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Migration

UPDATE ON TALKS IN TURKEY ON THE VOLUNTARY REPATRIATION OF
TURKISH CITIZENS TO TURKEY

Talks were held from January 20 – 22 in Ankara among the USG (A/S Dewey), GOT (U/S Sensoy and Ambassador Batibay), UNHCR (A/S Morjan) and Iraq (Minister Al-Otbee and Senior Advisor Lamego and Deputy Senior Advisor Johnson).

After two full days of discussions we reached a broad understanding on the agreement, on the evening of January 22nd. This is the document emailed to (b)(6) on the 22nd. Nothing was signed or initialed, which was our expectation. Signatures will be circulated when each party satisfies domestic responsibilities on the document (language we used). It is understood by the parties that there may be some changes in the document. We have told UNHCR that we will likely need to make changes regarding security – the Turks are not concerned about this issue.

The GOT's ultimate interest in offering a voluntary repatriation program is to be able to claim concrete action regarding the closure of Makhmour camp. The remaining parties were more interested in finding durable solutions for the Turkish Citizens who are refugees in Iraq, which would eventually lead to the closure of Makhmour camp.

While UNHCR and GOT were not happy with this they accepted it. Understand we need to review this further.

The GOT was looking for some direct USG support for the program, which is why they initially wanted a CPA signature on the document. The CPA and USG wanted to separate CPA from this agreement, as much as possible. After long discussions on this issue and a USG offer of a letter from the Secretary of State supporting the program, the GOT backed down on having CPA sign the agreement. The GOT will not sign the document until they get a letter of support from the USG. UNHCR did not want a CPA signature on the document and initially said having one would require approval from NY. After Lubbers' statements earlier this week regarding UNHCR's return to Iraq, delegation members noted that that getting approval from New York would probably be impossible.

At the press conference yesterday afternoon (1/23) it was communicated by GOT, UNHCR and the USG that we have reached broad understanding on the language. Minister Al-Otbee was a bit off-message – he stated we have reached agreement on voluntary repatriation. It looks like he got a bit ahead of himself when it was his turn at the microphone. After that we discussed with him the importance of all parties giving the same message – believe he understood.

We will be back in Baghdad on 1/25.

(b)(6) and (b)(6) - 1/24/04



00874

(b)(6) (FS-4)

From: (b)(6) (O-6)

Sent: Thursday, April 01, 2004 4:14 PM

To: Jones, Richard (AMB); (b)(6) (FS-01); (b)(6) (UK-CIV); (b)(6) (GBR);
(b)(6) (O-6)

I attach an updated version of my paper. I am keen to pass it on to the Ambassador by close of play, so would welcome your comments today please. If this causes you problems and you need more time to comment, please let me know.

(b)(6)

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4/1/2004



COALITION PROVISIONAL AUTHORITY
BAGHDAD

ACTION MEMO

1 April, 2004

FOR: THE ADMINISTRATOR

FROM: (b)(6) Lead Advisor, IPCC

SUBJECT: How to resolve the issue of those displaced through ethnic tensions in the North since April 2003

As you requested at our meeting on 22 March, I attach a paper setting out the situation with regard to those (who we believe are mostly ethnic Arabs whose homes are in the Kirkuk, Diyala and Salah'adin governorates) displaced from their properties by rising ethnic tension since April 2003.

At the meeting we discussed possible options for taking this forward. I offer 4 options in the paper, but the matter can really be boiled down to the following:

- Any solution which involves the IPCC in hearing all property disputes across Iraq, even for a limited period, is impracticable without completely redesigning the IPCC program. This is because the machinery we are currently generating will not cope with either the volume or complexity of cases.
- This can be avoided. OGC advises the best way to provide a statute which picks up the recent illegal evictions of Arabs by Kurds is by lifting language from the existing Article 9 of the Regulation which sets out the scope of the IPCC as hearing disputes which were 'a result of the ethnicity, religion, or sect of the owners or for purposes of ethnic cleansing'. This language could be used in defining the scope of the IPCC in hearing post-April 2003 claims.
- Since the recent evictions have taken place in a fairly narrowly defined geographical area, I recommend we also limit the scope of the statute geographically to four governorates (Kirkuk, Ninewa, Diyala and Salah Al-Din) and over a set time period (probably April 2003 to end April 2004). This should keep numbers manageable within the existing IPCC structure.
- The balance of opinion among those involved in this issue is that this approach carries some risks. But it is the only approach which deals with the justice aspect of recent evictions.
- The alternative is to fast track the displaced Arabs onto the IPCC compensation scheme for those displaced by IPCC rulings, but through a non-IPCC route.

I have consulted with Governance and with Ambassador Jones, They are clear there are strong political arguments for dealing with post-April 2003 evictions within the IPCC process, and

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these outweigh the risks of this course of action. I am clear that from the viewpoint of someone dealing with the practicalities of setting up IPCC, there are strong attractions to a separate compensation scheme. I also accept that our overriding priority here is to gain sufficient consent for the IPCC process to enable it to be a political solution to some of the problems of Northern Iraq, not an additional problem. Therefore, the best way forward is an amendment of the statute along the lines noted above

RECOMMENDATION: That you agree to amend the IPCC statute so as to bring within its scope those property disputes which originated since 9 April 2003, which concern property within the governorates of Kirkuk, Diyala, Ninewa and Salah Al-Din, and which are 'the result of ethnicity, religion, or sect of the owners or for purposes of ethnic cleansing'.

Approve: _____ Disapprove: _____ Approve with modification: _____

(b)(6)

ATTACHMENTS: Paper on displacement in the North since April 2003

COORDINATION: Amb Richard Jones -
(b)(6) OGC -
(b)(6) Governance Team -
(b)(6) Governance Team

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Displacement of People from their Homes in Northern Iraq since the War

Introduction

The aim of this paper is to provide options on how best to address the issue of people displaced from their homes since the end of full combat operations in Iraq in April 2003. The paper is based on the following assumptions:

- That the vast majority of people displaced from their homes in Northern Iraq since April 2003 are Arabs, who fled in fear of or who were evicted by Kurds. They are believed to number around 100,000, but the process of displacement is still underway.
- That an estimated 80 per cent of these Arabs may have originally come to the area as a result of the previous regime's programme of 'Arabization' and the land upon which they live would probably have been claimed through the IPCC system if they had remained on it; the other 20 per cent may be original residents.
- That the existing Iraqi court system will be unable to deal with an issue of this scale and complexity in a way which commands public confidence for the foreseeable future;
- That, within the foreseeable future, it will be possible to build up the local law enforcement agencies in Northern Iraq so that they can substantially reduce the number of illegal evictions giving rise to this problem.
- That this issue is part of the broader problem that the IPCC is trying to address, and that the IPCC will not achieve its aim of a peaceful and equitable resolution to the broader problem of the legacy of illegitimate land transfers carried out by the former regime unless this problem is addressed somehow.
- That a key purpose of the IPCC process should be to bring about national reconciliation.

The Nature of the Problem and the Political Situation

During the war and its immediate aftermath, an estimated 100,000 Arabs fled or were evicted from their homes in the north of Iraq. We can assume that the majority of these people lived on contested land. However, a sizeable minority are the legitimate owners of land and property.

There are around 52,000 Arab IDPs in Diyala, of whom 20% claim to be "original" Arabs. Some of these are now living in former military camps around Baquba where they have no access to public services, and few employment opportunities. There are around 15,000 Arab IDPs in Salah al-Din. 30,000 other Arab IDPs are found in Ninewa and around Baghdad. Without sources of income and access to any form of redress for the illegal actions taken against them, these Arab IDPs are increasingly likely to become involved in criminal and terrorist activity. If we do not deal with this issue as a matter of urgency, it may come to haunt Iraq in the future.

In order to ensure that the IPCC helps to bring about reconciliation – and does not increase inter-ethnic hostilities – it is important we address the needs and concerns of the Arab IDPs.

Article 58 of the TAL includes the following language:

- (A) The Iraqi Transitional Government, and especially the Iraqi Property Claims Commission and other relevant bodies, shall act expeditiously to take measures to remedy the injustice caused by the previous regime's practices in altering the demographic character of certain regions, including Kirkuk, by deporting and expelling individuals from their places of residence, forcing migration in and out of the region, settling individuals alien to the region, depriving the inhabitants of work, and correcting nationality. To remedy this injustice, the Iraqi Transitional Government shall take the following steps:
 - (1) With regard to residents who were deported, expelled, or who emigrated; it shall, in accordance with the statute of the Iraqi Property Claims Commission and other measures within the law, within a reasonable period of time, restore the residents to their homes and property, or, where this is unfeasible, shall provide just compensation.
 - (2) With regard to the individuals newly introduced to specific regions and territories, it shall act in accordance with Article 10 of the Iraqi Property Claims Commission statute to ensure that such individuals may be resettled, may receive compensation from the state, may receive new land from the state near their residence in the governorate from which they came, or may receive compensation for the cost of moving to such areas.
- (C) The permanent resolution of disputed territories, including Kirkuk, shall be deferred until after these measures are completed, a fair and transparent census has been conducted and the permanent constitution has been ratified. This resolution shall be consistent with the principle of justice, taking into account the will of the people of those territories.

There are many who will interpret this to mean the Kurds are to be returned, the Arabization Arabs are to be expelled, and once the demographics have changed, Kirkuk is to become part of Kurdistan. This interpretation is increasing instability, particularly in the area of Kirkuk.

IPCC's Current Role

IPCC offices will be open across the North very soon, and this legitimate alternative to illegal eviction of sitting tenants as a means of recovering land or other real property

should slow the rate of expulsion of Arab householders (although a more vigorous response to the problem from the law enforcement agencies may also be required). But the IPCC is limited by its current statute from intervening directly in cases of people who lost their homes after April 2003. It is also prevented from intervening in private land disputes – its statute limits it to dealing with cases where the Ba'athist regime was the prime mover behind illegitimate real property confiscations.

So the IPCC, under its current statute, can play no direct role in solving this problem.

Options for the future

This paper assumes we must solve this problem if we are to deal with the land issue in the North as a whole successfully. This is the problem IPCC was set up to address, so clearly one option would be to amend the IPCC statute. This option, with pros and cons, and one other possible option, are set out below:

- **Amend the IPCC Statute so as to remove both the April 2003 deadline and the limitation to only confiscations where the Ba'athist regime was the prime mover behind confiscation.**

Advantages: The advantage of this approach is that it will undoubtedly bring those displaced since April 2003 within the scope of the statute in a comprehensible and straightforward way. Would address the justice aspect of recent Arab evictions to some extent.

Disadvantages: The IPCC as we have envisaged it to date would be unsustainable under a statute amended as this envisages. It would bring within the scope of the IPCC all real property disputes from the last 35 or so years, not only those resulting from Ba'athist confiscations. The current organisation simply could not deal with this volume of cases. With the ending of the April 2003 limitation, the influx could also include current and new cases. Amending the statute might also prove politically difficult. It might also allow former Ba'athists to use the IPCC to seek to regain property they have lost since April 2003 (eg those properties currently used by the US military).

Recommendation: Impractical – discount from further consideration.

- **Amend the IPCC Statute so as to retain the April 2003 deadline for claims for confiscations by the Ba'athist regime and limiting claims before that date to such confiscations, but introduce an additional clause allowing claims after that date to be against any respondent.**

Advantages: Would bring those displaced since April 2003 within the scope of the statute; would avoid opening up all individual property claims since 1968 to the IPCC's jurisdiction. Would address the justice aspect of recent Arab evictions to some extent.

Disadvantages: Would still make the IPCC the first resort for all property claimants after April 2003, which, given the questions over its ability to meet its existing caseload, probably makes this a non-starter. In addition, could be seen as an 'ethnic clause' deliberately designed to favour one group. Might be seen as confusing, or as unfair, providing a user friendly recourse for all of those with property disputes since April 2003, but not before. Could be politically controversial.

Recommendation: Only possible with substantial reshaping of IPCC. May well require robust political handling and could pose substantial resource problems for IPCC. Likely to slow the whole process down. On balance, reject.

- **Introduce a new statute or Annex to the IPCC statute limited in scope to the four governorates (Ta'mim, Diyala, Salah'adin and Ninewa) where illegal evictions have recently taken place and to the period (April 2003 to April 2004) when evictions took place. The statute would lift language from the IPCC Regulation limiting the IPCC's jurisdiction to cases which resulted from 'the ethnicity, religion, or sect of the owners or for purposes of ethnic cleansing'.**

Advantages: Should be practicable from the point of view of numbers of claims and therefore manageable within existing IPCC organisational structure.. Would address the justice issue in respect of recent evictions in a reasonably focussed way. Lifting language from the existing regulation might also limit political controversy.

Disadvantages: Unclear how acceptable laws limited to certain governorates only are in Iraqi jurisprudence. Could be seen as unfair, both on the grounds of the geographical limitations and time limits. Unclear how easy it will be to actually prove a case falls within the statute. Potential for some cross over of IPCC and Iraqi court jurisdiction could lead to legal difficulties. Could be politically controversial.

Recommendation: OGC are clear this is the only way to provide an amended statute that can be focused to some extent on the problem we have identified. But still has difficulties. Nevertheless, if we are determined to deal with the justice aspect of recent evictions and if there are good political reasons for dealing with them via the IPCC structure, this is probably the only practical way to do that.

- **Introduce a separate compensation scheme for those illegally evicted in the North since April 2003, drawing on IPCC administrative and statutory machinery and guidelines.**

Advantages: Probably the easiest option to implement, and the one carrying least risk of unintended consequences. If the assumption that 80 per cent of those displaced since April 2003 would have been displaced by the IPCC process anyway, this could be seen in most cases as simply recognising that reality.

Disadvantages: Does not address the justice issue – in some cases the people pushed off their land are not ‘Arabisation’ Arabs, but Arabs who have been pushed off ancestral land. Also in some cases the Kurds taking over the land have absolutely no right to it.

Recommendation: The best option if we are prepared to put aside the justice aspect of recent evictions, and if we are prepared to accept the political risk of the IPCC being perceived as dealing almost entirely with only Kurdish problems in the North.

