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COALITION PROVISIONAL AUTHORITY

BAGHDAD

ACTION MEMO

August 9, 2003

FOR: THE ADMINISTRATOR

FROM: Office of General Counsel

SUBJECT: Establishing and Implementing Governing Policies

The enclosed Memorandum reasserts the respective roles and authorities of the CPA, central Ministries, Coalition Forces, and governorate, regional and local authorities in establishing and carrying out governance policies in Iraq. The Memorandum responds to concerns among the senior Ministry advisors that certain governorates are exercising authorities and performing functions that are properly reserved to CPA and the central ministries. The Memorandum:

- Reserves certain powers to the central ministries and CPA including:
  - administration of local ministry offices and employees,
  - exercise of de-Baathification authority,
  - establishment of ministry salaries and benefits,
  - distribution of national assets e.g. water and electricity,
  - establishment or revision of taxes or fees, and
  - control state owned enterprises;

- Confirms the authority of governorates and local administrations to perform certain functions as specified under Iraq's 1969 Governorates Law, and describes the role of municipal councils in informing the policies of the CPA and Coalition Forces commanders.

- Addresses the role of Coalition Forces in developing and implementing policy, based upon their interactions with municipal councils.

- Recommend that the Administrator sign the Memorandum.

Approve:_____ Disapprove:_____ Approve with modifications:_____

COORDINATION: CJTF-7 (Political Advisor); Director of Governance (Carpenter); Senior Ministry Advisor (Trade) (Raphel)

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COALITION PROVISIONAL AUTHORITY

BAGHDAD

MEMORANDUM

August 8, 2003

FOR: Commander, CJTF-7
Coalition Provisional Authority (CPA) Officials
Iraqi Ministry, Governorate and Municipal Officials

FROM: Administrator, CPA

SUBJECT: Establishing and Implementing Governing Policies

The purpose of this memorandum is to ensure that governors, mayors and municipal councils who have come to power since the collapse of the previous regime clearly understand the authorities of national government offices. It outlines the national government's power, explains the significant authorities and responsibilities of local officials, and describes the role the CPA and CJTF-7 play in encouraging them to exercise those authorities.

With respect to national policy making, CPA Regulation Number 1 affirms that "CPA is vested with all executive, legislative and judicial authority necessary to achieve its objectives, to be exercised under relevant U.N. Security Council resolutions, including Resolution 1483 (2003), and the laws and usages of war." Further, as clarified in a May 13, 2003 Memorandum from the Secretary of Defense, the Commander of Coalition Forces shall directly support the CPA by deterring hostilities, maintaining Iraq's territorial integrity and security, searching for, securing and destroying weapons of mass destruction, and assisting in carrying out Coalition policy generally.

In accordance with Regulation 1, the central ministries and CPA exercise authority by working together with respect to national government policies. In particular, the following key functions are exclusive prerogatives of the central ministries and CPA, and may not be performed by governors and mayors:

a. Creating or eliminating positions, and hiring and firing of ministry officials posted in governorate branch offices or facilities such as food warehouses, silos, public utility plants;
b. Debathification policies and procedures, including the granting of any exceptions in accordance with the Debathification Order Number 1 (CPA/ORD/16 May 2003/01);
c. Establishing salaries and other benefits for present or retired ministry workers;
d. Designating ministry individual(s) specifically authorized to have access to bank accounts;

e. Planning distribution of national assets such as electricity, water, or food ration items, including for example, the electrical power allocation policy;
f. Establishing tariffs or fees for nationally provided items such as electricity, water, telephone or food ration baskets;
g. Setting national government procurement policies or prices;
h. Establishing tariff structures for international border points;
i. Designating specific uses for public buildings; and
j. Controlling financial or material assets of state-owned enterprises

Although the constitutional and legislative framework for a fully democratic electoral process is not yet in place, CPA has empowered citizen participation in the governing of their country through the establishment of sub-national advisory councils.

Governorate, regional and local authorities provide a critical link to the population, as they represent the will of the people and are best positioned to inform CPA policies. Local authorities carry out their responsibilities to address local concerns in part by engaging the CPA and central ministries on those policy issues that affect their respective constituents.

These councils have been empowered to assist the military, the CPA and the central ministries in prioritizing local infrastructure projects, and, in these efforts, they have relied almost entirely on their own abilities, with the support of regional military commanders, to get essential services up and running. Various donor activities related to health, education and other services are also assisting these efforts. To date, the central ministries have played little role in supporting these efforts.

Iraq's law of governorates, enacted in 1969, authorized sub-national governments to address citizen concerns through both the central ministries and their own independent structures. Although the former regime used this law to control rather than empower, it identifies significant responsibilities that are best performed by sub-national entities. In part, the law of governorates permitted local governing councils to exercise the following responsibilities, which continue to be properly performed at the local level:

a. Oversee central ministry operations in their administrative regions, except the army, courts and university system. This oversight includes consulting on ministerial regional appointments, evaluating ministry performance, and coordinating on major policy and program decisions;
b. Develop industry and eliminate unemployment;
c. Promote sanitation and public health;
d. Preserve historic sites;
e. Develop general public works projects including housing;
f. Estimate and collect taxes and fees;
g. Prepare budgets for their administrative region, and submitting these budgets to the next higher authority for review and incorporation into the overall national budget;
h. Oversee the Ministry of Finance operations in their region to ensure compliance with budgets and programs; and

i. Address other issues of concern.

Central ministries keep chief executives and councils informed of activities in their regions. The CPA encourages this symbiotic relationship between national and sub-national government, and will empower sub-national government units to carry out these activities in accordance with existing Iraqi law, where possible and appropriate.

Coalition Forces also play a significant role in this process, by assisting policy implementation at the local level, and by informing the development of these policies through the military chain of command. Military commanders should provide guidance and assistance to advisory councils to help the councils meet their constituents' concerns. This support is especially vital while these sub-national governing structures develop the capacity to operate independently.

Our temporary governance role requires that we make every effort to maintain and improve the level of public services for the Iraqi people. This job is too great to be handled by the central ministries alone. Harnessing the commitment and energy of the advisory councils can help us achieve our goal.