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LBREMER
SCASTLE
RJONES, JJEFFREY, TFITZGERALD
EXEC

CPA BAGHDAD
SECSTATE WASHDC IMMEDIATE
SECDEF WASHINGTON DC IMMEDIATE
WHITE HOUSE NSC WASH DC IMMEDIATE

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TAGS: MARR, MOPS, PINS, PREL, PGOV, IZ
SUBJECT: CPA 1356: Amendment of CPA Order No. 17, "Status of the Coalition, Foreign Liaison Missions, Their Personnel and Contractors"

1. Summary. On June 10, 2004, during one of a series of daily meetings designed to brief Prime Minister Allawi on a range of matters related to the upcoming transfer of governance authority to the Iraqi Interim Government, Ambassador Bremer and other CPA officials discussed with PM Allawi the post-occupation status of foreign military and civilian personnel in Iraq. The Prime Minister was advised that CPA Order No. 17 currently defines the status of Coalition and foreign liaison mission personnel, and clarifies that they are subject to the jurisdiction of their parent states. CPA officials explained that the basic privileges and immunities described in Order No. 17 must be extended past June 30, 2004, in order to facilitate the security operations of the MNF-I and diplomatic activities of foreign liaison missions in Iraq. In order to ascertain PM Allawi's political views on the best means of documenting and clarifying these protections, Ambassador Bremer explained that an amendment to CPA Order No. 17 could be accomplished either through an instrument that comprehensively and specifically addresses the privileges, immunities and other matters typically covered in a status of forces-type arrangement, or through a significantly shorter, more general version. At the daily briefing on June 14, 2004, PM Allawi expressed his preference for the longer version of the draft amendment. This cable requests authority to release a draft of that version for formal coordination with the other Coalition capitals and

proceed expeditiously to promulgate an amended Order No. 17 following this coordination and appropriate consultation with the IIG. End Summary.

2. On June 10, 2004 Ambassadors Bremer and Jeffrey and CPA General Counsel Scott Castle met with PM Allawi to discuss the Iraqi Special Tribunal, the management and use of Iraqi real property following the occupation, and the post-occupation status of foreign military and civilian personnel in Iraq.

A. With respect to the latter issue, CPA officials stated that an amendment of CPA Order No. 17 should be part of an arrangement that will properly recognize Iraq's sovereignty while providing the traditional protections for a multinational force operating under Chapter VII of the U.N. Charter, civilian personnel accompanying the MNF-I, foreign missions and their staff, contractors, and international liaison personnel.

B. Because the Annex to the Transitional Administrative Law (TAL) prevents the Iraqi Interim Government from concluding international agreements in this area, the amendment of Order No. 17 will be an interim arrangement that lasts only until an elected Iraqi Government negotiates a formal status of forces agreement (or until the IIG or an elected Iraqi government decides in accordance with the TAL to rescind the order, as they could with any CPA order).

C. The amendment is necessary for effective MNF-I operations and will clarify protections and authorities that MNF-I personnel possess under relevant UN Security Council Resolutions, in a manner that is typical of status of forces arrangements in post-conflict settings.

D. CPA officials explained that, in addition to privileges and immunities, such arrangements typically address exemption where appropriate from taxation, duties, fees, tolls or any similar charges levied by Iraq; authorization to wear uniforms, carry weapons and to exercise freedom of movement; permission for use of the radio spectrum pursuant to existing arrangements with the Ministry of Communications; authorization to manage travel and transport arrangements including the transitional management of Iraqi airspace followed by transfer to Iraqi

control; and provision for the facilities required by the MNF-I.

E. Ambassador Bremer then solicited PM Allawi's political judgment as to whether the amendment should be promulgated in an instrument that comprehensively and specifically addresses these issues, or through a significantly shorter, more general amendment that would assert necessary privileges, immunities and other protections without the level of detail in the longer version.

3. At the next daily session on June 11, 2004, PM Allawi requested to see draft copies of sample "long and short" versions of an amendment to CPA Order No. 17, indicating that he could not properly assess the political implications of this matter without comparing the alternative versions of the text. After emphasizing that Coalition capitals have not yet reached agreement as to the scope and terms of an amendment to Order No. 17, and receiving PM Allawi's assurances that the drafts would be treated as hypothetical models and would not be staffed with IIG officials, Ambassador Bremer provided to PM Allawi sample "long" and "short" versions of a possible amendment to the Order.