From: ou:MFI,cn:DKMFIHEFL001
 Sent: 04:48:00 03/06/2004
 Cc: COALITION PROVISIONAL AUTHORITY(UC)
 Cc Precedence: Immediate
 Subject: USG CLEARANCE OF TRIPARTITE AGREEMENT ON THE
 Message Type: Other-Organizational
 Extended Auth: 01:39:00 03/06/2004 (UTC)
 04:39:00 03/06/2004 (Client/Local)
 Security: This message has been digitally signed and encrypted

OTTUZYUW RUEHCAA0426 0660149-UUUU--RHMFIUU.
 ZNR UUUUU ZZH
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 FM SECSTATE WASHDC
 TO RUEHAK/AMEMBASSY ANKARA
 RUEHGV/USMISSION GENEVA
 INFO RUEHAM/AMEMBASSY AMMAN
 RHMFIUU/HQ COALITION PROVISIONAL AUTH BAGHDAD
 RUCNDT/USMISSION USUN NEW YORK
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 UNCLAS SECTION 01 OF 09 STATE 050426

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Displaced
 + Migration

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E.O. 12958: N/A
 TAGS: PREF, PREL, IZ, TU
 SUBJECT: USG CLEARANCE OF TRIPARTITE AGREEMENT ON THE
 REPATRIATION OF TURKISH REFUGEES FROM IRAQ

REF: ANKARA 509

1. (U) THIS IS AN ACTION REQUEST. ANKARA AND GENEVA PLEASE SEE PARAS 3 AND 5. ANKARA PLEASE ALSO SEE PARA 4.
2. ~~(SBU)~~ AFTER THREE DAYS OF NEGOTIATIONS IN ANKARA JANUARY 20-22 BETWEEN TURKISH, IRAQI/CPA, U.S. AND UNHCR REPS ON A DRAFT AGREEMENT FOR THE REPATRIATION OF TURKISH REFUGEES FROM IRAQ, THE PARTIES REACHED BROAD CONSENSUS ON THE CONTENT OF AN AGREEMENT. A TEXT REFLECTING THAT CONSENSUS WAS NEGOTIATED, BUT WAS NEITHER SIGNED NOR INITIALED, PENDING FINAL APPROVAL FROM THE NEGOTIATING PARTIES. DURING THE NEGOTIATIONS, TURKEY ASKED FOR A LETTER FROM THE SECRETARY OF STATE PLEDGING THE USG'S SUPPORT FOR THE IMPLEMENTATION OF THE AGREEMENT FOR ITS DURATION BEFORE TURKISH REPS WOULD SIGN.
3. ~~(SBU)~~ CPA, DOD AND DEPARTMENT EXPERTS HAVE COMPLETED THEIR REVIEW OF THE DRAFT AGREEMENT. TEXTUAL CHANGES WERE MADE ONLY WHEN DEEMED ABSOLUTELY NECESSARY FROM A LEGAL AND/OR POLICY PERSPECTIVE. THE TEXT AT PARA 6 HAS NOW BEEN FULLY CLEARED BY THE INTERAGENCY AND BY CPA. THE DEPARTMENT REQUESTS THAT POSTS PRESENT IT TO UNHCR AND THE GOT FOR FINAL APPROVAL, DRAWING ON THE TALKING POINTS AT PARA 5. ONCE ALL PARTIES HAVE APPROVED THE TEXT, UNHCR SHOULD PREPARE A FINAL VERSION OF THE AGREEMENT AND CIRCULATE IT TO THE PARTICIPANTS BY FAX FOR SIGNATURE. (NOTE: PRM A/S ARTHUR E. DEWEY WILL BRING TURKISH U/S NABI SENSOY UP TO DATE ON THE AGREEMENT AND REVIEW SOME OF THE CHANGES BY PHONE.)
4. ~~(SBU)~~ THE DEPARTMENT HAS ALSO CONSIDERED, IN COORDINATION WITH DOD AND CPA, THE TURKISH REQUEST FOR A LETTER FROM THE SECRETARY OF STATE PLEDGING THE USG'S SUPPORT FOR THE IMPLEMENTATION OF THE AGREEMENT. AN INTERAGENCY CLEARED TEXT WILL BE SENT TO THE SECRETARY IN A DECISION MEMO. WE WILL RECOMMEND THAT THE SECRETARY SEND THE LETTER ONCE THE TRIPARTITE AGREEMENT HAS BEEN SIGNED BY ALL THREE PARTIES.
5. ~~(SBU)~~ WHEN PRESENTING THE VERSION OF THE DRAFT TRIPARTITE AGREEMENT AT PARA 6 TO THE GOT AND UNHCR,

POSTS ARE REQUESTED TO DRAW FROM THE FOLLOWING POINTS:

GENERAL POINTS

- USG AND CPA APPROVAL OF THE ATTACHED TEXT WAS ACHIEVED THROUGH AN INTENSE AND COORDINATED REVIEW PROCESS.
- CHANGES WERE LIMITED ONLY TO THOSE DEEMED ABSOLUTELY NECESSARY BY OUR LEGAL AND POLICY EXPERTS.
- PRM A/S DEWEY WILL REVIEW WITH U/S SENSOY BY PHONE.
- SOME OF THE CHANGES IMPACT LANGUAGE THAT WE DEBATED DURING OUR 20-22 JANUARY MEETINGS IN ANKARA.
- IN MAKING THESE CHANGES, WE HAVE CAREFULLY INCORPORATED LANGUAGE THAT WE BELIEVE WILL BE ACCEPTABLE TO ALL PARTIES, AND DO NOT ANTICIPATE A NEED FOR FURTHER NEGOTIATION OF THE TEXT.
- WE RECOMMEND THAT UNHCR BE CHARGED WITH PREPARING A FINAL VERSION FOR CIRCULATION AND SIGNATURE.
- WE SUGGEST THAT UNHCR ALSO BE ASKED TO ORGANIZE AN EVENT IN GENEVA, WITH REPRESENTATIVES FROM UNHCR, THE TURKISH AND IRAQI MISSIONS, AND THE USG, TO ANNOUNCE THE CONCLUSION AND SIGNATURE OF THE AGREEMENT.

POINTS ON SPECIFIC CHANGES

- PREAMBLE PARAGRAPH (A) - DELETED "BASIC".
- PREAMBLE PARAGRAPH (D) - DELETED "AND STANDARDS".
- ADDITION OF NEW PARAGRAPH (F) IN THE PREAMBLE - ADDITIONAL CONTEXT FOR THE AGREEMENT HAS BEEN PROVIDED BY REFERRING TO UNSCR 1483.

BT
#0426

NNNN

From: ou:MFI,cn:DKMFIHEFL001
 Sent: 04:48:00 03/06/2004
 Cc: COALITION PROVISIONAL AUTHORITY(UC)
 Cc Precedence: Immediate
 Subject: USG CLEARANCE OF TRIPARTITE AGREEMENT ON THE
 Message Type: Other-Organizational
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 ZNR UUUUU ZZH
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 FM SECSTATE WASHDC
 TO RUEHAK/AMEMBASSY ANKARA
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 INFO RUEHAM/AMEMBASSY AMMAN
 RHMFIUU/HQ COALITION PROVISIONAL AUTH BAGHDAD
 RUCNDT/USMISSION USUN NEW YORK
 BT
 UNCLAS SECTION 02 OF 09 STATE 050426

~~SENSITIVE~~

E.O. 12958: N/A
 TAGS: PREF, PREL, IZ, TU
 SUBJECT: USG CLEARANCE OF TRIPARTITE AGREEMENT ON THE
 REPATRIATION OF TURKISH REFUGEES FROM IRAQ

-- ARTICLE 1 (DEFINITIONS), PARAGRAPH 1 - THE DEFINITION FOR AUTHORITIES IN IRAQ HAS BEEN REVISED TO INCLUDE THE IRAQI GOVERNING COUNCIL AND THE IRAQI MINISTRIES. REFERENCE TO THE CPA HAS BEEN REMOVED. AUTHORITY TO SIGN THE AGREEMENT WILL BE DELEGATED IN WRITING BY CPA TO THE IRAQI MINISTER OF DISPLACEMENT AND MIGRATION. THE PARTIES WILL BE PROVIDED WITH A COPY OF THE DELEGATION OF AUTHORITY.

-- ARTICLE 3 (COMPOSITION OF THE COMMISSION), PARAGRAPH 1 - MODIFIED LANGUAGE TO READ "THE AUTHORITIES IN IRAQ SHALL INVITE AN OBSERVER FROM THE COALITION PROVISIONAL AUTHORITY TO PARTICIPATE IN EACH MEETING OF THE COMMISSION THROUGHOUT THE DURATION OF THE COALITION PROVISIONAL AUTHORITY'S EXISTENCE".

-- ARTICLE 6 (AD HOC ARRANGEMENTS/LIAISON OFFICERS) - ADDED REFERENCE TO FOREIGN LIAISON IN THE FIRST SENTENCE.

-- ARTICLE 7 (VOLUNTARY CHARACTER OF REPATRIATION), PARAGRAPH 2 - LANGUAGE HAS BEEN REVISED TO REMOVE "ENSURE."

-- ARTICLE 9 (RETURN IN SAFETY AND WITH DIGNITY), PARAGRAPH 2 - SLIGHT REWORDING OF LANGUAGE.

-- ARTICLE 13 (UNHCR'S SUPERVISORY ROLE) - CHANGED "FULLY RESPECTED" TO "SUPPORTED" AND ADDED "IN THE COURSE OF IMPLEMENTING THIS AGREEMENT" TO THE END OF THE PARAGRAPH.

-- ARTICLE 14 (UNHCR ACCESS TO REFUGEES AND RETURNEES), PARAGRAPH 1 - ADDED "SUBJECT ONLY TO LIMITATIONS ARISING FROM OPERATIONAL REQUIREMENTS OF EFFORTS TO IMPROVE SECURITY IN POST-CONFLICT IRAQ, AS DETERMINED BY THE AUTHORITIES IN IRAQ OR THE INTERNATIONAL FORCES WORKING WITH THEM." PARAGRAPH 4 - ADDED "OF THIS ARTICLE" IN THE FIRST SENTENCE AND "PRIOR" IN THE SECOND SENTENCE.

-- ARTICLE 21 (MOVEMENT AND SECURITY OF UNHCR STAFF AND RESOURCES), PARAGRAPH 1 - MODIFIED LANGUAGE TO READ "THE AUTHORITIES IN IRAQ AND THE GOVERNMENT OF TURKEY SHALL TAKE REASONABLE AND APPROPRIATE STEPS TO PROVIDE FOR THE

SECURITY AND SAFETY OF UNHCR STAFF AND ALL OTHER PERSONNEL ENGAGED IN THE REPATRIATION OPERATION." MADE SOME ADDITIONAL WORDING CHANGES AND ADDED A REFERENCE TO ARTICLE 14.

-- ARTICLE 23 (RELIEF GOODS, MATERIALS AND EQUIPMENT), PARAGRAPH 3 - ADDED "PROVIDED SUCH EQUIPMENT, FREQUENCIES AND NETWORKS DO NOT INTERFERE WITH MILITARY OR SECURITY NECESSITIES" TO THE FIRST SENTENCE.

-- ARTICLE 29 (REVIEW) - WE DELETED ARTICLE 30 AND THEREFORE NEED TO MAKE CHANGES TO ARTICLE 29. WE ARE PROPOSING THE FOLLOWING FORMULATION FOR ARTICLE 29 WITH THE REMOVAL OF ARTICLE 30, WE REWORDED THE LANGUAGE IN THIS CLAUSE. WE ARE PROPOSING THE FOLLOWING FORMULATION:

"AFTER THE PARTIES HAVE ASCERTAINED THAT UNHCR HAS SUBSTANTIALLY COMPLETED THE INTERVIEW AND REGISTRATION PROCESS FOR VOLUNTARY REPATRIATION, THE PARTIES WILL EVALUATE PROGRESS ACHIEVED..."

THIS LANGUAGE REFERS TO AN EVENT DURING THE IMPLEMENTATION OF THE AGREEMENT WHEN IT WOULD BE REALISTIC AND BENEFICIAL FOR THE PARTIES TO EVALUATE PROGRESS AND SET A TIMEFRAME FOR ACHIEVING DURABLE SOLUTIONS. SHOULD THE GOT ULTIMATELY PROVE UNWILLING/UNABLE TO ACCEPT THIS FORMULATION, WE WOULD PROPOSE THE FOLLOWING FORMULATION, UPON CONSULTATION WITH UNHCR:

"WITHIN ONE YEAR FOLLOWING THE ENTRY INTO FORCE OF THIS AGREEMENT, THE PARTIES WILL EVALUATE PROGRESS ACHIEVED..."

PRIOR TO PROPOSING THE ALTERNATIVE LANGUAGE TO EITHER PARTY, POSTS ARE REQUESTED TO CONFER WITH THE DEPARTMENT.

-- ARTICLE 30 (TERMINATION) - WE HAVE DELETED THIS ARTICLE BECAUSE WE ARE IN A PERIOD OF LEGAL COMPLEXITY IN THAT THE IRAQIS WILL RESUME AUTHORITY TO GOVERN THE COUNTRY ON JULY 1. WE WANT AN AGREEMENT THAT WILL PROVIDE A FRAMEWORK FOR THE PARTIES TO CONTINUE THE TRIPARTITE AGREEMENT ON VOLUNTARY REPATRIATION BEYOND THAT DATE. WE HAVE THEREFORE MADE CHANGES TO ARTICLE 29 AND DELETED ARTICLE 30.

6. ~~(SBU)~~ TEXT OF THE DRAFT TRIPARTITE AGREEMENT AS
BT
#0426

NNNN

From: ou:MFI,cn:DKMFIHEFL001
 Sent: 04:49:00 03/06/2004
 Cc: COALITION PROVISIONAL AUTHORITY(UC)
 Cc Precedence: Immediate
 Subject: USG CLEARANCE OF TRIPARTITE AGREEMENT ON THE
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OTTUZYUW RUEHCAA0426 0660149-UUUU--RHMFIUU.
 ZNR UUUUU ZZH
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 BT
 UNCLAS SECTION 03 OF 09 STATE 050426

~~SENSITIVE~~

E.O. 12958: N/A
 TAGS: PREF, PREL, IZ, TU
 SUBJECT: USG CLEARANCE OF TRIPARTITE AGREEMENT ON THE
 REPATRIATION OF TURKISH REFUGEES FROM IRAQ

APPROVED BY THE USG AND CPA:

VOLUNTARY REPATRIATION AGREEMENT

THE GOVERNMENT OF TURKEY, THE AUTHORITIES IN IRAQ AND THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) (HEREINAFTER REFERRED TO AS THE "THE PARTIES"),

- (A) RECOGNIZING THAT THE RIGHT OF ALL CITIZENS TO LEAVE AND TO RETURN TO THEIR COUNTRY IS A HUMAN RIGHT ENSHRINED, INTER ALIA, IN ARTICLE 13(2) OF THE 1948 UNIVERSAL DECLARATION OF HUMAN RIGHTS AND ARTICLE 12 OF THE 1966 INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS;
- (B) RECALLING THAT THE UNITED NATIONS GENERAL ASSEMBLY RESOLUTION 428 (V) OF 14 DECEMBER 1950, WHICH ADOPTED THE STATUTE OF UNHCR, ASCRIBES TO THE HIGH COMMISSIONER THE FUNCTION OF PROVIDING INTERNATIONAL PROTECTION TO REFUGEES AND OF SEEKING PERMANENT SOLUTIONS FOR THE PROBLEMS OF REFUGEES, INTER ALIA, BY PROMOTING AND FACILITATING THEIR VOLUNTARY REPATRIATION AND RE-INTEGRATION IN THEIR COUNTRY OF ORIGIN;
- (C) RECOGNIZING THAT VOLUNTARY REPATRIATION, WHERE FEASIBLE, CONSTITUTES THE PREFERRED DURABLE SOLUTION FOR THE PROBLEMS OF REFUGEES, AND THAT THE ATTAINMENT OF THIS SOLUTION REQUIRES THAT REFUGEES ARE ABLE TO RETURN IN CONDITIONS OF SAFETY AND DIGNITY;
- (D) NOTING THAT CONCLUSIONS 18 (XXXI) AND 40 (XXXVI) OF THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME CONSTITUTE INTERNATIONALLY ACCEPTED PRINCIPLES AND STANDARDS GOVERNING THE VOLUNTARY REPATRIATION OF REFUGEES;
- (E) NOTING WITH APPRECIATION THE STATED WILLINGNESS OF THE GOVERNMENT OF TURKEY TO WELCOME BACK, IN CONDITIONS OF SAFETY AND DIGNITY, ALL TURKISH CITIZENS PRESENT AS REFUGEES IN IRAQ, WHO WISH TO REPATRIATE TO AND REBUILD THEIR LIVES IN TURKEY;

