

(and/or other financial institution(s), if the Administrator so directs), shall accept instructions, as agreed, concerning the Fund, including instructions to pay sums out of the Fund, only from the Administrator or his authorized delegee(s).

Section 5 Administration of the Fund

- 1) **General.** The Central Bank of Iraq/Development Fund for Iraq account in the Federal Reserve Bank shall be governed by the Federal Reserve Bank's standard terms and conditions regarding accounts of foreign central banks and governments, to the extent consistent with applicable law.
- 2) **Communications Protocol.** The Fund will be controlled by the Administrator through a communications protocol to be agreed upon between the Administrator and the Federal Reserve Bank (and/or other financial institution(s), if the Administrator so directs). This protocol shall be documented in a funds transfer security procedures agreement.
- 3) **Deposits into the Fund.** One billion United States dollars from unencumbered funds in the accounts established pursuant to paragraphs 8(a) and 8(b) of United Nations Security Council Resolution 986 (1995) have been transferred to the Fund; and it is anticipated that certain restored and surplus funds, pursuant to paragraphs 17 and 23 of Resolution 1483, will be transferred to the Fund. In addition, through the Receipts Account, ninety-five percent of the proceeds from all export sales of petroleum, petroleum products, and natural gas from Iraq shall be deposited into the Fund, pursuant to paragraph 20 of Resolution 1483, and five percent of such proceeds shall be deposited in the Compensation Fund established pursuant to Resolution 687 (1991), pursuant to paragraph 21 of Resolution 1483. There shall also be accepted for deposit into the Fund any gifts, contributions, donations or other funds, revenues or proceeds.
- 4) **Internal Accounting.** The CPA shall obtain the services of an independent, certified public accounting firm to support the objective of ensuring that the Fund is administered and used in a transparent manner for the benefit of the people of Iraq, and is operated consistent with Resolution 1483. The accountants performing this function shall be separate from those public accountants (auditors) approved by the International Advisory and Monitoring Board.
- 5) **Privileges and Immunities.** The Fund, including the accounts that comprise its corpus, and the Receipts Account, shall enjoy the privileges and immunities as set forth in paragraph 22 of Resolution 1483, as well as privileges and immunities to

which the Fund may be entitled under any other law, regulation, order, or directive.

Section 6 Disbursements from the Fund

- 1) **Authority to Approve.** Only the Administrator or his delegee may approve disbursements from the Fund.
- 2) **Directions to Disburse.** Sums shall be disbursed from the Fund, in accordance with this Regulation, only upon the express direction of the Administrator, or upon the express direction of individual(s) to whom the Administrator has delegated that authority.
- 3) **Purposes.** Sums may be disbursed from the Fund to meet the humanitarian needs of the Iraqi people and for the economic reconstruction and repair of Iraq's infrastructure; for the continued disarmament of Iraq; for the costs of Iraq's civilian administration; and for other purposes the Administrator determines to be for the benefit of the people of Iraq.
- 4) **Proposals for Disbursements.** Disbursements from the Fund generally shall be proposed through procedures prescribed in, or promulgated in implementation of the CPA Order establishing the PRB. These procedures shall ensure that proposed disbursements are set forth in a spending plan reflecting the cost, purpose and priority of the requirement, and that, prior to approval by the Administrator, all spending plans are developed in consultation with the Iraqi interim administration, ~~once established.~~

Section 7 Auditing

The Fund and the export sales of petroleum, petroleum products, and natural gas from Iraq, including the Receipts Account, shall be audited by independent public accountants nominated by the Administrator and approved by the IAMB. The expenses incurred in obtaining the services of the approved independent public accountants shall be charged against the Fund. The CPA shall cooperate fully with the IAMB and the approved independent public accountants in carrying out each party's respective responsibilities. In particular, the CPA shall provide the IAMB and such accountants with access to the Fund's financial records, with confidential materials protected in a manner agreed between the parties.

Section 8
Dissolution of the Fund

Until the Fund is dissolved by the Administrator in a manner consistent with Resolution 1483, the Central Bank of Iraq shall continue to hold on its books the Fund. Also, as agreed between the Administrator and the Federal Reserve Bank, (and/or other financial institution(s)), such institution(s) shall continue to maintain on its books the "Central Bank of Iraq/Development Fund for Iraq" account, and shall continue to accept deposits into, make disbursements from, and otherwise operate the account, in accordance with applicable laws, regulations, policies and agreements.

Section 9
Entry into Force

This Regulation shall enter into force on the date of signature.

L. Paul Bremer, Administrator
Coalition Provisional Authority