4. On June 14, 2004, PM Allawi informed Ambassador Bremer that he preferred that the "long" version be promulgated as an amendment to Order 17 rather than the short version. A proposed draft of this "long" version is appended to this cable.

5. Upon Principals' approval, CPA intends to coordinate the draft text of the appended version of the amendment of CPA Order No. 17 through the interagency process and with other Coalition capitals, under an expedited suspense for providing comments. Following this coordination, we will finalize a revised Order, and brief the relevant IIG officials.

6. The following is the text of draft CPA Order Number 17 as delivered to PM Allawi. Begin text quote:

COALITION PROVISIONAL AUTHORITY ORDER NUMBER 17 (REVISED)

STATUS OF THE COALITION PROVISIONAL AUTHORITY, MNF - IRAQ,
FOREIGN LIAISON MISSIONS, DIPLOMATIC AND CONSULAR MISSIONS,
THEIR PERSONNEL, INTERNATIONAL ADVISERS AND CONTRACTORS

Pursuant to my authority as head of the Coalition Provisional Authority (CPA), and under the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolutions 1483 (2003), and 1511 (2003),

Noting the adoption of a process and a timetable for the drafting of an Iraqi constitution by elected representatives of the Iraqi people in the Law of Administration for the State of Iraq for the Transitional Period (TAL) on March 8, 2004,

Conscious that states are contributing personnel, equipment and other resources, both directly and by contract, to the MNF and the reconstruction effort in order to contribute to the security and stability that will enable the relief, recovery and development of Iraq, as well as the completion of the political process set out in the Law of Administration for the State of Iraq for the Transitional Period,

Noting that many Foreign Liaison Missions have been established in Iraq that after 30 June 2004 will become Diplomatic and Consular Missions, as defined in the Vienna Conventions on Diplomatic and Consular Relations of 1961 and 1963,

Recalling that there are fundamental arrangements that have customarily been adopted to govern the deployment of MNFs in host nations,

Conscious of the need to establish and detail the status of the CPA, the MNF, Foreign Liaison, Diplomatic and Consular Missions and their Personnel, certain International Advisers, and certain contractors in respect of the Government and the local courts,

Recognizing the need to provide for the circumstances that will pertain following 30 June 2004,

I hereby promulgate the following:

Section 1
Definitions

- 1) "Multinational Force" (MNF) is the force authorised under U.N. Security Council Resolution 1511 and any subsequent relevant U.N. Security Council resolutions.
- 2) "MNF Personnel" means all non-Iraqi military and civilian personnel assigned to or under the command of the Force Commander or MNF contingent commanders, or employed by a sending State, including attached civilians.
- 3) "Force Commander" means the Commander appointed to exercise unified command of the MNF.
- 4) "CPA Personnel" means all non-Iraqi civilian and military personnel assigned to, or under the direction or control of the Administrator of the CPA.
- 5) "sending State" means a State providing personnel, international advisers, services, equipment, provisions, supplies, material and other goods to the CPA, MNF, international humanitarian or reconstruction efforts, or to Foreign Liaison Diplomatic or Consular Missions.
- 6) "Foreign Liaison Missions" means missions established during or after the occupation and, with respect to States with no diplomatic relations with Iraq, missions that are in operation after 30 June 2004 until the establishment of the Iraqi Transitional Government, unless terminated by the Iraqi Interim Government
- 7) "Foreign Liaison Mission Personnel" means those individuals who are authorized to possess Foreign Liaison Mission personnel identification cards by the Iraqi Ministry of Foreign Affairs.
- 8) "Diplomatic and Consular Missions" means those Foreign Liaison Missions belonging to States with diplomatic relations with Iraq that continue in operation after 30 June 2004.
- 9) "Diplomatic and Consular Mission Personnel" means those individuals who are entitled to privileges and immunities under the Vienna Convention on Diplomatic Relations 1961 and the Vienna Convention on Consular Relations 1963.
- 10) "Premises of the Missions" means all premises assigned by the CPA to Foreign Liaison Missions that convert to Diplomatic and Consular Missions after 30 June 2004,

including the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the purposes of Diplomatic and Consular Missions, including residences of the heads of missions.