(F) ACKNOWLEDGING THAT UNITED NATIONS SECURITY COUNCIL RESOLUTION 1483 (2003) DISCUSSES FAVORABLY COORDINATION BETWEEN THE COALITION PROVISIONAL AUTHORITY AND THE UNITED NATIONS TO PROMOTE "THE SAFE, ORDERLY, AND VOLUNTARY RETURN OF REFUGEES AND DISPLACED PERSONS;"

(G) AGREEING ON THE CLOSURE OF THE RELEVANT REFUGEE CAMPS IN IRAQ AND IN PARTICULAR THE MAKHMOUR CAMP BY FINDING APPROPRIATE DURABLE SOLUTIONS FOR THE TURKISH CITIZENS PRESENT AS REFUGEES IN IRAQ WHO DO NOT AVAIL THEMSELVES OF THE VOLUNTARY RETURN PROCESS;

(H) RECOGNIZING THE NEED TO DEFINE THE SPECIFIC PROCEDURES AND MODALITIES FOR THE VOLUNTARY REPATRIATION AND REINTEGRATION OF REFUGEES FROM TURKEY CURRENTLY IN IRAQ WITH THE ASSISTANCE OF UNHCR, AS MAY BE SUPPORTED BY OTHER UNITED NATIONS AGENCIES AND INTERGOVERNMENTAL ORGANIZATIONS, AND WHERE APPROPRIATE AND WITH THE CONSENT OF THE RELEVANT PARTY, BY NON-GOVERNMENTAL ORGANIZATIONS;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

DEFINITIONS

FOR THE PURPOSE OF THIS AGREEMENT,

1. THE TERM "AUTHORITIES IN IRAQ" SHALL, FOR THE PURPOSE OF IMPLEMENTING THIS AGREEMENT, MEAN THE IRAQI GOVERNING COUNCIL AND THE IRAQI MINISTRIES.
2. THE TERM "REFUGEE" SHALL MEAN ANY TURKISH CITIZEN, AS DEFINED IN THE TURKISH LAW ON NATIONALITY, WHO IS LIVING AS A REFUGEE IN IRAQ.
3. THE TERM "RETURNEE" SHALL MEAN ANY REFUGEE AS DEFINED IN PARAGRAPH 2 OF THIS ARTICLE, WHO HAS VOLUNTARILY RETURNED TO TURKEY PURSUANT TO THIS AGREEMENT.

ARTICLE 2

ESTABLISHMENT OF A VOLUNTARY REPATRIATION COMMISSION

A VOLUNTARY REPATRIATION COMMISSION IS HEREBY ESTABLISHED BY THE PARTIES.

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From: ou:MFI,cn:DKMFIHEFL001
Sent: 04:48:00 03/06/2004
Cc: COALITION PROVISIONAL AUTHORITY(UC)
Cc Precedence: Immediate
Subject: USG CLEARANCE OF TRIPARTITE AGREEMENT ON THE
Message Type: Other-Organizational
Extended Auth: 01:39:00 03/06/2004 (UTC)
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OTTUZYUW RUEHCAA0426 0660149-UUUU--RHMFIUU.
ZNR UUUUU ZZH
O 060139Z MAR 04
FM SECSTATE WASHDC
TO RUEHAK/AMEMBASSY ANKARA
RUEHGV/USMISSION GENEVA
INFO RUEHAM/AMEMBASSY AMMAN
RHMFIUU/HQ COALITION PROVISIONAL AUTH BAGHDAD
RUCNDT/USMISSION USUN NEW YORK
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TAGS: PREF, PREL, IZ, TU
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REPATRIATION OF TURKISH REFUGEES FROM IRAQ

ARTICLE 3

COMPOSITION OF THE COMMISSION

1. THE COMMISSION SHALL COMPRISE THREE MEMBERS; EACH OF THE PARTIES SHALL DESIGNATE A MEMBER. THE AUTHORITIES IN IRAQ SHALL INVITE AN OBSERVER FROM THE COALITION PROVISIONAL AUTHORITY TO PARTICIPATE IN EACH MEETING OF THE COMMISSION THROUGHOUT THE DURATION OF THE COALITION PROVISIONAL AUTHORITY'S EXISTENCE.

2. ANY MEMBER OF THE COMMISSION MAY BE ACCOMPANIED TO ITS MEETINGS BY ADVISERS.

3. WHERE A MEMBER IS UNABLE TO ATTEND TO ANY BUSINESS OF THE COMMISSION, THAT MEMBER SHALL DESIGNATE A SUBSTITUTE.

ARTICLE 4

ROLE AND FUNCTION OF THE COMMISSION

THE COMMISSION SHALL CONSIDER AND AGREE UPON BY CONSENSUS OR ADVISE THE PARTIES ON SUCH MATTERS OR MEASURES AS MAY BE NECESSARY FOR THE IMPLEMENTATION OF THIS AGREEMENT.

ARTICLE 5

MEETINGS OF THE COMMISSION

1. MEETINGS OF THE COMMISSION MAY BE CONVENED WHENEVER NECESSARY AND AT SUCH VENUE AS MAY BE AGREED UPON.

2. THE COMMISSION SHALL ADOPT ITS OWN RULES OF PROCEDURE.

ARTICLE 6

AD HOC ARRANGEMENTS/LIAISON OFFICERS

THE PARTIES SHALL DESIGNATE LIAISON OFFICERS AT THEIR RESPECTIVE FOREIGN LIAISON OR DIPLOMATIC MISSIONS OR, IN THE CASE OF UNHCR, OFFICES IN ANKARA, BAGHDAD AND GENEVA WITH POWERS TO DEAL WITH UNFORESEEN OPERATIONAL ISSUES ON

AN AD HOC BASIS. LIAISON OFFICERS WILL ALSO BE DESIGNATED BY THE COALITION PROVISIONAL AUTHORITY THROUGHOUT THE DURATION OF ITS MANDATE.

ARTICLE 7

VOLUNTARY CHARACTER OF REPATRIATION

1. THE PARTIES HEREBY REAFFIRM THAT THE REPATRIATION OF REFUGEES RELEVANT TO TURKEY SHALL ONLY TAKE PLACE AT THEIR FREELY EXPRESSED WISH BASED ON THEIR FULL KNOWLEDGE OF RELEVANT FACTS.
2. THE AUTHORITIES IN IRAQ SHALL TAKE ALL REASONABLE STEPS TO PREVENT COERCION, INTIMIDATION OR THREATS AGAINST REFUGEES FROM ANY PERSONS WHO MIGHT BE OPPOSED TO REPATRIATION. ANY MEASURES WHICH MAY BE NECESSARY IN THIS REGARD SHALL BE TAKEN IN CLOSE CONSULTATION WITH UNHCR AND IN CONFORMITY WITH RELEVANT STANDARDS OF LAW.

ARTICLE 8

FREEDOM OF CHOICE OF DESTINATION

1. THE GOVERNMENT OF TURKEY AGREES THAT THE RETURNEES SHALL BE FREE IN PRINCIPLE TO RETURN TO, AND SETTLE IN, THEIR FORMER PLACES OF RESIDENCE OR ANY OTHER PLACES OF THEIR CHOICE WITHIN TURKEY. EXCEPTIONS TO CHOICE OF SETTLEMENT CAN BE BASED ON COMPELLING REASONS OF SECURITY OR ADMINISTRATIVE REQUIREMENTS IN THE INTEREST OF THE INDIVIDUAL CONCERNED, SUCH AS THE AVAILABILITY OF PUBLIC SERVICES, IN WHICH CASES HE/SHE SHALL BE DULY NOTIFIED PRIOR TO RETURN.
2. RETURNEES WILL BE ENTITLED TO ASSISTANCE, AS REQUIRED, AND THEIR RIGHTS SHALL BE RESPECTED IN THE FRAMEWORK OF THE TURKISH LAW. RETURNEES SHALL BENEFIT FROM THE "RETURN TO VILLAGES AND REHABILITATION PROGRAM" TO FACILITATE THEIR SETTLEMENT.

ARTICLE 9

RETURN IN SAFETY AND WITH DIGNITY

1. THE PARTIES AGREE THAT THE VOLUNTARY REPATRIATION OF REFUGEES UNDER THIS AGREEMENT SHALL TAKE PLACE ONLY WHEN THERE EXIST CONDITIONS CONDUCIVE TO THEIR RETURN IN
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SAFETY AND WITH DIGNITY TO PLACES OF FINAL DESTINATION.

2. THE AUTHORITIES IN IRAQ RETAIN RESPONSIBILITY FOR MAINTAINING PUBLIC ORDER AND SAFETY IN THOSE AREAS WHERE THE REPATRIATING REFUGEES ARE LIVING, TRANSITING AND TRAVELING THROUGH TO THE DESIGNATED BORDER CROSSING POINTS. THE GOVERNMENT OF TURKEY SHALL BE RESPONSIBLE FOR THE SAFETY AND SECURITY OF THE RETURNEES ONCE WITHIN THE TERRITORY OF TURKEY.

ARTICLE 10

ASSURANCES UPON RETURN

1. THE GOVERNMENT OF TURKEY SHALL ISSUE, IN PRINT AS WELL AS, WHEN APPROPRIATE, THROUGH BROADCAST MEDIA, PUBLIC MESSAGES TO WELCOME AND TO ENCOURAGE TURKISH CITIZENS PRESENT AS REFUGEES IN IRAQ TO VOLUNTARILY REPATRIATE IN SAFETY AND DIGNITY, AND WITH THE FULL ENJOYMENT OF THEIR RIGHTS AS CITIZENS OF THE REPUBLIC OF TURKEY.
2. REFUGEES SHALL BE NOTIFIED, PRIOR TO RETURN, WHETHER OR NOT THEY ARE SUBJECT TO ANY PENDING CRIMINAL INVESTIGATIONS, CHARGES, OR CONVICTIONS IN ABSENTIA WITH REGARD TO ANY VIOLATION OF TURKISH LAWS. ANY VIOLATION REGARDING THE ILLEGAL EXIT FROM THE COUNTRY, SHALL BE CONSIDERED UNDER THE STATUTE OF LIMITATION AS STIPULATED IN ARTICLE 102 OF THE TURKISH PENAL CODE.
3. REFUGEES SHALL HAVE FULL ACCESS TO ALL LEGAL REMEDIES PROVIDED IN ACCORDANCE WITH TURKISH LAW.
4. THE GOVERNMENT OF TURKEY SHALL DEFER THE COMMENCEMENT OF MILITARY SERVICE BY RETURNEES FOR A PERIOD OF 6 MONTHS UPON THEIR REPATRIATION FROM IRAQ.
5. THE GOVERNMENT OF TURKEY SHALL ENSURE THAT RETURNEES HAVE ACCESS TO LAND FOR SETTLEMENT AND USE, IN ACCORDANCE WITH THE RELEVANT NATIONAL LAWS.
6. THE GOVERNMENT OF TURKEY SHALL FACILITATE, TO THE EXTENT POSSIBLE, THE RECOVERY AND/OR RESTITUTION TO THE

RETURNEES OF LAND OR OTHER IMMOVABLE OR MOVABLE PROPERTY WHICH THEY LEFT BEHIND. PROPERTY RECORDS SHALL BE FREELY ACCESSIBLE AND AVAILABLE TO ALL RETURNEES. THE RIGHTS AND BENEFITS OF THIS PARAGRAPH WILL ALSO BE APPLICABLE TO THE LEGAL INHERITORS.

ARTICLE 11

JURIDICAL STATUS AND EQUIVALENCY

THE GOVERNMENT OF TURKEY SHALL ACCORD LEGAL RECOGNITION TO BIRTHS, MARRIAGES AND DEATHS BASED ON DOCUMENTATION CERTIFIED BY THE RECOGNIZED IRAQI AUTHORITY OR PROVIDED BY UNHCR, AND TO ADOPTIONS, DIVORCES AND OTHER CHANGES OF LEGAL STATUS AS MAY BE COMPATIBLE WITH TURKISH LAW. THE GOVERNMENT OF TURKEY SHALL RECOGNIZE TO THE EXTENT FEASIBLE UNDER EXISTING REGULATIONS THE EQUIVALENCY OF ACADEMIC AND VOCATIONAL SKILLS, DIPLOMAS AND CERTIFICATES OBTAINED BY THE REFUGEES WHILE IN IRAQ.

ARTICLE 12

CITIZENSHIP

TO THE EXTENT CHILDREN OF REFUGEES WHO ARE BORN IN IRAQ DO NOT AUTOMATICALLY POSSESS TURKISH CITIZENSHIP, THE GOVERNMENT OF TURKEY SHALL ENSURE THAT IT BE GRANTED WITHIN A REASONABLE TIMEFRAME.

ARTICLE 13

UNHCR'S SUPERVISORY ROLE

UNHCR'S LEADING ROLE IN PROMOTING, FACILITATING AND COORDINATING VOLUNTARY REPATRIATION OF REFUGEES AS WELL AS THE MONITORING OF RETURNEES IN ORDER TO ENSURE THAT REPATRIATION IS VOLUNTARY AND CARRIED OUT IN CONDITIONS OF SAFETY AND DIGNITY SHALL BE SUPPORTED BY THE OTHER PARTIES IN THE COURSE OF IMPLEMENTING THIS AGREEMENT.

ARTICLE 14

UNHCR ACCESS TO REFUGEES AND RETURNEES

1. IN ORDER TO BE ABLE TO EFFECTIVELY CARRY OUT ITS INTERNATIONAL PROTECTION AND ASSISTANCE FUNCTIONS, UNHCR SHALL BE GRANTED FREE AND UNHINDERED ACCESS IN IRAQ TO
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From: ou:MFI,cn:DKMFIHEFL001
 Sent: 04:49:00 03/06/2004
 Cc: COALITION PROVISIONAL AUTHORITY(UC)
 Cc Precedence: Immediate
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ALL REFUGEES, SUBJECT ONLY TO LIMITATIONS ARISING FROM OPERATIONAL REQUIREMENTS OF EFFORTS TO IMPROVE SECURITY IN POST-CONFLICT IRAQ, AS DETERMINED BY THE AUTHORITIES IN IRAQ OR THE INTERNATIONAL FORCES WORKING WITH THEM, AND IN TURKEY TO ALL RETURNEES, WHEREVER THEY MAY BE LOCATED. LIKewise, ALL REFUGEES AND RETURNEES SHALL BE GRANTED FREE AND UNHINDERED ACCESS TO UNHCR.

2. THE GOVERNMENT OF TURKEY SHALL, IN PARTICULAR, EXTEND FULL COOPERATION TO UNHCR TO ALLOW UNHCR TO MONITOR THE TREATMENT OF RETURNING REFUGEES IN ACCORDANCE WITH HUMANITARIAN AND HUMAN RIGHTS STANDARDS, INCLUDING THE IMPLEMENTATION OF THE COMMITMENTS CONTAINED IN THIS AGREEMENT.

