

Attached please find the DeBaathification regulations that will be issued tomorrow by the IGC, followed by an Exec Summary and comments.

Very respectfully,  
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## COVER MEMORANDUM

SUBJECT DEBAATHIFICATION REGULATIONS  
DATE 10 JANUARY 2004

### SUMMARY

The Governing Council has finalized regulations for the DeBaathification process (attached), and will publicize them tomorrow. The long overdue rules will provide welcome clarity, but the terms will frustrate some.

### DISCUSSION

#### *Background:*

- The great DeBaathification debate began on 16 May 2003 when CPA issued Order Number 1, which disbanded the Baath Party; provided for the removal from public sector office of all firqa-level and above Party members; and established an appeals mechanism that required final decision by the Administrator.
- CPA policy always encouraged Iraqis to take ownership of DeBaathification; but after extended foot-dragging, CPA began to draft plans for an Iraqi-led process. As these plans neared fruition, on 14 September the IGC seized the initiative by issuing a Decision - without prior consultation with CPA - which stated that the new Higher National DeBaathification Council was in charge of the process.
- On 4 November, CPA, left with few good options, delegated authority for DeBaathification to the IGC. On the ground, DeBaathification continue in an ad hoc fashion. Pressed by CPA to formulate clear

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regulations for DeBaathification, including an appeals mechanism to guarantee due process, the IGC at last produced this document.

***Provisions:***

- In the new regulations, the IGC delegates authority to the Higher National DeBaathification Council. The DeBaath process is run and executed by the Ministries.
- All firqa and above, and those additional <sup>Party</sup> members who served in the top three administrative posts, are to be fired immediately.
- An appeals process is to be established, for firqa category. Each ministry will establish its own commission in each province, overseen by the respective DG.
- New to the dynamic is a pension provision for the firqa category. DeBaathified persons must choose between accepting a pension, and appealing their case but relinquishing all claim to a pension.
- There is a timeline. DeBaathified persons have two weeks to respond; and commissions must provide a written decision within six weeks.
- Exceptions to DeBaathification are granted to those POWs from the war with Iran who were awarded firqa status for their service.

***Evaluation:***

- The creation of a firm timeline to hold the appeals mechanisms accountable is encouraging. However, there are few indications that all ministries will have all of their provincial commissions in place in the near future; and meanwhile, further and comprehensive DeBaathification has been ordered effective immediately. The six-week guarantee on paper is not helpful unless administrative bodies are in place.
- The most bizarre twist is the imposed either/or choice between appeals and pensions. Not surprisingly, Chalabi expects that most of the DeBaathified will opt for the pensions, rather than risk losing potentially their only source of income. Even those who have strong exculpatory cases may shy away from appealing unless they have real confidence in the fragile new appeals commissions, and unless other appeals cases have already succeeded. Worse still, those who choose pensions, the safe option, may be perceived by outsiders as admitting their "guilt".

***CPA Assessment:***

- CPA recognizes that the appeals/ pensions dichotomy is not ideal, but Governance argues that this is the best they could do given the political context. More broadly, CPA considers that this approach to DeBaathification is likely to satisfy most Shia that justice is being done, and most Sunnis that some measure of protection is afforded.

***Way Forward:***

- Tomorrow the IGC will announce the new regulations and begin to issue an explanatory booklet. In a Memo dated 7 December, Amb Bremer reminded all Coalition members that DeBaathification is strictly an Iraqi matter - essentially, "hands off!" While we have no formal role to play, the way these regulations are implemented will have a direct bearing on the safe and secure environment. CJTF7 and units should

be familiar with what the process is supposed to look like, and should keep ears to the ground about how it is actually being implemented.

Classification: ~~SECRET~~  
Caveats: NONE

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