11) "Iraqi Legal Process" means any arrest, detention or legal proceedings in the Iraqi courts or other Iraqi bodies, whether criminal, civil, or administrative.

12) "Contractors" means non-Iraqi legal entities or individuals not normally resident in Iraq, including their non-Iraqi employees and sub-contractors not normally resident in Iraq, performing under contract with a sending State to supply goods and services in Iraq to or on behalf of the MNF; for humanitarian aid or reconstruction and development projects approved and organized by a sending State; or to Foreign Liaison Missions, Diplomatic and Consular Missions.

13) "Vehicles" means civilian and military vehicles in use by the CPA, MNF, Foreign Liaison Missions, International Advisers and contractors in the course of their official and contractual activities.

14) "Vessels" means civilian and military vessels operated by the CPA, MNF, Foreign Liaison Missions, International Advisers and contractors in the course of their official and contractual activities.

15) "Aircraft" means civilian and military aircraft operated by the CPA, MNF, Foreign Liaison Missions, international advisers and contractors in the course of their official and contractual activities.

16) "The Government" means the Iraqi Interim Government from 1 July 2004, the Iraqi Transitional Government upon its formation, and any successor government for the duration of this Order, including instrumentalities, commissions, judicial, investigative and or administrative authorities, and regional bodies.

17) "International Advisers" means all non-Iraqi personnel who are not CPA personnel and, after 30 June 2004, are not accredited to a Diplomatic or Consular Mission, provided by a sending State as advisers to the Government.

Section 2

Preservation of Authority

For the remainder of the occupation, the right to act in accordance with the laws and usages of war is preserved and may be exercised as necessary, notwithstanding this Order.

Section 3

Iraqi Legal Process

- 1) All CPA, MNF and Foreign Liaison Missions, Foreign Liaison Mission Personnel, International Legal Advisers, and their property, funds and assets, shall be immune from Iraqi Legal Process.
- 2) All CPA, MNF and Foreign Liaison Mission Personnel and International Advisers shall respect the Iraqi laws applicable to those Personnel and Advisers in Iraq including the Regulations, Orders, Memoranda and Public Notices issued by the Administrator of the CPA.
- 3) All CPA, MNF and Foreign Liaison Mission Personnel, and International Advisers shall be subject to the exclusive jurisdiction of their sending States. They shall be immune from Iraqi Legal Process other than by persons acting on behalf of their sending States, except that nothing in this provision shall prohibit MNF Personnel from preventing acts of serious misconduct by the above-mentioned Personnel or Advisers, or otherwise temporarily detaining any such Personnel or Advisers who pose a risk of injury to themselves or others, pending expeditious turnover to the appropriate authorities of the sending State. In all such circumstances the detained person's senior national representative in Iraq shall be notified immediately.

Section 5

Diplomatic and Consular Missions and Personnel

Diplomatic Missions, Consular Missions, their property, funds, assets and their Personnel shall enjoy the full protection and status afforded them under the Vienna Convention on Diplomatic Relations of 1961 and the Vienna Convention on Consular Relations of 1963. All Premises of the Missions shall continue to be utilized by Diplomatic and Consular Missions without hindrance and subject to the requirements of and receiving the protections provided for in the said Conventions for the duration of this Order. Foreign Liaison Missions of States that do not have

diplomatic relations with Iraq shall continue to occupy the premises assigned to them by the CPA at the discretion of the Iraqi Interim Government. This Order does not prevent the Government and any State from entering into other bilateral arrangements for existing or new premises.

Section 6 International Advisers

Unless otherwise provided in this Order, International Advisers shall enjoy the same privileges and immunities as enjoyed by administrative and technical staff under the Vienna Convention on Diplomatic Relations of 1961.

Section 7 Contractors

1) Sending States may contract for any supplies, services, or construction work to be furnished or undertaken in Iraq without restriction as to choice of supplier or contractor. Such contracts may be awarded in accordance with the sending State's laws and regulations.