3. IN ORDER TO ENABLE UNHCR TO CARRY OUT ITS MONITORING FUNCTIONS IN ACCORDANCE WITH PARAGRAPH 1 AND 2, THE GOVERNMENT OF TURKEY SHALL INFORM UNHCR ABOUT EVERY CASE OF ARREST, DETENTION AND LEGAL PROCEEDINGS INVOLVING RETURNEES AND GRANT UNHCR FREE ACCESS TO RETURNEES UNDER ARREST OR IN DETENTION, IN ACCORDANCE WITH PROCEDURES UNDER TURKISH LAW.

4. THE ACCESS PROVIDED TO UNHCR UNDER PARAGRAPH 1 OF THIS ARTICLE SHALL, AS APPROPRIATE, EXTEND TO INTER-GOVERNMENTAL ORGANIZATIONS WITH WHICH UNHCR MAY ENTER INTO AGREEMENTS FOR THE IMPLEMENTATION OF ONE OR MORE COMPONENTS OF THE REPATRIATION OPERATION CONTEMPLATED UNDER THIS AGREEMENT. THE SAME APPLIES FOR NON-GOVERNMENTAL ORGANIZATIONS WITH THE PRIOR CONSENT OF THE RELEVANT PARTY.

ARTICLE 15

INFORMATION AND SENSITIZATION CAMPAIGN

1. UNHCR SHALL, IN COOPERATION WITH THE OTHER PARTIES, ORGANIZE A CAMPAIGN TO PROVIDE THE REFUGEES WITH OBJECTIVE AND ACCURATE INFORMATION RELEVANT TO THEIR REPATRIATION TO AND REINTEGRATION IN TURKEY SO THAT THE REFUGEES SHALL BE ABLE TO MAKE THE DECISION TO REPATRIATE IN FULL KNOWLEDGE OF THE FACTS. FOR THIS PURPOSE, UNHCR

SHALL BE GIVEN FREE AND UNHINDERED ACCESS TO AREAS FROM WHICH THE REFUGEES ORIGINATE, AS WELL AS, IN ACCORDANCE WITH ARTICLE 14, TO ANY RETURNEES LIVING IN THE SAME AREAS.

2. THE PARTIES SHALL, AS APPROPRIATE, FACILITATE VISITS TO TURKEY AND IRAQ FOR THE PURPOSES OF PROVIDING OBJECTIVE AND TRANSPARENT INFORMATION, ANSWERING QUESTIONS, COMMUNICATING CONDITIONS OF AND UPON REPATRIATION, AND INVITING AND WELCOMING THE REFUGEES BACK TO TURKEY.

3. THE GOVERNMENT OF TURKEY SHALL TAKE ALL NECESSARY MEASURES, WITH A VIEW TO CREATING CONDITIONS CONDUCTIVE TO THE REINTEGRATION OF RETURNEES IN SAFETY AND DIGNITY.

ARTICLE 16

REGISTRATION, RE-ADMISSION AND DOCUMENTATION

1. PURSUANT TO ITS MANDATED RESPONSIBILITY TO ENSURE THE VOLUNTARY CHARACTER OF THE DECISION TO RETURN, UNHCR SHALL, IN CONSULTATION WITH THE OTHER PARTIES, DEVISE THE MOST APPROPRIATE MEANS FOR THE INTERVIEW AND REGISTRATION BY UNHCR OF THOSE REFUGEES WHO WISH TO REPATRIATE.

2. UNHCR SHALL SHARE ALL RELEVANT REGISTRATION DATA, INCLUDING THE INTENDED PLACE OF RETURN, WITH THE GOVERNMENT OF TURKEY SO AS TO ENABLE WHERE NEEDED THE ESTABLISHMENT OF PROPER RECEPTION AND ASSISTANCE ARRANGEMENTS.

3. THE PARTIES ACKNOWLEDGE THE IMPORTANCE OF ORGANIZING AN EFFICIENT VOLUNTARY REPATRIATION PROCESS. TO THIS END, THE GOVERNMENT OF TURKEY SHALL RESPOND WITHIN FOUR WEEKS WITH RESPECT TO EACH GROUP NOT EXCEEDING 250 RETURNEES, INCLUDING THE REQUIRED NOTIFICATION UNDER ARTICLE 10 (2).

4. DULY COMPLETED UNHCR VOLUNTARY REPATRIATION FORMS (VRFS), THE CONTENT OF WHICH SHALL BE MUTUALLY AGREED UPON BY THE PARTIES, SHALL BE RECOGNIZED AS VALID IDENTITY DOCUMENTS IN IRAQ AND TURKEY AND AS TRAVEL DOCUMENTS FOR THE PURPOSE OF THE REFUGEES' RETURN TO THEIR FINAL DESTINATIONS IN TURKEY.

5. FOR THE PURPOSE OF RECEIVING AND IDENTIFYING THE

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Sent: 04:49:00 03/06/2004
Cc: COALITION PROVISIONAL AUTHORITY(UC)
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TAGS: PREF, PREL, IZ, TU
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RETURNEES, AN INTERVIEW WILL BE CONDUCTED AT THE BORDER
BY THE RELEVANT TURKISH AUTHORITIES.

6. THE GOVERNMENT OF TURKEY SHALL ENSURE THAT RETURNEES
RECEIVE, IN A TIMELY MANNER, IDENTITY DOCUMENTS NORMALLY
ACCORDED TO TURKISH CITIZENS.

ARTICLE 17

PRESERVATION OF FAMILY UNITY

1. IN ACCORDANCE WITH THE PRINCIPLE OF FAMILY UNITY,
UNHCR, IN COOPERATION WITH THE OTHER PARTIES, SHALL MAKE
EVERY EFFORT TO AVOID THE INVOLUNTARY SEPARATION OF
FAMILIES. WHERE SUCH EFFORTS FAIL, A MECHANISM SHALL BE
ESTABLISHED FOR THEIR REUNIFICATION IN TURKEY.

2. IN ORDER TO PRESERVE THE UNITY OF THE FAMILY, NON-
TURKISH SPOUSES AND/OR CHILDREN OF REPATRIATING REFUGEES
SHALL BE ALLOWED TO ENTER AND REMAIN IN TURKEY AND
RECEIVE AN APPROPRIATE LEGAL STATUS. THE PRINCIPLE
ESTABLISHED HEREIN SHALL ALSO APPLY TO NON-TURKISH
SPOUSES AS WELL AS CHILDREN OF DECEASED TURKISH REFUGEES
WHO MAY WISH TO ENTER AND REMAIN IN TURKEY TO PRESERVE
FAMILY LINKS.

ARTICLE 18

SPECIAL MEASURES FOR VULNERABLE GROUPS

THE PARTIES SHALL TAKE SPECIAL MEASURES TO ENSURE THAT
VULNERABLE GROUPS RECEIVE ADEQUATE PROTECTION, ASSISTANCE
AND CARE THROUGHOUT THE REPATRIATION AND REINTEGRATION
PROCESS. THIS IS PARTICULARLY RELEVANT FOR SINGLE WOMEN,
MINORS, THE ELDERLY AND THE HANDICAPPED.

ARTICLE 19

DESIGNATED BORDER CROSSING POINTS

THE PARTIES SHALL AGREE ON BORDER CROSSING POINTS FOR
ORGANIZED VOLUNTARY REPATRIATION MOVEMENTS.

ARTICLE 20

IMMIGRATION, CUSTOMS AND HEALTH FORMALITIES

1. TO ENSURE THE EXPEDITIOUS RETURN OF REFUGEES AND THEIR BELONGINGS, THE AUTHORITIES IN IRAQ AND THE GOVERNMENT OF TURKEY SHALL EXPEDITE THEIR RESPECTIVE IMMIGRATION, CUSTOMS AND HEALTH FORMALITIES CARRIED OUT AT BORDER CROSSING POINTS.
2. REFUGEES SHALL BE ENTITLED TO BRING WITH THEM, FREE FROM IMPORT DUTIES, THEIR PERSONAL AFFECTS. REFUGEE FAMILIES SHALL BE ENTITLED TO BRING WITH THEM, FREE FROM IMPORT DUTIES, THEIR HOUSEHOLD AFFECTS. OTHER ITEMS WILL BE GOVERNED BY TURKISH LAW AND REGULATIONS.
3. IN VIEW OF HEALTH REGULATIONS, LIVESTOCK SHALL NOT BE ALLOWED TO ENTER INTO TURKEY.

ARTICLE 21

MOVEMENT AND SECURITY OF UNHCR STAFF AND RESOURCES

1. THE AUTHORITIES IN IRAQ AND THE GOVERNMENT OF TURKEY SHALL TAKE STEPS TO FACILITATE THE MOVEMENT OF STAFF AND PERSONNEL OF UNHCR AND OF ITS APPROVED IMPLEMENTING PARTNERS, AS WELL AS VEHICLES, RELIEF GOODS AND EQUIPMENT USED IN THE OPERATION INTO, WITHIN AND OUT OF IRAQ AND TURKEY. IN PARTICULAR, THEY SHALL AUTHORIZE UNHCR TO ISSUE TWO-WAY CROSS-BORDER TRAVEL AUTHORIZATIONS, THE FORMAT OF WHICH SHALL BE MUTUALLY AGREED UPON BY THE PARTIES AND UNHCR, TO SUCH STAFF AND PERSONNEL FOR THE DURATION OF THE REPATRIATION OPERATION.
2. UNHCR SHALL DULY INFORM THE OTHER PARTIES OF THEIR STAFF INVOLVED IN THE OPERATION AT ANY ONE TIME, AND NOTIFY THEM OF CHANGES AS APPROPRIATE.
3. THE AUTHORITIES IN IRAQ AND THE GOVERNMENT OF TURKEY SHALL TAKE REASONABLE AND APPROPRIATE STEPS TO PROVIDE FOR THE SECURITY AND SAFETY OF UNHCR STAFF AND ALL OTHER PERSONNEL ENGAGED IN THE REPATRIATION OPERATION PROVIDED FOR UNDER THIS AGREEMENT. SECURITY MEASURES SHALL NOT COMPROMISE ACCESS TO REFUGEES AND RETURNEES PROVIDED PURSUANT TO ARTICLE 14, INCLUDING THE CONFIDENTIAL NATURE OF UNHCR'S MONITORING CONTACTS WITH THEM, AS WELL AS THE
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PURELY HUMANITARIAN AND NON-POLITICAL NATURE OF UNHCR'S
 OPERATIONS OR THE PERCEPTION THEREOF.

ARTICLE 22

RE-INTEGRATION ASSISTANCE

THE GOVERNMENT OF TURKEY SHALL FACILITATE THE SUSTAINABLE
 ECONOMIC AND SOCIAL RE-INTEGRATION OF REPATRIATING
 REFUGEES THROUGH THE IMPLEMENTATION OF THE "RETURN TO
 VILLAGES AND REHABILITATION PROGRAM" AND OTHER ASSISTANCE
 MEASURES AS NECESSARY.

ARTICLE 23

RELIEF GOODS, MATERIALS AND EQUIPMENT

1. THE HIGH COMMISSIONER SHALL USE HIS BEST ENDEAVOURS TO
 OBTAIN THE RESOURCES REQUIRED FROM THE INTERNATIONAL
 COMMUNITY TO CARRY OUT THE REPATRIATION OPERATION AND, IF
 NECESSARY, TO PROVIDE RE-INTEGRATION SUPPORT IN ADDITION
 TO THE RE-INTEGRATION PROGRAMME OF THE GOVERNMENT OF
 TURKEY.
2. THE AUTHORITIES IN IRAQ AND THE GOVERNMENT OF TURKEY
 SHALL EXEMPT FROM THE RELEVANT TAXES, DUTIES AND LEVIES
 ALL RELIEF GOODS, MATERIALS, EQUIPMENT AND MEANS OF
 TRANSPORT DESTINED FOR USE IN THE REPATRIATION AND
 REINTEGRATION OPERATION. THEY SHALL EXPEDITE THE
 CLEARANCE AND HANDLING OF SUCH RESOURCES. ENTRANCE OF
 MEANS OF TRANSPORT INTO TURKEY WILL BE WITHIN THE
 FRAMEWORK OF THE PROVISIONAL IMPORT REGIME OF TURKEY.
3. THE AUTHORITIES IN IRAQ AND THE GOVERNMENT OF TURKEY
 HEREBY AUTHORIZE UNHCR TO USE UN COMMUNICATIONS
 EQUIPMENT, FREQUENCIES AND NETWORKS AND SHALL, WHENEVER
 OPERATIONAL REQUIREMENTS MAKE THIS NECESSARY, FACILITATE
 THE ALLOCATION OF OTHER FREQUENCIES, PROVIDED SUCH
 EQUIPMENT, FREQUENCIES AND NETWORKS DO NOT INTERFERE WITH
 MILITARY OR SECURITY NECESSITIES. THE RELEVANT WRITTEN
 AUTHORIZATIONS FOR EQUIPMENT, FREQUENCIES AND CROSS-
 BORDER NETWORKS SHALL BE ISSUED TO UNHCR.

ARTICLE 24

UNHCR FIELD OFFICES

UNHCR MAY, WHENEVER REQUIRED FOR THE PURPOSE OF A MORE EFFECTIVE DISCHARGE OF ITS RESPONSIBILITIES UNDER THIS AGREEMENT, ESTABLISH FIELD OFFICES AT LOCATIONS TO BE AGREED WITH THE PARTY CONCERNED.

ARTICLE 25

CONTINUED VALIDITY OF OTHER AGREEMENTS

THIS AGREEMENT SHALL NOT AFFECT THE VALIDITY OF ANY EXISTING AGREEMENTS, ARRANGEMENTS OR MECHANISMS OF COOPERATION BETWEEN THE PARTIES. TO THE EXTENT NECESSARY OR APPLICABLE, SUCH AGREEMENTS, ARRANGEMENTS OR MECHANISMS MAY BE RELIED UPON AND APPLIED AS IF THEY FORMED PART OF THIS AGREEMENT TO ASSIST IN THE PURSUIT OF THE OBJECTIVES OF THIS AGREEMENT, NAMELY THE VOLUNTARY REPATRIATION AND REINTEGRATION OF REFUGEES.

ARTICLE 26

RESOLUTION OF DISPUTES

ANY QUESTION ARISING OUT OF THE INTERPRETATION OR APPLICATION OF THIS AGREEMENT, OR FOR WHICH NO PROVISION IS EXPRESSLY MADE HEREIN, SHALL BE RESOLVED AMICABLY THROUGH CONSULTATIONS BETWEEN THE PARTIES.

ARTICLE 27

ENTRY INTO FORCE

THIS AGREEMENT SHALL ENTER INTO FORCE UPON APPROVAL BY THE PARTIES IN ACCORDANCE WITH THEIR RESPECTIVE PROCEDURES, AND NOTIFICATION THEREOF THROUGH DIPLOMATIC CHANNELS.

ARTICLE 28

AMENDMENT

THIS AGREEMENT MAY BE AMENDED BY MUTUAL AGREEMENT IN WRITING BETWEEN THE PARTIES.

