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COALITION PROVISIONAL AUTHORITY
CFLCC-ORHA
APO AE 09304

May 22, 2003

TO: L. Paul Bremer, III

FROM: Office of General Counsel Scott 22/5/03

SUBJECT: CPA Legal Instruments

Objective
Your appointment as Presidential Envoy to Iraq, and your designation as head of the Coalition Provisional Authority (CPA) with the title as Administrator necessitates publication of a regulation prescribing the means by which you will exercise your authority.

Recommendation
Issue a Regulation No. 1 clearly stating the authority and responsibilities of the Administrator of the CPA. The Regulation should clearly set out the law-making powers of the Administrator and clarify the applicable law in Iraq. The Regulation would also affirm that the CPA Administrator is the sole authority responsible for the promulgation of national legislation at this time.

Background
Various instruments define and impact upon the authority and structure of the CPA.

ORHA
On January 20, 2003, NSPD-24 created the Office of Reconstruction and Humanitarian Assistance (ORHA) as a planning office within the Department of Defense. ORHA's mandate includes "[assisting] in administering Iraq for a limited period of time."

This document does not address ORHA's role within the CPA.

Proclamations and Delegations issued by Military Commanders.

The Franks Freedom Message: On April 16, 2003, General Franks issued the Freedom Message to the Iraqi People in which he specifically created "the Coalition Provisional Authority to exercise powers of government temporarily, and as necessary, especially to provide security, to allow the delivery of

humanitarian aid and to eliminate weapons of mass destruction." Attached to the Freedom Message were two sets of instructions: Instructions to the Iraqi Armed Forces and Instructions to the Citizens of Iraq. The Instructions to the Citizens of Iraq, which were issued as a Directive at the time the Freedom Message was issued, provided that certain mandatory provisions of the Directive would be punishable by a Coalition Provisional Authority Court. This Court has not been established.

The Freedom Message does not define the structure or institutions that form the CPA or allocate responsibilities within the CPA.

The McKiernan Proclamation: On or around 24 April 2003, Lieutenant General McKiernan, as the Commander of all Coalition Ground Forces in Iraq, issued a Proclamation to the People of Iraq designed to prevent individuals from representing themselves as having control over civil institutions. This document was issued by McKiernan as "the head authority in Iraq."

Franks Delegation of Authority to ORHA: On 28 April 2003, General Franks issued a memorandum stating that General Garner, as director of ORHA, had the authority, on behalf of the CPA, "to reestablish, reorganize, provide oversight, and reform the Iraqi central government ministries and infrastructure for the benefit of the people of the State of Iraq."

Designation of the Presidential Envoy to Iraq: On May 9, 2003, the President appointed you as the Presidential Envoy to Iraq. The President's letter states that, subject to the Secretary of Defense's authority, direction and control, you are authorized to oversee, direct and coordinate all USG programs and activities in Iraq, except those under the command of the Commander, U.S. Central Command. The appointment states that the Presidential Envoy and the Commander, U.S. Central Command will communicate fully and continually, and cooperate in carrying out their respective mandates.

Designation of the CPA Administrator: On May 13, 2003, the Secretary of Defense designated you as the head of the CPA, with the title of Administrator, and directed you to "oversee, direct and coordinate all executive, legislative and judicial functions necessary" to temporarily govern Iraq, including "humanitarian relief and reconstruction and assisting in the formation of an Iraqi interim authority." The memorandum also specified that "the Commander of the U.S. Central Command 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 U.S. policy generally."

This document reaffirms your broad authority to govern Iraq temporarily, specifies that this authority includes the responsibility for Iraq relief and reconstruction activities and assisting Iraq's political transformation, and clarifies the Commander, U.S. Central Command's supportive role as Commander of the Coalition Forces.

Conclusion

Pursuant to the President's appointment letter of May 9, 2003, and consistent with the Secretary of Defense designation of May 3, 2003, you possess lawmaking authority in Iraq as head of the CPA. The Commander of the Coalition Forces military supports you in the performance of your responsibilities. The Presidential appointment letter of May 9, 2003 emphasizes that the CPA Administrator and the Commander, US Central Command "will communicate fully and continually and cooperate in carrying out [their] responsibilities."

A Regulation No.1 should be issued clearly setting out your authorities and responsibilities and identifying you as the source of binding legal authority for the Coalition Provisional Authority and the Iraqi population and institutions.