2) Contractors shall not be subject to Iraqi laws or regulations in matters relating to the terms and conditions of their contracts, including licensing and registering employees, businesses and corporations; provided, however, that contractors shall comply with such applicable licensing and registration laws and regulations if engaging in business or transactions in Iraq other than contracts with a sending State or a contractor of a sending State. Notwithstanding any provisions in this Order, private security companies and their employees operating in Iraq must comply with all CPA Orders, Regulations, Memoranda, and any implementing instructions or regulations governing the existence and activities of private security companies in Iraq, to include registration and licensing of weapons and firearms.

3) Contractors shall be immune from Iraqi Legal Process with respect to acts performed by them pursuant to the terms and conditions of a contract with a sending State or any sub-contract thereto. All contractors shall respect applicable Iraqi laws, including the Regulations, Orders, Memoranda and Public Notices issued by the Administrator of the CPA.

4) A sending State's certification that its contractor acted pursuant to the terms and conditions of the contract with the sending State shall, in any Iraqi Legal Process, be conclusive evidence of the facts so certified.

Section 8 Communications

1) The MNF shall engage in wireless communications in accordance with the Annex hereto and shall, in coordination with the Government, use such facilities as may be required for the performance of its tasks. Issues with respect to communications shall be resolved pursuant to this Order and the Annex hereto.

2) Subject to the provisions of paragraph (1) above:

(a) The MNF may, in consultation with the Government, install and operate MNF radio stations to disseminate information relating to its mandate. The MNF also may install and operate radio sending and receiving stations as well as satellite systems to connect appropriate points within the territory of Iraq with each other and with offices in other countries, including the laying of cables and land lines and the establishment of fixed and mobile radio sending, receiving and repeater stations. The MNF shall also have the right to exchange telephone, voice, facsimile and other electronic data with relevant global telecommunications networks. The MNF radio stations and telecommunication services shall be operated in accordance with the International Telecommunication Convention and Regulations. The relevant frequencies on which any such station and telecommunications may be operated shall be decided upon in co-operation with the Government to the extent required under the Annex hereto. Such use of the radio spectrums shall be free of charge._

(b) The MNF may connect with local telephone, facsimile and other electronic data systems only after consultation and in accordance with arrangements with the Government, it being further understood that the use of such systems shall be charged at the rate most favourable to the MNF.

(c) The MNF may arrange through its own facilities for the processing and transport of private mail to or from MNF Personnel. The Government shall be informed of the nature of such arrangements and shall not interfere with or censor the mail of the MNF or its Personnel. The conditions for postal arrangements applying to private mail of MNF

Personnel for the transfer of currency or transport of packages and parcels shall be agreed with the Government._

Section 9

Travel and Transport

1) All CPA, MNF and Foreign Liaison Mission Personnel, and International Advisers, as well as contractors to the extent necessary to perform their contracts, shall enjoy, together with vehicles, vessels, aircraft and equipment, freedom of movement without delay throughout Iraq. That freedom shall, with respect to large movements of personnel, stores, vehicles or aircraft through airports or on railways or roads used for general traffic within Iraq, be coordinated with the Government. The Government shall supply the MNF, where available, maps and other information, concerning the locations of mine fields and other dangers and impediments.

2) Vehicles, vessels and aircraft shall not be subject to registration, licensing or inspection by the Government, provided that all such vehicles, vessels and aircraft shall carry third party insurance if required by relevant legislation, unless already provided for under self-insurance arrangements.

3) The CPA, MNF and Foreign Liaison Mission Personnel, and International Advisers as well as contractors, together with their vehicles, vessels and aircraft may use roads, bridges, canals and other waters, port facilities, airfields and airspace without the payment of dues, tolls or charges, including landing and parking fees, port, wharfage pilotage, navigation and overflight charges, overland transit fees, and similar charges. Exemption will not be claimed from charges for services requested and rendered, and such charges shall be at rates most favourable to the CPA, MNF and Foreign Liaison Mission Personnel, and International Advisers and contractors.