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Security: This message has been digitally signed and encrypted

OTTUZYUW RUEHCAA0426 0660149-UUUU--RHMFIUU.
ZNR UUUUU ZZH
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FM SECSTATE WASHDC
TO RUEHAK/AMEMBASSY ANKARA
RUEHGV/USMISSION GENEVA
INFO RUEHAM/AMEMBASSY AMMAN
RHMFIUU/HQ COALITION PROVISIONAL AUTH BAGHDAD
RUCNDT/USMISSION USUN NEW YORK
BT
UNCLAS SECTION 09 OF 09 STATE 050426

~~SENSITIVE~~

E.O. 12958: N/A
TAGS: PREF, PREL, IZ, TU
SUBJECT: USG CLEARANCE OF TRIPARTITE AGREEMENT ON THE
REPATRIATION OF TURKISH REFUGEES FROM IRAQ

ARTICLE 29

REVIEW

AFTER THE PARTIES HAVE ASCERTAINED THAT UNHCR HAS SUBSTANTIALLY COMPLETED THE INTERVIEW AND REGISTRATION PROCESS FOR VOLUNTARY REPATRIATION, THE PARTIES WILL EVALUATE PROGRESS ACHIEVED AND WORK FOR SETTING, BY CONSENSUS, A TIMEFRAME FOR ACHIEVING DURABLE SOLUTIONS FOR THE TURKISH CITIZENS REMAINING IN IRAQ AS REFUGEES, AND THUS ALSO ALLOWING FOR THE CLOSURE OF THE RELEVANT CAMPS IN IRAQ, AND IN PARTICULAR THE MAKHMOUR CAMP.

IN WITNESS THEREOF, THE AUTHORIZED REPRESENTATIVES OF THE PARTIES HAVE HEREBY SIGNED THIS AGREEMENT.

DONE AT ..., THIS ... DAY OF 2004, IN THREE ORIGINALS, IN THE ENGLISH LANGUAGE, WHICH WILL BE THE AUTHORITATIVE VERSION FOR INTERPRETATION PURPOSES.

FOR THE AUTHORITIES IN IRAQ
MR. MOHAMMED JASSIM KHUDAYIR
MINISTER OF DISPLACEMENT AND MIGRATION

FOR THE GOVERNMENT OF TURKEY
MR. DARYAL BATIBAY
AMBASSADOR
DIRECTOR GENERAL FOR MULTILATERAL POLITICAL AFFAIRS
MINISTRY OF FOREIGN AFFAIRS

UNCLASSIFIED//

FOR THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES
MR. RAYMOND HALL
DIRECTOR OF THE REGIONAL BUREAU FOR EUROPE

END TEXT OF DRAFT TRIPARTITE AGREEMENT.
POWELL
BT
#0426

NNNN

UNCLASSIFIED//

From: SPANISH CIMIC NAJAF UNIT.
TO: CPA OFFICE OF THE SENIOR ADVISOR FOR THE MINISTRY OF
DISPLACEMENT AND MIGRATION.

NAJAF IDP,s

Najaf is increasing its population since the end of the war, the economical growing provokes a call effect to the people want to improve their social situation so a lot of Shiites migrate to the Holy City of Najaf.

We have registered more than 3.500 persons in our IDP,s list and the number is increasing every day. We use to support them with humanitarian aid in the five IDP,s areas we have found but the problem, as you know, is not going to be solve by this way. We have presented a proposal to Provincial CPA and the Provincial Governor that plans the building of a IDP,s camp and they have accepted the initiative. In this project we want to make a basic infrastructure (water, electricity, common services, etc.) to support the life of these displacement people into some part of the city districts.

It looks like there is no decision by Ministry of Housing about placing this camp or not. We spoke to the Governor in order to insist to this Ministry about the need of the camp and the same way we will address to the Ministry of Migration and Displacement People to get some help in this issue.

For this project it would be necessary to find a good location for this IDP,s camp where we can project any action.

We are looking forward to having any news from you.

We appreciate your interest about this issue.

Thank you very much.



REPLY TO
ATTENTION OF

HEADQUARTERS
COMBINED JOINT TASK FORCE SEVEN
BAGHDAD, IRAQ
APO AE 09335

Task Force Hope
(new file)

CJTF-7/TASK FORCE HOPE

21 February 2004

MEMORANDUM FOR RECORD for Ambassador Jones.

SUBJECT: Security and Personnel Requirements to complete Task Force Hope's Mission by June 30

1. Task Force Hope is a Joint US and Kuwaiti mission to find MIA and POW remains from the 1990-1991 Gulf War. Task Force Hope falls under CFLCC and CJTF-7, and has been endorsed by LTG Sanchez and COL (b)(6) and fully supported by CPA.. TF Hope has also been recognized and received praise from the Kuwaiti Prime Minister for assisting in the repatriation of Kuwaiti remains and it remains the wish of the Kuwaiti government that this effort continues.
2. Task Force Hope has successfully repatriated the remains of 75 MIA Kuwaitis in the past 7 months. There are still four mass grave sites in Al-Ramadi, Fallusjia, Najaf, and As-Samawa left for investigation. Recent information indicates that there are other individual grave sites as well as mass grave sites that have yet to be properly explored. Preparatory measures for excavating these sites has begun.
3. Due to the limited time remaining before the transfer of sovereignty on 1 July 2004 Task Force Hope must expedite its work, investigating multiple leads at once, in order to bring a timely resolution to the Kuwaiti POW/MIA mission. Currently, no replacement personnel have been identified for TF Hope under the current troop rotations. Therefor, the following individuals, who are part of the current TF Hope security team have requested to extend in theater after their parent unit returns to its home station:

(b)(6)

SSG/US ARMY
SGT/US ARMY
PFC/US ARMY

These personnel have been key team leaders to the TF Hope mission and are essential for training as well as the continuity of the mission. Given the condensed timeline and thus the immediate need to complete this mission by the transfer of sovereignty, it is requested that these individuals be extended until 1 AUG 2004, allowing ample time after the transfer of sovereignty to recover and redeploy all Kuwaiti equipment and personnel.

4. TF Hope is requesting an additional 8-16 security personnel and 4-6 Civil Affairs personnel. These personnel should be of the rank of E-4 through E-6. The security

personnel should be from a combat arms unit, preferably 19D BRT. The additional requirements will allow the Task Force to continue its mission to completion by the transfer of sovereignty. The purpose of the CA personnel is to build better personal relationships with potential contacts, disavowing them of the notion that TF Hope is an intelligence operation. Additional support shall continue to be fulfilled by CJTF-7, III and I Corps in the way of access to secure communications (i.e. SIPR net), billeting, meals and any additional logistical support.

5. A dedicated security team is required in order to facilitate the swift recovery of all the KU remains at the selected sites before the transfer of authority. Currently the MSC are tasked with security but that has proved to be a time consuming task due to the rotation of MSC's in theater. We recommend a platoon of MP's be attached to the Kuwaiti forensic and excavation team in order to circumvent the need to attach a different security detail for each dig site.
6. It should be noted that the Kuwaiti government has provided state of the art equipment for TF Hope to achieve its mission. TF Hope has made great strides in the Kuwaiti reconciliation process and should be supported to complete its mission. This will not only support a key coalition partner but contribute to stability in the region.

(b)(6)

CPT, MI
CJTF-7/CFLCC C-2 LNO

Issues for TF Hope:

1. Problem: Need to establish a KU TF commander in Baghdad that can make "on the ground" decisions on behalf of the KU civilians in the TF.

Impact: Will streamline the communications between KU Ministries and the TF on issues concerning orders and administration.

Recommendation: Establish a TF commander with a clear and established Chain of Command that are the only ones that can issue orders to the KU's in the TF. Ensure that there are minimal amount of personnel in this chain so that all orders come via KU are valid and thorough.

Eiv or Mil -

2. Problem: There has not been any preparation for the change over from CPA to Iraqi governing council with regards to where TF Hope would fall under. Will it fall under humanitarian (IQ ministries) or Coalition military?

Impact: Without a proper forecast the KU government may fail to properly prepare for a change in the way operations are handled and cause friction if the IQ ministries handle the matters especially concerning security.

DI
consult w.
BSC &
CDTF-7

Recommendation: Retain TF Hope under a military authority (through a new FRAGO or OPORD) and not IQ authority. If that is not possible, inform the KU government as soon as possible so contingency plans can be formulated.

Recommendation

3. Problem: TF Hope requires more support in the way of US military personnel.

Impact: With ^{out} more security personnel the TF will not be able to accomplish missions as quickly as desired in order to repatriate the remains in an effective manor.

Total of 8
US Mil
combat
units
Level - 6's
Chick 3
who
want to
of team)

4 Problem: Plan for a better response time for KU forensic teams. They say they are willing but are delayed due to planning constraints.

Impact: The mass grave sites could be defiled or tainted by persons that would wish to hide or cause further suffering to the KU people.

Recommendation: Institute a streamlined plan due to the number of mass graves that need to be excavated and have security personnel tasked in advance but ensure that once mass graves or burial sites are identified, they are given proper security in a timely manor.

5. Problem: 3 US personnel are requesting extensions of their orders to stay in country until 01 AUG 2004 because a transformation period has not been established for security personnel since the current security personnel's unit is prepared to redeploy to their home station soon. These security personnel have been notified to RTU by 23 or 24 Feb 2004.

Impact: The lack of a team to transition to security puts the KU's in TF Hope at risk and severely impairs their mission due to the lack of ability to co-ordinate with Coalition Forces and plan using Coalition assets.

Recommendations: Co-ordinate for the 3 US personnel that volunteer to extend, remain at TF Hope until 01 Aug 2004 in order to properly transition any new security team members and assist in the repatriation of the KU remains. This can be done by extension orders, CJTF-7 FRAGO, or TCS orders.

6. Problem: The team no longer has OGA contacts to pass along potentially vital information in a timely manor.

Impact: Part of the TF Hope consists of KSS personnel that are party to time sensitive information that could be of use by US OGA's in order to gain intelligence that could aid in future operations since most IQ's are more comfortable talking to KU's than US especially since the IQ informants view KU's as Arab brothers that would be willing to pay money for information.

Recommendations: Establish better Lines of Communication between the OGA's in IQ and the KSS personnel. There also might be the need to issue the KSS personnel OGA badges so that they could gain access to the OGA building to pass sensitive information in a more timely manor without the possibility of unsecure communications via cell phones.

7. Problems: Many IQ's associate the TF Hope personnel with military intelligence and OGA.

Impact: Many IQ's are fearful that TF Hope is seeking reprisals for the 1990 Gulf War or seeking intelligence information in IQ. Putting a humanitarian image on the TF could help with their gathering of information concerning the POW's/MIA's.

Recommendations: Place TF Hope under C-9 instead of how it currently falls under C-2. Another resolution is to attach a CA team to each of TF Hope's AOR's to better establish a humanitarian image to the IQ people.



COALITION PROVISIONAL AUTHORITY

BAGHDAD

ACTION MEMO

February 21, 2004

040221-15
J. Hession
Displacement
&
Migration

FOR: ADMINISTRATOR

FROM: (b)(6) Deputy Senior Advisor,
Ministry of Displacement and Migration
Acting IPCC Point of Contact

SUBJECT: IPCC Update and Implementation Plan

Sir,

This memorandum updates you on the tasks that have been completed to initiate operations of the Iraq Property Claims Commission (IPCC), summarizes the issues that remain unresolved, and proposes for your approval recommendations for staffing and technical support for the IPCC, as well as a revised timeline. I would like to meet with you to review the key issues below and answer any questions you might have.

COMPLETED TASKS. We have taken a number of steps to establish a minimally functioning property claims commission. Five governorates have equipped office space with supplies, five have identified staff, and one (Baghdad) has begun initial staff training. Six governorates have identified the means by which they will ensure that IPCC offices are secure. Meanwhile, we have made progress on a number of legal and policy issues relating to the IPCC: the claim form and corresponding directions are undergoing their final revisions, and the first set of instructions (which will govern the composition of the IPCC, and the processing of claims before the IPCC) are near complete. As of yesterday the Council of Judges has identified judges to serve as Chairpersons of the Regional Commissions in Baghdad and Kirkuk. Finally, we are working with Strategic Communications to develop a well-tailored public information campaign.

Before initiating this mass claims program, there are some fundamental policy issues that need to be addressed by CPA and/or the Iraq Governing Council (IGC). Assuming minimal delay in making those decisions, I estimate that offices can begin releasing claim forms by the end of February and that all IPCC offices could be open by the end of March.

ISSUES TO RESOLVE. Below are the policy issues that have come to the fore, and I would like to seek your approval on four recommendations for the IPCC.

1. Identify the IPCC's parameters. The IPCC's parameters are not clearly defined in the Order. We should identify these parameters to the extent possible before accepting claims in order to avoid the later rejection of potentially thousands of ineligible claims. Clear eligibility criteria also would minimize the uncertainty and insecurity among claimants, ensure that their expectations are realistic (many Iraqis believe the IPCC will address a myriad of injustices done by the former regime) and render the process reasonably manageable and secure in the field. The key parameters issues are:

- *Define the scope of the IPCC's jurisdiction.* We have already decided to exclude from the IPCC's jurisdiction claims for damages to property because such claims would overtax the

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system. Yet we still must determine whether the IPCC will consider, e.g., contending property rights arising out of inter-Kurdish fighting, and claims to restore the right to use land owned by someone else.

- o Claims Intake Locations. The Order currently stipulates that claims must be filed in the governorate where the property is located. Because such a rule likely would likely cause large movements of people, including from Iran and Jordan, our draft instructions propose allowing claimants to file claims (sometimes by mail) at an IPCC office other than the one in the governorate where the property is located, so long as the claimant requests that the claim be forwarded onto the appropriate IPCC office. This issue has been a contentious issue in the Governing Council. UNHCR may act as a conduit for claims from refugees and other Iraqis outside of Iraq.

We will coordinate with Governance and MOJ to develop a position on these issues before including them in the Instructions we propose to the IGC.

2. Identify Iraqi role. The statute requires the IGC to issue guidelines and instructions governing the IPCC process. We have nearly completed a set of draft instructions on the composition of the IPCC and the processing of claims before the IPCC, but we have not yet shared them with the IGC. I have discussed with Scott Carpenter how best to obtain IGC approval without inordinate delay.

3. Public Information. After policy decisions are made and we have agreement with the IGC, we will strengthen the public information campaign. The plan agreed with Strategic Communications is to simultaneously seek IGC concurrence on the Instructions and Talking Points for a press release. We will then focus information campaigns regionally until the final office is near opening, when we will launch a more aggressive, country-wide campaign. We will work closely with CPA North on this, where managing expectations will be particularly important. IPCC will need to work with other entities to reach the Iraqis outside of Iraq, particularly in Iraq and Jordan where we will need to discourage returns to file claims, through encouraging patience and informing of any mechanisms for filing out of country, than can be agreed with the IGC.

