



Note on activities carried out by UNJLC

(Related to a Protocol/Agreement/MoU between UN and CPA)

The primary concern for UNJLC was the development and application of an 'agreement' with the CPA or Iraqi government to facilitate the unhindered and tax free import of humanitarian goods and equipment during the crisis, and the subsequent repatriation or re-exports - without taxes, restrictions or charges - of humanitarian equipment that was imported into Iraq without documentation or control during the crisis. This agreement should have covered both the 'fiscal' aspects of the movements and the 'practical' procedures or treatment to be applied.

Work started on drafting such an agreement early in the operations and preliminary discussions had been held with the CPA, although the draft agreement or Protocol had not been forwarded to them. At the end of August, UNJLC Customs Expert reviewed and modified the draft using the 'model' agreements proposed by the WCO. Definitions of UN Agencies, Implementing Partners, INGOs etc were included in the draft. A final draft was prepared and circulated amongst the interested parties in UNJLC – Iraq.

In the middle of September UNJLC came to learn that the UN Office of Legal Affairs in New York had been working, since May 2003, on a draft Status of Mission Agreement (SOMA) between the UN and the CPA in Iraq. This has not as yet been finalised or signed. Various attempts were made to obtain a copy of the draft SOMA to evaluate it in respect of humanitarian operations. A copy was eventually received on 23.09.03, and after review UNJLC forwarded some comments and observations to Michael Dunford, WFP in Rome. UNJLC is still waiting for any reply or response.

The issue of the UN and CPA agreement was influenced by the CPA Order number 38 imposing a Reconstruction Levy as of 1.1.04, in addition to CPA Order number 12 that introduced the CPA trade liberalization policy (i.e. duty/tax holiday). Copies of the orders are available.

UNJLC has also sent various e-mails to Stuart Crookshank, the Customs Policy Adviser to the CPA in Baghdad (crookshanks.gbr@orha.centcom.mil) and Joe Kelly, the CPA Customs Programme coordinator (kellyjoe@orha.centcom.mil) asking them for clarification on CPA Order number 38. No final elucidation has been received as the procedures and regulations to support the Order are currently being developed.

All issues pertaining to the draft SOMA (Statement of Mission Agreement), the UNJLC draft Agreements and the Application of CPA Order numbers 12 and 38 will be handed over to the relevant UNOHCI/UNAMI office.

In summary the primary issues are:

1. Transit of UN humanitarian goods and equipment (including vehicles) through Iraq's neighbouring countries
 - no duties or taxes payable due to existing legislation or agreements already negotiated by UN agencies and UNJLC



2. Current imports of UN humanitarian goods and equipment (including vehicles) into Iraq:
 - No import duties or taxes payable under CPA Order number 12.

3. Imports of UN humanitarian goods and equipment (including vehicles) into Iraq post 1.1.04:
 - No import duties or taxes payable and no Reconstruction Levy (5% of CIF value) payable, under CPA Orders numbers 12 and 38.
 - 'Administrative Instructions' mentioned in Section 2 para 1(g) of CPA Order number 38 needs to be defined, agreed and the information disseminated.

4. Re-export of UN humanitarian equipment (including vehicles) out of Iraq pre and post 1.1.04:
 - There should not be any duties or charges payable (by inference and not regulation or order) however further agreement with the CPA or Iraqi Ministry of Interior on the fiscal situation and the treatment or procedures to be followed is still required. This would relate to a further definition or clarification of CPA Order number 38. UNJLC has sent an e-mail to the CPA Senior Customs Adviser seeking guidance.