4) The Force Commander shall have sole authority to establish rules and procedures governing command and control of the superjacent territorial airspace of Iraq and to regulate all military and civilian air traffic. The Force Commander shall transfer civilian control of the airspace over Iraq to the appropriate Iraqi institutions in a manner consistent with the efficient and safe operation of an air traffic system upon the departure of the MNF.

Section 10
Customs and Excise

1) The MNF may establish, maintain and operate commissaries, exchanges and morale and welfare facilities at its headquarters, camps and posts for the benefit of MNF Personnel, and, at the discretion of the Force Commander, other persons the subject of this Order, but not of locally recruited personnel. Such commissaries, exchanges and morale and welfare facilities may provide consumable goods and other articles to be specified in advance. The Force Commander shall take all necessary measures to prevent abuse of such commissaries, exchanges and morale and welfare facilities and the sale or resale of such goods to persons other than MNF Personnel, and the Force Commander shall give sympathetic consideration to requests of the Government concerning the operation of the commissaries, exchanges and morale and welfare facilities.

2) The CPA, MNFs and Foreign Liaison Mission Personnel, and International Advisers and contractors may:

(a) Import, free of duty or other restrictions, and clear without inspection, license, authorization, other restrictions, taxes, customs, duties, or any other charges, equipment, provisions, supplies, fuel, technology, and other goods and services, including controlled substances, which are for their exclusive and official or contractual use and for the MNF for resale in the commissaries, exchanges and morale and welfare facilities provided for above;

(b) Clear customs and excise warehouse, free of duty or other restrictions, equipment, provisions, supplies, fuel and other goods which are for their exclusive and official use and for resale by the MNF in the commissaries provided for above;

(c) Re-export unconsumed provisions, supplies, fuel, technology, and other goods and equipment, including controlled substances, without inspection, license, authorization, other restrictions, taxes, customs, duties or any other charges, or otherwise dispose of such items on terms and conditions to be agreed upon with competent local authorities.

An efficient procedure, including documentation, will be coordinated with the Government to expedite importation,

clearances, transfer or exportation.

2) The CPA, MNFs and Foreign Liaison Mission Personnel, and International Advisers where not otherwise exempt by virtue of Section 6 herein, and contractors, shall be subject to the laws and regulations of Iraq governing customs and foreign exchange with respect to personal property not required by them by reason of their official duties and presence in Iraq. Special facilities will be granted by the Government for the speedy processing of entry and exit formalities for MNF Personnel, including the military component, upon prior written notification.

Section 11

Facilities for the MNF

1) The MNF may use without cost such areas for headquarters, camps or other premises as may be necessary for the conduct of the operational and administrative activities of the MNF. All premises currently used by the MNF shall continue to be used by it without hindrance for the duration of this Order, unless other mutually agreed arrangements are entered into between the MNF and the Government. Although all such premises shall remain Iraqi territory, they shall be inviolable and subject to the exclusive control and authority of the MNF. The MNF shall be guaranteed unimpeded access to such MNF premises. Where MNF Personnel are co-located with military personnel of Iraq, permanent, direct and immediate access for the MNF to those premises shall be guaranteed.

2) The MNF may use water, electricity and other public utilities and facilities free of charge, or, where this is not possible, at the most favorable rate, and in the case of interruption or threatened interruption of service, the MNF shall have, as far as possible, the same priority as essential government services. Where such utilities or facilities are not provided free of charge, payment shall be made by the MNF on terms and conditions to be agreed with the competent authority. The MNF shall be responsible for the maintenance and upkeep of facilities so provided.

3) The MNF may generate, within its premises, electricity for its use and to transmit and distribute such electricity.

4) The MNF alone may consent to the entry of any government officials or of any other person not MNF Personnel to such premises.

5) There shall be an area within central Baghdad that shall be designated as the "Green Zone". The Green Zone shall have the boundaries that MNF has established for this purpose. The MNF shall retain control of the perimeter of the Green Zone and all rights of entry and exit, and all matters of security within the Green Zone shall be subject to the control of the MNF. The activities and assignment of Iraqi security personnel within the Green Zone shall be as mutually agreed upon between the MNF and the Government. Iraqi citizens living within the Green Zone will remain subject to Iraqi law. Services, utilities and maintenance not otherwise performed or undertaken by the MNF within the Green Zone shall be provided to the MNF by the Government free of charge or at the most favorable rate as agreed between the Force Commander and the Government.