3. IPCC Staffing. The IPCC is a substantial undertaking, and its operations cannot be commenced without a trained staff, a systematized process and significant coordination. For comparison, to resolve 350,000 claims in eight years (we expect over 300,000), the Commission for Real Property Claims in Bosnia employed 400 staff members at sixteen local offices under the oversight of international experts in the field. Due to the urgency of launching the IPCC, I have pulled together a task force including people from Governance, the Ministry of Justice (MOJ), Strategic Communications, CJTF7, and OGC (b)(6) is visiting from State L/CID). However, this is an ad hoc measure and includes only one person committed full-time through February 25th (the operations planner from CJTF7). Because the start-up phase of the IPCC is very labor intensive, the IPCC requires staff that can focus on it exclusively (e.g., from CJTF-7 and/or CPA personnel currently assigned to other tasks) until permanent advisors are in place. As well, I have spoken to professionals with expertise administering mass property claims commissions in the Balkans who would be excellent permanent advisors to the IPCC and have expressed interest.

4. Technical Support / Database. At the same time, the Ministry should consider hiring an organization with expertise in mass claims processes to serve in a technical support role to the IPCC, especially for the creation of a database. In light of the number of expected claims, the IPCC will need an advanced IT system, including a well-designed database, to process information efficiently and to identify recurring fact patterns. Currently, no entity has been identified to

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perform this task, so, unless we delay the intake process pending the development of a database, we will have a large backlog of unprocessed claims. To minimize that backlog, we must immediately contract out the development of a database. IOM claims to have done substantial preliminary work on an IT design but estimates that it would take approximately two months to be ready for operations. I am aware of the history with IOM but believe the Ministry should consider IOM as an option; any other group with the same skill sets as IOM would have to start the process from scratch.

5. Locate the IPCC within the GOI. The IPCC is a legal entity for resolving conflicting property rights, and its decisions are intended to have binding effect (without the possibility of judicial review). Moreover, upon expiration of the December 31 filing deadline, all property claims are to be submitted to the Iraqi courts. In light of these legal elements, the mission of the IPCC might be more closely linked with other institutions, than with the MoDM. The IPCC will continue to receive support from the MoDM, but there may be a more suitable "home" for it within the GOI.

WAY AHEAD. It would be usual (and desirable) to resolve most of the above issues before launching a mass claims program, but such an approach may not be possible in light of the current political situation. Below for your approval are recommendations for IPCC start up, and for a revised timeline:

RECOMMENDATION (1): That staff be immediately and temporarily assigned to the IPCC to assist with project start-up, pending the hiring of a permanent staff. With your approval, MoDM will coordinate with Strategic Communications, CJTF-7 and CPA's Human Resources to locate available personnel.

Approve: _____ Disapprove: _____ Approve with modification: _____

RECOMMENDATION (2): That professionals with experience in mass claims processes and property law be hired as IPCC Advisors, as quickly as possible. MoDM will work with CPA's Human Resources on this issue.

Approve: _____ Disapprove: _____ Approve with modification: _____

RECOMMENDATION (3): That MoDM engage an organization to provide technical advice to the IPCC National Secretariat and to create a national database of claims.

Approve: _____ Disapprove: _____ Approve with modification: _____

RECOMMENDATION (4): That the Administrator approve the attached revised timeline and milestones for commencing IPCC activities.

Approve: _____ Disapprove: _____ Approve with modification: _____

ATTACHMENTS: (1) Revised Timeline

COORDINATION: (b)(6) - OK
Governance (b)(6) - OK
General Counsel (b)(6) - OK
CJTF7 - OK

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IPCC TIMELINE

DATE	KEY STEPS
FEB	
Ongoing	<ul style="list-style-type: none"> • Identify and equip IPCC offices throughout Iraq. • Identify and hire staff. • Find organization to create database and communications network.
25	<ul style="list-style-type: none"> • Claim Form and Filing Directions finished in English and Arabic • Initial Instructions Complete • *Initiate Iraqi approval of draft Instructions (governing the composition of the IPCC and the process for filing claims before the IPCC)
26	Draft Instructions governing the substantive rules for decision-making and compensation.
26	Send Claims Forms, Directions and Training Material to field electronically (initiate Kurdish translation in Irbil)
28	Claim Labels expected to arrive in Baghdad
** (28)	Obtain Iraqi approval of Instructions. Print Claim Forms and Directions (Directions depend on Instructions)
(28)	Public Information campaign starts to focus on regions where offices will be opening
(29)	Train staff in Baghdad
29	Send labels to Regional Offices, for distribution to Governorates
(ASAP after approval)	Open offices and release Claim Forms in Baghdad
(1+ wks after Baghdad starts)	Open offices in Irbil/Sulemaniyah
(2+wks after Irbil/Suli open)	Kirkuk and Mosul to open
MARCH	
(30)	<ul style="list-style-type: none"> • All offices in Iraq open • All IPCC staff on board
30	Instructions governing substantive rules for decision-making and compensation complete

* It is important to get Iraqi approval of the **Initial Instruction** as important (and controversial) issues such as jurisdiction of the IPCC and locations for claims submission are elucidated in the Guidelines and Instructions. Before launching a public information campaign (which will require the support of Iraqi leaders), as well as a mass claims intake process, we must ensure that the Iraqi leadership agrees with and supports these critical, fundamental issues.

** the dates in brackets () are not definite and are contingent upon receiving Iraqi approval of the Guidelines and Instructions.



COALITION PROVISIONAL AUTHORITY

BAGHDAD

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INFO MEMO

January 15, 2004

FOR: THE ADMINISTRATOR
FROM: (b)(6) Senior Advisor, Ministry of Displacement and Migration
SUBJECT: January 21 Meeting in Ankara on the Repatriation of Refugees to Turkey.

Sir,

I wanted to apprise you of an important issue in our ministry -

A UNHCR-drafted agreement allowing the **voluntary repatriation of Kurdish-Turk refugees in Iraq** is slated to be signed **January 21 in Ankara**. PRM's Assistant Secretary Gene Dewey will lead the USG delegation, UNHCR Assistant High Commissioner Morjane will lead the UNHCR delegation, Undersecretary Sensoy will attend for Turkey. I plan to attend with Minister Al-Otbee and my Deputy Senior Advisor.

While negotiations are still underway, the USG (PRM), UNHCR and the Government of Turkey are pushing for something to be signed on January 21 (see attached STATE 005739). Iraq is one of the signatories of the agreement but currently the document is still under review by the CPA and the IGC. The General Counsel's Office and the Governance Team are currently dealing with the agreement and are aware that the document is to be signed on January 21. However, I am concerned that with the relatively short amount of time CPA and the IGC have been given to work on the document, we may not be able to reach this deadline.

The agreement was given to Minister Al-Otbee of Displacement and Migration, who informed me that he passed it to the IGC early this week (this is not confirmed by the Governance Team, this is what the Minister reports). While Minister Al-Otbee agrees with the text of the agreement, it is vital that we get IGC concurrence on this as well.

General Counsel's office is reviewing the documents and has been notified of the developments in the negotiations between UNHCR and the GOT and is expected to provide input on the matter soon.

One of the key issues is the signatories on the agreement - the GOT is insisting that both a CPA and an Iraqi Ministerial representative sign the agreement. The General Counsel is reviewing the facets of this issue, including who can sign for the CPA, if this is decided.

This agreement is the culmination of numerous discussions and meetings, negotiating the principles for the return of these refugees. It will provide a durable solution for potentially hundreds of refugees currently living in Northern Iraq and if signed, will be an important development in Iraqi-Turkey relations.

My office will continue to coordinate with the General Counsel and the Governance team to move this through as quickly as possible. We hope to have an Action Memo to you on the issue tomorrow morning, but wanted you to be apprised of the situation.

ATTACHMENTS: As stated, STATE 005739

COORDINATION: Governance, (b)(6) - info
General Counsel (b)(6) - info



COALITION PROVISIONAL AUTHORITY
BAGHDAD

For Affairs
Displ &

~~Exec Sec - Migration~~
~~Dir IIPB~~

INFO MEMO

December 20, 2003

FOR: (b)(6)
FROM: (b)(6) Senior Advisor for the Ministry of Displacement and Migration
SUBJECT: Request for Telecommunications Support – New Ministry Use

The Iraqi Ministry of Displacement and Migration was created in September 2003. The Ministry is now temporary located in the building of the old UNHCR office, but it has no ITPC telephone lines in the building. Although the Minister himself and some members of his staff have MCI-issued cell phones, the quality of the MCI network signal in the Riyadh neighborhood is very poor, which makes it virtually impossible to use the cell phones. The Ericsson/MCI desktop telephones, however, solve this problem as they have greater signal reception. Moreover, as the Ministry will be relocated to its permanent building over the next month or two, the Ericsson/MCI desktop telephones will allow it to maintain its telecommunications capability.

In order to carry out its mission, the Ministry needs to be able to establish contacts with international organizations that assist with returnees, displacement, migration, and training of its newly recruited staff, such as UNHCR and IOM, which do not have an office operating in Baghdad at the moment. Therefore, the Ministry needs to have access to international telephone lines. Additionally, the Minister's PSDs need to be able to communicate among themselves and the Minister has requested our support on this matter.

Urgent Request:

- 3 Ericsson/MCI (F221m) desktop telephones with international lines
- 3 Ericsson/MCI (F221m) desktop telephones with local lines
- 6 Walkie-talkies for PSDs

Other Requirements:

- 10 MCI portable cell phones
- 10 ITPC analog telephone lines, 3 with international lines (bldg. coordinates: Lat. N 33o 17' 43.26", Lon. E 44o 26' 06.68")

Recommendation: That you approve above telecommunications request in support of the Ministry.

Approve:

Disapprove:

Approve with modification:

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Coalition Provisional Authority UC

Migration

Subject: FW: BROAD CONSENSUS ON

OTTUZDKW RUEHAKA0509 0270848-UUUU--RHMFIUU.
ZNR UUUUU ZZH
O 270848Z JAN 04 ZDK CTG SVC
FM AMEMBASSY ANKARA
TO RUEHC/SECSTATE WASHDC
INFO RHMFIUU/HQ COALITION PROVISIONAL AUTH BAGHDAD
RUCNRAQ/IRAQ COLLECTIVE
RUEKJCS/DIA WASHDC
RUEGNOA/HQ USEUCCM VAIHINGEN GE
RUEKJCS/JOINT STAFF WASHDC//J-3/J-5//
RUEUTH/ODC ANKARA TU//TCH//
RUEKJCS/SECDEF WASHDC//USDP:PDUSDP//ISA:EUR/ISA:NESA/DSCA//
RUCAACC/USCINCCENT MACDILL AFB FL//J3//
RUCAACC/USCINCCENT MACDILL AFB FL//POLAD//
BT
UNCLAS SECTION 01 OF 08 ANKARA 000509

James G. ...
CPA/Displacement
Migration
Kelley

~~SENSITIVE~~

DEPT. FOR PRM, IO, EUR/SE AND NEA/NGA

E.O. 12958: N/A
TAGS: PREL, PREF, PHUM, PTER, TC, IZ
SUBJECT: TURKISH REFUGEES IN IRAQ: BROAD CONSENSUS ON
CONTENT OF AGREEMENT REACHED BETWEEN TURKEY, IRAQ, US AND
UNHCR

REF: A. STATE 5739
B. 03 ANKARA 7213

1. ~~CPA~~ AFTER THREE DAYS OF INTENSE, HARD-FOUGHT
NEGOTIATIONS IN ANKARA JANUARY 20-22 BETWEEN TURKISH,
IRAQI/CPA, US AND UNHCR REPS ON A DRAFT AGREEMENT FOR THE
REPATRIATION OF TURKISH REFUGEES FROM IRAQ, THE PARTIES
REACHED BROAD CONSENSUS ON THE CONTENT OF AN AGREEMENT. A
TEXT REFLECTING THAT CONSENSUS WAS NEGOTIATED (TEXT AT PARA
3) BUT WAS NEITHER SIGNED NOR INITIALED, PENDING FINAL
APPROVAL FROM THE NEGOTIATING PARTIES. THE UNHCR AND IRAQI
REPS WERE PREPARED TO SIGN THE DOCUMENT AS IS. TURKEY ASKED
FOR A LETTER FROM THE SECRETARY OF STATE PLEDGING THE USG'S
SUPPORT FOR THE IMPLEMENTATION OF THE AGREEMENT FOR ITS
DURATION BEFORE TURKISH REPS WOULD SIGN. L AND CPA GENERAL
COUNSEL ARE CURRENTLY REVIEWING THE TEXT IN THE CONTEXT OF
THE TURKISH REQUEST. THE PARTIES AGREED THAT ANY REQUIRED
CHANGES BE CIRCULATED AND AGREED BY FAX, E-MAIL OR DIPLOMATIC
CORRESPONDENCE, AND THAT SIGNATURES WOULD BE DONE BY FAX
IF/WHEN FINAL APPROVALS ARE FORTHCOMING.

2. (U) THE TURKISH SIDE WAS REPRESENTED BY MFA DEPUTY
UNDERSECRETARY NABI SENSOCY ON JAN. 20 AND BY DIRECTOR GENERAL
FOR MULTILATERAL AFFAIRS AMB. DARYAL BATIBAY JAN. 21-22, AS
WELL AS DEPUTY DG FOR MULTILATERAL AFFAIRS TUNC UGDUL AND
MULTILATERAL AFFAIRS DESKOFF ALP AY. THE IRAQI/CPA
DELEGATION INCLUDED MINISTER FOR DISPLACEMENT AND MIGRATION
MOHAMMED JASSIM KHUDAYIR AL-OTBEE, MINISTRY OF DISPLACEMENT
STAFFER MOHAMMED ABDULAZIZ HUSSEIN, CPA SENIOR ADVISOR TO THE
MINISTRY OF DISPLACEMENT AND MIGRATION JOSE LAMEGO AND CPA
DEPUTY SENIOR ADVISOR TO THE MINISTRY OF DISPLACEMENT AND
MIGRATION JENNIFER JOHNSON. THE UNHCR WAS REPRESENTED BY
ASSISTANT HIGH COMMISSIONER FOR REFUGEES KAMEL MORJANE (CAN.

21 ONLY), EUROPE DIRECTOR RAYMOND HALL, DEPUTY DIRECTOR OF INTERNATIONAL PROTECTION WILBERT VAN HOVELL, TURKEY REP GESCHE KARRENBROCK, AND DEPUTY TURKEY REP STEVE CORLISS. THE US DELEGATION INCLUDED ASSISTANT SECRETARY FOR POPULATION, REFUGEES AND MIGRATION ARTHUR DEWEY, PRM OFFICER ANDY WYLLIE AND EMBOFFS.