Section 12

Provisions, Supplies, Services and Sanitary Arrangements

1) With respect to equipment, provisions, supplies, fuel, materials and other goods and services obtained locally by the MNF, sending States or contractors for the official and exclusive use of the MNF or sending State, appropriate administrative arrangements shall be made for the remission or return of any excise or tax payable as part of the price. The MNF and contractors shall be exempt from general sales taxes in respect of all local purchases for official use. In making purchases on the local market, the MNF shall, on the basis of observations made and information provided by the Government in that respect, avoid any adverse effect on the local economy.

2) For the proper performances of the services provided by contractors in support of the MNF, contractors shall be provided with facilities concerning their entry into and departure from Iraq as well as their repatriation in time of crisis. For this purpose contractors shall promptly be issued to contractors, free of charge and without any restrictions, all necessary visas, licenses or permits. Contractors shall be accorded exemption from taxes in Iraq on the services provided to the MNF, including corporate, income, social security and other similar taxes arising directly from the provisions of such services.

3) The MNF and the Government shall co-operate with respect to sanitary services and shall extend to each other the fullest co-operation in matters concerning health, particularly with respect to the control of communicable diseases, in accordance with international conventions.

Section 13

Recruitment of Local Personnel

The MNF and contractors may recruit locally such personnel as they require. The terms and conditions of recruitment by the MNF shall be determined by the MNF.

Section 14

Currency

The MNF shall have made available to it, against reimbursement in mutually acceptable currency, (local) currency required for the use of the MNF, including the pay of MNF Personnel, at the rate of exchange most favorable to the MNF.

Section 15

Entry, Residence and Departure

1) The CPA, MNF and Foreign Liaison Mission Personnel, and International Advisers shall have the right to enter into, reside in and depart from Iraq.

2) The speedy entry into and departure from Iraq of CPA, MNF and Foreign Liaison Mission Personnel, and International Advisers shall be facilitated to the maximum extent practicable. For that purpose CPA, MNFs and Foreign Liaison Mission Personnel, and International Advisers shall be exempt from passport and visa regulations and immigration inspection and restrictions as well as payment of any fees or charges on entering into or departing from Iraq. They shall also be exempt from any regulations governing the residence of aliens in Iraq, including registration, but shall not be considered as acquiring any right to permanent residence or domicile in Iraq.

3) For the purpose of such entry or departure, MNF Personnel shall only be required to have: (a) an individual or collective movement order issued by or under the authority of the Force Commander or any appropriate

authority of a sending State providing personnel to the MNF; and (b) national passport or personal identity card issued by the appropriate authorities of a sending State providing personnel to the MNF.

Section 16 Identification

- 1) The Force Commander shall issue to all MNF Personnel and its contractors before, or as soon as possible after their first entry into Iraq, as well as to all locally recruited personnel, a numbered identity card, showing the bearer's name and photograph. Except as provided for in Section 15 (3) herein, such identity card shall be the only document required of MNF Personnel.
- 2) MNF Personnel and MNF contractors as well as locally recruited personnel shall be required to present, but not to surrender, their MNF identity cards upon demand of an appropriate official of the Government.

Section 17 Uniforms and Arms

While performing official duties, MNF Military Personnel shall wear the national military uniform of their respective sending States unless otherwise authorized by the Force Commander for operational reasons. The wearing of civilian dress by MNF Personnel may be authorized by the Force Commander at other times. MNF Military Personnel may possess and carry arms while on official duty in accordance with their orders.

Section 18 Permits and licenses

- 1) A permit or license issued by the CPA, MNF and Foreign Liaison Missions or sending State for the operation by their Personnel, including locally recruited personnel, of any vehicles and for the practice of any profession or occupation in connection with their functions, shall be accepted as valid, without tax or fee, provided that no permit to drive a vehicle shall be issued to any person who is not already in possession of an appropriate and valid license.
- 2) Licenses and certificates already issued by appropriate

authorities in other States in respect of aircraft and vessels, including those operated by contractors exclusively for the CPA, MNF and Foreign Liaison Missions shall be accepted as valid, and where necessary validated free of charge and without any restrictions. Without prejudice to the foregoing, the Government shall grant expeditiously, free of charge and without any restrictions, necessary authorizations, licenses and certificates, where required, for the acquisition, use, operation and maintenance of aircraft and vessels.

Section 19 Deceased members

The Force Commander and sending States may take charge of and transfer out of Iraq or otherwise dispose of the bodies of any CPA, MNF and Foreign Liaison Mission Personnel, International Advisers and contractors who die in Iraq, as well as their personal property located within Iraq.

Section 20 Waiver of Legal Immunity and Jurisdiction

- 1) Immunity from Iraqi Legal Process of CPA, MNF and Foreign Liaison Mission Personnel, International Advisers and contractors is not for the benefit of the individuals concerned and may be waived by the sending State.
- 2) Requests to waive immunity for CPA, MNF and Foreign Liaison Mission Personnel and International Advisers shall be referred to the respective sending State.

Requests to waive immunities with respect to contractors shall be referred to the sending State with which the contractor has contracted in relation to the act or acts for which waiver is sought.

Section 21 Claims

Third party claims including those for property loss or damage and for personal injury, illness or death or in respect of any other matter arising from or attributed to acts or omissions of CPA, MNF and Foreign Liaison Mission Personnel, International Advisers and contractors or any persons employed by them, whether normally resident in Iraq

or not and that do not arise in connection with military operations, shall be submitted and dealt with by the sending State whose personnel, including the contractors engaged by that State, property, activities or other assets are alleged to have caused the claimed damage, in a manner consistent with the sending State's laws, regulations and procedures.

Section 22
Supplemental Arrangements

The Force Commander and the Government may conclude supplemental arrangements or Protocols to this Order and shall ensure close and reciprocal liaison at every appropriate level.

Section 24
Effective Period

This Order shall enter into force on the date of signature. It shall remain in force for the duration of the mandate authorizing the MNF under U.N. Security Council Resolution 1511, and any subsequent relevant resolutions and shall not terminate until the departure of the final element of the MNF from Iraq, unless rescinded or amended by legislation duly enacted and having the force of law.

L. Paul Bremer, Administrator
Coalition Provisional Authority

ANNEX

LETTER OF ARRANGEMENT BETWEEN THE SPECTRUM MANAGEMENT
OFFICE OF THE MNF COMMANDER IRAQ AND THE FREQUENCY

MANAGEMENT DEPARTMENT, IRAQ MINISTRY OF COMMUNICATIONS
CONCERNING USE OF THE ELECTROMAGNETIC FREQUENCY SPECTRUM

Preamble

Noting that Order No. 65 of the Coalition Provisional Authority (CPA), enacted 20 March 2004, created the Iraqi Communications and Media Commission (ICMC) and assigned it responsibility for planning, managing, allocating and assigning radio-frequency spectrum in Iraq, as well as publishing a radio-frequency usage plan for Iraq;

Further noting that Section 5(2)(i) of Order No. 65 requires the ICMC to undertake its aforementioned responsibilities "subject to the needs of the military"; and

Further noting that Section 5(2)(m) of Order No. 65 requires the ICMC to coordinate "with each of the CPA (or the U.S. Embassy, Baghdad, following the transfer of full governance authority to the Iraqi Interim Government), the Iraqi Ministry of Communications, Ministry of Defence and the Commander of the MNF (Force Commander), following the transfer of full governance authority to the Iraqi Interim Government) regarding any actions that may affect their use of telecommunications, broadcasting and information services or networks and radio-frequency spectrum, to ensure that no such actions interfere with military requirements necessary in the interest of national security"; and

Further noting that until such time as the ICMC officially assumes its spectrum management duties and responsibilities promulgated in Order No. 65, the Frequency Management Department of the Iraqi Ministry of Communications remains the responsible party for spectrum management in Civilian and Shared spectrum bands within Iraq;

The undersigned parties hereby mutually affirm their compliance with the above-referenced provisions of Order No. 65 and mutually agree upon the following implementation terms and arrangements, contained in this Letter of Arrangement and its appendices.