3. ~~(S)~~ THE NEGOTIATED TEXT UNDER CONSIDERATION READS AS FOLLOWS:

VOLUNTARY REPATRIATION AGREEMENT

THE GOVERNMENT OF TURKEY, THE AUTHORITIES IN IRAQ AND THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) (HEREINAFTER REFERRED TO AS THE &THE PARTIES&),

(A) RECOGNIZING THAT THE RIGHT OF ALL CITIZENS TO LEAVE AND TO RETURN TO THEIR COUNTRY IS A BASIC HUMAN RIGHT ENSHRINED, INTER ALIA, IN ARTICLE 13(2) OF THE 1948 UNIVERSAL DECLARATION OF HUMAN RIGHTS AND ARTICLE 12 OF THE 1966 INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS;

(B) RECALLING THAT THE UNITED NATIONS GENERAL ASSEMBLY RESOLUTION 428 (V) OF 14 DECEMBER 1950, WHICH ADOPTED THE STATUTE OF UNHCR, ASCRIBES TO THE HIGH COMMISSIONER THE FUNCTION OF PROVIDING INTERNATIONAL PROTECTION TO REFUGEES AND OF SEEKING PERMANENT SOLUTIONS FOR THE PROBLEMS OF REFUGEES, INTER ALIA, BY PROMOTING AND FACILITATING THEIR VOLUNTARY REPATRIATION AND RE-INTEGRATION IN THEIR COUNTRY OF ORIGIN;

(C) RECOGNIZING THAT VOLUNTARY REPATRIATION, WHERE FEASIBLE, CONSTITUTES THE PREFERRED DURABLE SOLUTION FOR THE PROBLEMS OF REFUGEES, AND THAT THE ATTAINMENT OF THIS SOLUTION REQUIRES THAT REFUGEES ARE ABLE TO RETURN IN CONDITIONS OF SAFETY AND DIGNITY;

(D) NOTING THAT CONCLUSIONS 18 (XXXI) AND 40 (XXXVI) OF THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER,S PROGRAMME CONSTITUTE INTERNATIONALLY ACCEPTED PRINCIPLES AND STANDARDS GOVERNING THE VOLUNTARY REPATRIATION OF REFUGES;

(E) NOTING WITH APPRECIATION THE STATED WILLINGNESS OF THE GOVERNMENT OF TURKEY TO WELCOME BACK, IN CONDITIONS OF SAFETY AND DIGNITY, ALL TURKISH CITIZENS PRESENT AS REFUGEES IN IRAQ, WHO WISH TO REPATRIATE TO AND REBUILD THEIR LIVES IN TURKEY;

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(F) AGREEING ON THE CLOSURE OF THE RELEVANT REFUGEE CAMPS IN
IRAQ AND IN PARTICULAR THE MAKHMOUR CAMP BY FINDING
APPROPRIATE DURABLE SOLUTIONS FOR THE TURKISH CITIZENS
PRESENT AS REFUGEES IN IRAQ WHO DO NOT AVAIL THEMSELVES OF
THE VOLUNTARY RETURN PROCESS;

(G) RECOGNIZING THE NEED TO DEFINE THE SPECIFIC PROCEDURES
AND MODALITIES FOR THE VOLUNTARY REPATRIATION AND
REINTEGRATION OF REFUGEES FROM TURKEY CURRENTLY IN IRAQ WITH
THE ASSISTANCE OF UNHCR, AS MAY BE SUPPORTED BY OTHER UNITED
NATIONS AGENCIES AND INTERGOVERNMENTAL ORGANIZATIONS, AND
WHERE APPROPRIATE AND WITH THE CONSENT OF THE RELEVANT PARTY,
BY NON-GOVERNMENTAL ORGANIZATIONS;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

DEFINITIONS

FOR THE PURPOSE OF THIS AGREEMENT,

1. THE TERM "AUTHORITIES IN IRAQ" SHALL, FOR THE PURPOSE OF
IMPLEMENTING THIS AGREEMENT, COMPRISE THE GOVERNING COUNCIL
OF IRAQ AND ITS SUCCESSOR(S), NOTING THAT THE AUTHORITIES IN
IRAQ WILL FULLY IMPLEMENT THIS AGREEMENT IN CLOSE
COORDINATION WITH THE COALITION PROVISIONAL AUTHORITY DURING
ITS MANDATE.

2. THE TERM "REFUGEE" SHALL MEAN ANY TURKISH CITIZEN, AS
DEFINED IN THE TURKISH LAW ON NATIONALITY, WHO IS LIVING AS A
REFUGEE IN IRAQ.

3. THE TERM "RETURNEE" SHALL MEAN ANY REFUGEE AS DEFINED IN PARAGRAPH 2 OF THIS ARTICLE, WHO HAS VOLUNTARILY RETURNED TO TURKEY PURSUANT TO THIS AGREEMENT.

ARTICLE 2

ESTABLISHMENT OF A VOLUNTARY REPATRIATION COMMISSION

A VOLUNTARY REPATRIATION COMMISSION IS HEREBY ESTABLISHED BY THE PARTIES.

ARTICLE 3

COMPOSITION OF THE COMMISSION

1. THE COMMISSION SHALL COMPRISE THREE MEMBERS; EACH OF THE PARTIES SHALL DESIGNATE A MEMBER. THE DELEGATION OF IRAQ WILL INCLUDE A REPRESENTATIVE OF THE COALITION PROVISIONAL AUTHORITY THROUGHOUT THE DURATION OF THE AUTHORITY'S MANDATE.

2. ANY MEMBER OF THE COMMISSION MAY BE ACCOMPANIED TO ITS MEETINGS BY ADVISERS.

3. WHERE A MEMBER IS UNABLE TO ATTEND TO ANY BUSINESS OF THE COMMISSION, THAT MEMBER SHALL DESIGNATE A SUBSTITUTE.

ARTICLE 4

ROLE AND FUNCTION OF THE COMMISSION

THE COMMISSION SHALL CONSIDER AND AGREE UPON BY CONSENSUS OR ADVISE THE PARTIES ON SUCH MATTERS OR MEASURES AS MAY BE NECESSARY FOR THE IMPLEMENTATION OF THIS AGREEMENT.

ARTICLE 5

MEETINGS OF THE COMMISSION

1. MEETINGS OF THE COMMISSION MAY BE CONVENED WHENEVER NECESSARY AND AT SUCH VENUE AS MAY BE AGREED UPON.

2. THE COMMISSION SHALL ADOPT ITS OWN RULES OF PROCEDURE.

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AD HOC ARRANGEMENTS/LIAISON OFFICERS

THE PARTIES SHALL DESIGNATE LIAISON OFFICERS AT THEIR
RESPECTIVE DIPLOMATIC MISSIONS OR, IN THE CASE OF UNHCR,
OFFICES IN ANKARA, BAGHDAD AND GENEVA WITH POWERS TO DEAL
WITH UNFORESEEN OPERATIONAL ISSUES ON AN AD HOC BASIS.
LIAISON OFFICERS WILL ALSO BE DESIGNATED BY THE COALITION
PROVISIONAL AUTHORITY THROUGHOUT THE DURATION OF ITS MANDATE.

ARTICLE 7

VOLUNTARY CHARACTER OF REPATRIATION

1. THE PARTIES HEREBY REAFFIRM THAT THE REPATRIATION OF
REFUGEES RELEVANT TO TURKEY SHALL ONLY TAKE PLACE AT THEIR
FREELY EXPRESSED WISH BASED ON THEIR FULL KNOWLEDGE OF
RELEVANT FACTS.
2. THE AUTHORITIES IN IRAQ SHALL ENSURE THAT THE REFUGEES CAN
REACH AND EXPRESS THEIR DECISION WITHOUT COERCION,
INTIMIDATION OR THREATS FROM ANY PERSONS WHO MIGHT BE OPPOSED
TO REPATRIATION. ANY MEASURES WHICH MAY BE NECESSARY IN THIS
REGARD SHALL BE TAKEN IN CLOSE CONSULTATION WITH UNHCR AND IN
CONFORMITY WITH RELEVANT STANDARDS OF LAW.

ARTICLE 8

FREEDOM OF CHOICE OF DESTINATION

1. THE GOVERNMENT OF TURKEY AGREES THAT THE RETURNEES SHALL
BE FREE IN PRINCIPLE TO RETURN TO, AND SETTLE IN, THEIR
FORMER PLACES OF RESIDENCE OR ANY OTHER PLACES OF THEIR
CHOICE WITHIN TURKEY. EXCEPTIONS TO CHOICE OF SETTLEMENT CAN

BE BASED ON COMPELLING REASONS OF SECURITY OR ADMINISTRATIVE REQUIREMENTS IN THE INTEREST OF THE INDIVIDUAL CONCERNED, SUCH AS THE AVAILABILITY OF PUBLIC SERVICES, IN WHICH CASES HE/SHE SHALL BE DULY NOTIFIED PRIOR TO RETURN.

2. RETURNEES WILL BE ENTITLED TO ASSISTANCE, AS REQUIRED, AND THEIR RIGHTS SHALL BE RESPECTED IN THE FRAMEWORK OF THE TURKISH LAW. RETURNEES SHALL BENEFIT FROM THE RETURN TO VILLAGES AND REHABILITATION PROGRAMS TO FACILITATE THEIR SETTLEMENT.

ARTICLE 9

RETURN IN SAFETY AND WITH DIGNITY

1. THE PARTIES AGREE THAT THE VOLUNTARY REPATRIATION OF REFUGEES UNDER THIS AGREEMENT SHALL TAKE PLACE ONLY WHEN THERE EXIST CONDITIONS CONDUCTIVE TO THEIR RETURN IN SAFETY AND WITH DIGNITY TO PLACES OF FINAL DESTINATION.

2. WHEREAS THE AUTHORITIES IN IRAQ SHALL RETAIN RESPONSIBILITY FOR THE SAFETY AND SECURITY OF THE REPATRIATING REFUGEES WHILE ON THE TERRITORY OF IRAQ, INCLUDING IN CAMPS, TRANSIT FACILITIES AND DURING CONVOY MOVEMENTS EN ROUTE TO THE DESIGNATED BORDER CROSSING POINTS, THE GOVERNMENT OF TURKEY SHALL BE RESPONSIBLE FOR THE SAFETY AND SECURITY OF THE RETURNEES ONCE WITHIN THE TERRITORY OF TURKEY.

ARTICLE 10

ASSURANCES UPON RETURN

1. THE GOVERNMENT OF TURKEY SHALL ISSUE, IN PRINT AS WELL AS, WHEN APPROPRIATE, THROUGH BROADCAST MEDIA, PUBLIC MESSAGES TO WELCOME AND TO ENCOURAGE TURKISH CITIZENS PRESENT AS REFUGEES IN IRAQ TO VOLUNTARILY REPATRIATE IN SAFETY AND DIGNITY, AND WITH THE FULL ENJOYMENT OF THEIR RIGHTS AS CITIZENS OF THE REPUBLIC OF TURKEY.

2. REFUGEES SHALL BE NOTIFIED, PRIOR TO RETURN, WHETHER OR NOT THEY ARE SUBJECT TO ANY PENDING CRIMINAL INVESTIGATIONS, CHARGES, OR CONVICTIONS IN ABSENCE WITH REGARD TO ANY VIOLATION OF TURKISH LAWS. ANY VIOLATION REGARDING THE ILLEGAL EXIT FROM THE COUNTRY, SHALL BE CONSIDERED UNDER THE STATUTE OF LIMITATION AS STIPULATED IN ARTICLE 102 OF THE TURKISH PENAL CODE.

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3. REFUGEES SHALL HAVE FULL ACCESS TO ALL LEGAL REMEDIES PROVIDED IN ACCORDANCE WITH TURKISH LAW.
4. THE GOVERNMENT OF TURKEY SHALL DEFER THE COMMENCEMENT OF MILITARY SERVICE BY RETURNEES FOR A PERIOD OF 6 MONTHS UPON THEIR REPATRIATION FROM IRAQ.
5. THE GOVERNMENT OF TURKEY SHALL ENSURE THAT RETURNEES HAVE ACCESS TO LAND FOR SETTLEMENT AND USE, IN ACCORDANCE WITH THE RELEVANT NATIONAL LAWS.
6. THE GOVERNMENT OF TURKEY SHALL FACILITATE, TO THE EXTENT POSSIBLE, THE RECOVERY AND/OR RESTITUTION TO THE RETURNEES OF LAND OR OTHER IMMOVABLE OR MOVABLE PROPERTY WHICH THEY LEFT BEHIND. PROPERTY RECORDS SHALL BE FREELY ACCESSIBLE AND AVAILABLE TO ALL RETURNEES. THE RIGHTS AND BENEFITS OF THIS PARAGRAPH WILL ALSO BE APPLICABLE TO THE LEGAL INHERITORS.

ARTICLE 11

JURIDICAL STATUS AND EQUIVALENCY

THE GOVERNMENT OF TURKEY SHALL ACCORD LEGAL RECOGNITION TO BIRTHS, MARRIAGES AND DEATHS BASED ON DOCUMENTATION CERTIFIED BY THE RECOGNIZED IRAQI AUTHORITY OR PROVIDED BY UNHCR, AND TO ADOPTIONS, DIVORCES AND OTHER CHANGES OF LEGAL STATUS AS MAY BE COMPATIBLE WITH TURKISH LAW. THE GOVERNMENT OF TURKEY SHALL RECOGNIZE TO THE EXTENT FEASIBLE UNDER EXISTING REGULATIONS THE EQUIVALENCY OF ACADEMIC AND VOCATIONAL SKILLS, DIPLOMAS AND CERTIFICATES OBTAINED BY THE REFUGEES WHILE IN IRAQ.

ARTICLE 12

CITIZENSHIP

TO THE EXTENT CHILDREN OF REFUGEES WHO ARE BORN IN IRAQ DO NOT AUTOMATICALLY POSSESS TURKISH CITIZENSHIP, THE GOVERNMENT OF TURKEY SHALL ENSURE THAT IT BE GRANTED WITHIN A REASONABLE TIMEFRAME.

ARTICLE 13

UNHCR'S SUPERVISORY ROLE

UNHCR'S LEADING ROLE IN PROMOTING, FACILITATING AND COORDINATING VOLUNTARY REPATRIATION OF REFUGEES AS WELL AS THE MONITORING OF RETURNEES IN ORDER TO ENSURE THAT REPATRIATION IS VOLUNTARY AND CARRIED OUT IN CONDITIONS OF SAFETY AND DIGNITY SHALL BE FULLY RESPECTED BY THE OTHER PARTIES.

ARTICLE 14

UNHCR ACCESS TO REFUGEES AND RETURNEES

1. IN ORDER TO BE ABLE TO EFFECTIVELY CARRY OUT ITS INTERNATIONAL PROTECTION AND ASSISTANCE FUNCTIONS, UNHCR SHALL BE GRANTED FREE AND UNHINDERED ACCESS IN IRAQ TO ALL REFUGEES, AND IN TURKEY TO ALL RETURNEES, WHEREVER THEY MAY BE LOCATED. LIKEWISE, ALL REFUGEES AND RETURNEES SHALL BE GRANTED FREE AND UNHINDERED ACCESS TO UNHCR.
2. THE GOVERNMENT OF TURKEY SHALL, IN PARTICULAR, EXTEND FULL COOPERATION TO UNHCR TO ALLOW UNHCR TO MONITOR THE TREATMENT OF RETURNING REFUGEES IN ACCORDANCE WITH HUMANITARIAN AND HUMAN RIGHTS STANDARDS, INCLUDING THE IMPLEMENTATION OF THE COMMITMENTS CONTAINED IN THIS AGREEMENT.
3. IN ORDER TO ENABLE UNHCR TO CARRY OUT ITS MONITORING FUNCTIONS IN ACCORDANCE WITH PARAGRAPH 1 AND 2, THE GOVERNMENT OF TURKEY SHALL INFORM UNHCR ABOUT EVERY CASE OF ARREST, DETENTION AND LEGAL PROCEEDINGS INVOLVING RETURNEES AND GRANT UNHCR FREE ACCESS TO RETURNEES UNDER ARREST OR IN DETENTION, IN ACCORDANCE WITH PROCEDURES UNDER TURKISH LAW.
4. THE ACCESS PROVIDED TO UNHCR UNDER PARAGRAPH 1 SHALL, AS APPROPRIATE, EXTEND TO INTER-GOVERNMENTAL ORGANIZATIONS WITH WHICH UNHCR MAY ENTER INTO AGREEMENTS FOR THE IMPLEMENTATION

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OF ONE OR MORE COMPONENTS OF THE REPATRIATION OPERATION
CONTEMPLATED UNDER THIS AGREEMENT. THE SAME APPLIES FOR
NON-GOVERNMENTAL ORGANIZATIONS WITH THE CONSENT OF THE
RELEVANT PARTY.