ARTICLE I: PURPOSE

The purpose of this Letter of Arrangement (LOA) is as follows:

- A. To provide for sufficient access to the electromagnetic frequency spectrum by the MNF operating in Iraq;
- B. To define the specific policies and procedures for the coordination of frequencies;
- C. To define each Party's responsibilities in the process for the coordination of frequency use; and
- D. To baseline an agreed frequency allocation table and define a process to make modifications. Frequency allocations are set forth in the attached Annexes A and B which form an integral part of this LOA.

ARTICLE II FINANCIAL OBLIGATIONS

There are no financial obligations approved or established as a result of this LOA.

ARTICLE III PROVISION TO OUTSIDE PARTIES

The provisions of this arrangement and the associated appendices (except Appendix 1) shall not be provided to outside parties without the written consent of the Force Commander and the Frequency Management Department (FMD) of the Iraqi Ministry of Communications (MOC)

ARTICLE IV CHANGES TO THIS DOCUMENT

Any changes to this document and its associated appendices shall be approved in writing. The parties that shall review and approve any such changes are the Force Commander, the FMD of the MOC.

ARTICLE V: APPLICATION TO SUCCESSOR ENTITIES

Pursuant to Section 5(2)(m) of CPA Order No. 65, all terms of this LOA shall apply with equal force to the undersigned

and to their successor entities following the transfer of full governance authority to the Iraqi Interim Government. These successor entities may include, but are not limited to, the ICMC and the Force Commander.

ARTICLE VI: ENTRY INTO FORCE

The terms and arrangements detailed in this LOA shall enter into force on the date of the last signature and shall remain in force for two (2) years, unless earlier terminated upon three months written notice by one Party to the other Party.

For the Commander, MNF

Signature Block

Date:

For the Ministry of Communications, Government of IRAQ

Signature Block

Date:

ATTACHMENT

COORDINATION OF RADIO FREQUENCY USAGE BY COALITION FORCES
IN IRAQ

SECTION I

GENERAL POLICIES AND PROCEDURES

1. The Parties shall approve a frequency band allocation table that will be included as appendix 1 to annex A of this LOA to establish a baseline for which frequencies will require coordination between the two parties. The frequency band allocation table will designate bands as Civil, Military or Shared use. Changes to the frequency band allocation will be approved in writing by both parties and take effect 30 days after the date of signature.

2. The FMD of the MOC--and, once it has assumed spectrum management duties, the ICMC--will control assignment of frequencies designated as Civil and Shared bands and serve as the approval authority for frequency assignments in these bands. The Force Commander Frequency Management office will control assignment of frequencies in the Military Bands and serve as approval authority for these bands, until 30 June 2004 marking the handover of the functions of government to the Iraqi Interim Government.

3. Following the date of handover specified in the previous paragraph, the Force Commander Frequency Management Office will retain the use of all frequency assignments it controls on that date, in Military, Civilian and Shared Bands. Control and use of additional frequencies required by the Force Commander Frequency Management Office after the date of handover shall be requested in writing to the FMD of the MOC, and subsequently, the ICMC.

4. Pursuant to Order No. 65, the FMD of the MOC, and subsequently the ICMC, will render its decision regarding frequency assignment requests in such a manner as not to interfere with military requirements necessary in the interest of national security.

5. The format for coordination of frequencies between the parties is established in appendix 2 to annex A. This format shall be updated as required upon approval of the parties.

6. The parties shall establish a document numbering system that will be used to reference and track the coordination of actions between the parties.

7. The parties shall meet at regular intervals, not to exceed 15 days, to provide responses to frequency requests submitted for approval and to exchange other information necessary for coordination of spectrum use during that period.

8. The parties shall provide written approval for all frequencies that are approved for use by the other party. If one party is unable to assign a frequency for use they will notify the other of the reasons for disapproval.

9. The Force Commander's Frequency Management Office shall be exempt from any and all requirements to pay recurring or nonrecurring fees for use of spectrum, or for requesting and obtaining existing or future frequency assignments.

End text unquote.

BREMER