ARTICLE 15

INFORMATION AND SENSITIZATION CAMPAIGN

1. UNHCR SHALL, IN COOPERATION WITH THE OTHER PARTIES,
ORGANIZE A CAMPAIGN TO PROVIDE THE REFUGEES WITH OBJECTIVE
AND ACCURATE INFORMATION RELEVANT TO THEIR REPATRIATION TO
AND REINTEGRATION IN TURKEY SO THAT THE REFUGEES SHALL BE
ABLE TO MAKE THE DECISION TO REPATRIATE IN FULL KNOWLEDGE OF
THE FACTS. FOR THIS PURPOSE, UNHCR SHALL BE GIVEN FREE AND
UNHINDERED ACCESS TO AREAS FROM WHICH THE REFUGEES ORIGINATE,
AS WELL AS, IN ACCORDANCE WITH ARTICLE 14, TO ANY RETURNEES
LIVING IN THE SAME AREAS.
2. THE PARTIES SHALL, AS APPROPRIATE, FACILITATE VISITS TO
TURKEY AND IRAQ FOR THE PURPOSES OF PROVIDING OBJECTIVE AND
TRANSPARENT INFORMATION, ANSWERING QUESTIONS, COMMUNICATING
CONDITIONS OF AND UPON REPATRIATION, AND INVITING AND
WELCOMING THE REFUGEES BACK TO TURKEY.
3. THE GOVERNMENT OF TURKEY SHALL TAKE ALL NECESSARY
MEASURES, WITH A VIEW TO CREATING CONDITIONS CONDUCTIVE TO THE
REINTEGRATION OF RETURNEES IN SAFETY AND DIGNITY.

ARTICLE 16

REGISTRATION, RE-ADMISSION AND DOCUMENTATION

1. PURSUANT TO ITS MANDATED RESPONSIBILITY TO ENSURE THE VOLUNTARY CHARACTER OF THE DECISION TO RETURN, UNHCR SHALL, IN CONSULTATION WITH THE OTHER PARTIES, DEVISE THE MOST APPROPRIATE MEANS FOR THE INTERVIEW AND REGISTRATION BY UNHCR OF THOSE REFUGEES WHO WISH TO REPATRIATE.

2. UNHCR SHALL SHARE ALL RELEVANT REGISTRATION DATA, INCLUDING THE INTENDED PLACE OF RETURN, WITH THE GOVERNMENT OF TURKEY SO AS TO ENABLE WHERE NEEDED THE ESTABLISHMENT OF PROPER RECEPTION AND ASSISTANCE ARRANGEMENTS.

3. THE PARTIES ACKNOWLEDGE THE IMPORTANCE OF ORGANIZING AN EFFICIENT VOLUNTARY REPATRIATION PROCESS. TO THIS END, THE GOVERNMENT OF TURKEY SHALL RESPOND WITHIN FOUR WEEKS WITH RESPECT TO EACH GROUP NOT EXCEEDING 250 RETURNEES, INCLUDING THE REQUIRED NOTIFICATION UNDER ARTICLE 10 (2).

4. DULY COMPLETED UNHCR VOLUNTARY REPATRIATION FORMS (VRES), THE CONTENT OF WHICH SHALL BE MUTUALLY AGREED UPON BY THE PARTIES, SHALL BE RECOGNIZED AS VALID IDENTITY DOCUMENTS IN IRAQ AND TURKEY AND AS TRAVEL DOCUMENTS FOR THE PURPOSE OF THE REFUGEES' RETURN TO THEIR FINAL DESTINATIONS IN TURKEY.

5. FOR THE PURPOSE OF RECEIVING AND IDENTIFYING THE RETURNEES, AN INTERVIEW WILL BE CONDUCTED AT THE BORDER BY THE RELEVANT TURKISH AUTHORITIES.

6. THE GOVERNMENT OF TURKEY SHALL ENSURE THAT RETURNEES RECEIVE, IN A TIMELY MANNER, IDENTITY DOCUMENTS NORMALLY ACCORDED TO TURKISH CITIZENS.

ARTICLE 17

PRESERVATION OF FAMILY UNITY

1. IN ACCORDANCE WITH THE PRINCIPLE OF FAMILY UNITY, UNHCR, IN COOPERATION WITH THE OTHER PARTIES, SHALL MAKE EVERY EFFORT TO AVOID THE INVOLUNTARY SEPARATION OF FAMILIES. WHERE SUCH EFFORTS FAIL, A MECHANISM SHALL BE ESTABLISHED FOR THEIR REUNIFICATION IN TURKEY.

2. IN ORDER TO PRESERVE THE UNITY OF THE FAMILY, NON-TURKISH SPOUSES AND/OR CHILDREN OF REPATRIATING REFUGEES SHALL BE ALLOWED TO ENTER AND REMAIN IN TURKEY AND RECEIVE AN APPROPRIATE LEGAL STATUS. THE PRINCIPLE ESTABLISHED HEREIN SHALL ALSO APPLY TO NON-TURKISH SPOUSES AS WELL AS CHILDREN OF DECEASED TURKISH REFUGEES WHO MAY WISH TO ENTER AND REMAIN

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IN TURKEY TO PRESERVE FAMILY LINKS.

ARTICLE 18

SPECIAL MEASURES FOR VULNERABLE GROUPS

THE PARTIES SHALL TAKE SPECIAL MEASURES TO ENSURE THAT
VULNERABLE GROUPS RECEIVE ADEQUATE PROTECTION, ASSISTANCE AND
CARE THROUGHOUT THE REPATRIATION AND REINTEGRATION PROCESS.
THIS IS PARTICULARLY RELEVANT FOR SINGLE WOMEN, MINORS, THE
ELDERLY AND THE HANDICAPPED.

ARTICLE 19

DESIGNATED BORDER CROSSING POINTS

THE PARTIES SHALL AGREE ON BORDER CROSSING POINTS FOR
ORGANIZED VOLUNTARY REPATRIATION MOVEMENTS.

ARTICLE 20

IMMIGRATION, CUSTOMS AND HEALTH FORMALITIES

1. TO ENSURE THE EXPEDITIOUS RETURN OF REFUGEES AND THEIR
BELONGINGS, THE AUTHORITIES IN IRAQ AND THE GOVERNMENT OF
TURKEY SHALL EXPEDITE THEIR RESPECTIVE IMMIGRATION, CUSTOMS
AND HEALTH FORMALITIES CARRIED OUT AT BORDER CROSSING POINTS.
2. REFUGEES SHALL BE ENTITLED TO BRING WITH THEM, FREE FROM
IMPORT DUTIES, THEIR PERSONAL EFFECTS. REFUGEE FAMILIES SHALL
BE ENTITLED TO BRING WITH THEM, FREE FROM IMPORT DUTIES,
THEIR HOUSEHOLD EFFECTS. OTHER ITEMS WILL BE GOVERNED BY
TURKISH LAW AND REGULATIONS.

3. IN VIEW OF HEALTH REGULATIONS, LIVESTOCK SHALL NOT BE ALLOWED TO ENTER INTO TURKEY.

ARTICLE 21

MOVEMENT AND SECURITY OF UNHCR STAFF AND RESOURCES

1. THE AUTHORITIES IN IRAQ AND THE GOVERNMENT OF TURKEY SHALL FACILITATE THE MOVEMENT OF STAFF AND PERSONNEL OF UNHCR AND OF ITS APPROVED IMPLEMENTING PARTNERS, AS WELL AS VEHICLES, RELIEF GOODS AND EQUIPMENT USED IN THE OPERATION INTO, WITHIN AND OUT OF IRAQ AND TURKEY. IN PARTICULAR, THEY SHALL AUTHORIZE UNHCR TO ISSUE TWO-WAY CROSS-BORDER TRAVEL AUTHORIZATIONS, THE FORMAT OF WHICH SHALL BE MUTUALLY AGREED UPON BY THE PARTIES AND UNHCR, TO SUCH STAFF AND PERSONNEL FOR THE DURATION OF THE REPATRIATION OPERATION.

2. UNHCR SHALL DULY INFORM THE OTHER PARTIES OF THEIR STAFF INVOLVED IN THE OPERATION AT ANY ONE TIME, AND NOTIFY THEM OF CHANGES AS APPROPRIATE.

3. THE AUTHORITIES IN IRAQ AND THE GOVERNMENT OF TURKEY SHALL TAKE ALL FEASIBLE STEPS WITH A VIEW TO PROTECTING THE SECURITY AND SAFETY OF UNHCR STAFF AND ALL OTHER PERSONNEL ENGAGED IN THE REPATRIATION OPERATION PROVIDED FOR UNDER THIS AGREEMENT. SECURITY MEASURES SHALL NOT COMPROMISE THE PRINCIPLE OF FREE AND UNHINDERED ACCESS TO REFUGEES AND RETURNEES, RESPECTIVELY, INCLUDING THE CONFIDENTIAL NATURE OF UNHCR'S MONITORING CONTACTS WITH THEM, AS WELL AS THE PURELY HUMANITARIAN AND NON-POLITICAL NATURE OF UNHCR'S OPERATIONS OR THE PERCEPTION THEREOF.

ARTICLE 22

RE-INTEGRATION ASSISTANCE

THE GOVERNMENT OF TURKEY SHALL FACILITATE THE SUSTAINABLE ECONOMIC AND SOCIAL RE-INTEGRATION OF REPATRIATING REFUGEES THROUGH THE IMPLEMENTATION OF THE RETURN TO VILLAGES AND REHABILITATION PROGRAMS AND OTHER ASSISTANCE MEASURES AS NECESSARY.

ARTICLE 23

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DEPT. FOR PRM, IO, EUR/SE AND NEA/NGA

E.O. 12958: N/A
TAGS: PREL, PREF, PHUM, PTER, TU, IZ
SUBJECT: TURKISH REFUGEES IN IRAQ: BROAD CONSENSUS ON
CONTENT OF AGREEMENT REACHED BETWEEN TURKEY, IRAQ, US AND
UNHCR

RELIEF GOODS, MATERIALS AND EQUIPMENT

1. THE HIGH COMMISSIONER SHALL USE HIS BEST ENDEAVOURS TO OBTAIN THE RESOURCES REQUIRED FROM THE INTERNATIONAL COMMUNITY TO CARRY OUT THE REPATRIATION OPERATION AND, IF NECESSARY, TO PROVIDE RE-INTEGRATION SUPPORT IN ADDITION TO THE RE-INTEGRATION PROGRAMME OF THE GOVERNMENT OF TURKEY.
2. THE AUTHORITIES IN IRAQ AND THE GOVERNMENT OF TURKEY SHALL EXEMPT FROM THE RELEVANT TAXES, DUTIES AND LEVIES ALL RELIEF GOODS, MATERIALS, EQUIPMENT AND MEANS OF TRANSPORT DESTINED FOR USE IN THE REPATRIATION AND REINTEGRATION OPERATION. THEY SHALL EXPEDITE THE CLEARANCE AND HANDLING OF SUCH RESOURCES. ENTRANCE OF MEANS OF TRANSPORT INTO TURKEY WILL BE WITHIN THE FRAMEWORK OF THE PROVISIONAL IMPORT REGIME OF TURKEY.
3. THE AUTHORITIES IN IRAQ AND THE GOVERNMENT OF TURKEY HEREBY AUTHORIZE UNHCR TO USE UN COMMUNICATIONS EQUIPMENT, FREQUENCIES AND NETWORKS AND SHALL, WHENEVER OPERATIONAL REQUIREMENTS MAKE THIS NECESSARY, FACILITATE THE ALLOCATION OF OTHER FREQUENCIES. THE RELEVANT WRITTEN AUTHORIZATIONS FOR EQUIPMENT, FREQUENCIES AND CROSS-BORDER NETWORKS SHALL BE ISSUED TO UNHCR.

ARTICLE 24

UNHCR FIELD OFFICES

UNHCR MAY, WHENEVER REQUIRED FOR THE PURPOSE OF A MORE EFFECTIVE DISCHARGE OF ITS RESPONSIBILITIES UNDER THIS AGREEMENT, ESTABLISH FIELD OFFICES AT LOCATIONS TO BE AGREED WITH THE PARTY CONCERNED.

ARTICLE 25

CONTINUED VALIDITY OF OTHER AGREEMENTS

THIS AGREEMENT SHALL NOT AFFECT THE VALIDITY OF ANY EXISTING AGREEMENTS, ARRANGEMENTS OR MECHANISMS OF COOPERATION BETWEEN THE PARTIES. TO THE EXTENT NECESSARY OR APPLICABLE, SUCH AGREEMENTS, ARRANGEMENTS OR MECHANISMS MAY BE RELIED UPON AND APPLIED AS IF THEY FORMED PART OF THIS AGREEMENT TO ASSIST IN THE PURSUIT OF THE OBJECTIVES OF THIS AGREEMENT, NAMELY THE VOLUNTARY REPATRIATION AND REINTEGRATION OF REFUGEES.

ARTICLE 26

RESOLUTION OF DISPUTES

ANY QUESTION ARISING OUT OF THE INTERPRETATION OR APPLICATION OF THIS AGREEMENT, OR FOR WHICH NO PROVISION IS EXPRESSLY MADE HEREIN, SHALL BE RESOLVED AMICABLY THROUGH CONSULTATIONS BETWEEN THE PARTIES.

ARTICLE 27

ENTRY INTO FORCE

THIS AGREEMENT SHALL ENTER INTO FORCE UPON APPROVAL BY THE PARTIES IN ACCORDANCE WITH THEIR RESPECTIVE PROCEDURES, AND NOTIFICATION THEREOF THROUGH DIPLOMATIC CHANNELS.

ARTICLE 28

AMENDMENT

THIS AGREEMENT MAY BE AMENDED BY MUTUAL AGREEMENT IN WRITING BETWEEN THE PARTIES.

ARTICLE 29

REVIEW

TOWARDS THE END OF THE DURATION OF THIS AGREEMENT, THE PARTIES WILL EVALUATE PROGRESS ACHIEVED AND WORK FOR SETTING, BY CONSENSUS, A TIMEFRAME FOR ACHIEVING DURABLE SOLUTIONS FOR THE TURKISH CITIZENS REMAINING IN IRAQ AS REFUGEES, AND THUS ALSO ALLOWING FOR THE CLOSURE OF THE RELEVANT CAMPS IN IRAQ, AND IN PARTICULAR THE MAKHMOUR CAMP.

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