

COALITION PROVISIONAL AUTHORITY MEMORANDUM NUMBER 1

IMPLEMENTATION OF DE-BA`ATHIFICATION ORDER NO. 1 (CPA/ORD/16 May 2003/01)

Pursuant to my authority as Administrator of the Coalition Provisional Authority (CPA), relevant U.N. Security Council resolutions, including Resolution 1483 (2003), and the laws and usages of war,

Recognizing that the Iraqi people have suffered large scale human rights abuses and deprivations over many years at the hands of the Ba`ath Party,

Noting the grave concern of Iraqi society regarding the threat posed by the continuation of Ba`ath Party networks and personnel in the administration of Iraq, and the intimidation of the people of Iraq by Ba`ath Party officials,

Implementing CPA Order No. 1, De-Ba`athification of Iraqi Society (CPA/ORD/16 May 2003/01), and CPA Order No. 5, Establishment of the Iraqi De-Ba`athification Council (CPA/ORD/25 May 2003/05),

I hereby promulgate the following:

Section 1 Objective

- 1) This Memorandum prescribes a two-staged process for carrying out the de-Ba`athification of Iraqi society. To expedite the identification of Ba`ath Party members at the outset of the CPA's restoration of Iraq, the Commander of Coalition Forces, through Accreditation Review Committees (ARCs), will initially perform the investigative function, relying upon military investigative resources with training and experience in performing analogous fact-finding duties.
- 2) Later, as higher levels of the former Iraqi government undergo a reliable and rigorous de-ba`athification process and the Iraqi De-Ba`athification Council demonstrates sufficient capability, the Administrator will task the IDC to assume increasing and ultimately full responsibility for the process, subject to the authority, direction and control of the Administrator. The ARCs shall remain in operation until the people of Iraq adopt a representative form of self-government.

Section 2

Interim Process for Identifying Ba`ath Party Members

- 1) The commander of Coalition Forces shall provide military investigative resources sufficient to receive and compile information concerning possible Ba`ath Party affiliations of employees at all ministries. These resources may be augmented or replaced by U.S. civilian investigators as necessary, and should include professional Iraqis whenever possible.
- 2) These investigators will:
 - a) *Conduct Investigations.* Investigators will be posted to the ministries to receive and compile information concerning the possible Ba`ath Party affiliations of their employees. These investigators will draw from available and relevant information, such as:
 - i. Interviews with the individual (conducted by the investigators using the standardized form already developed);
 - ii. Public records and announcements documenting the ascension or promotion of party members;
 - iii. Judgments of CPA senior ministry advisors;
 - iv. Testimony of Iraqis who have worked with the person in question;
 - v. Findings of the Iraqi De-ba`athification Council described below (passed to the investigators through the Administrator);
 - vi. Assessments of leading Iraqi political figures; and
 - vii. Government records revealing bonuses or other privileges associated with being a party member.
 - b) *Make Determinations of Ba`ath Party Membership.* The investigator will make a factual finding about the person's affiliation with the Ba`ath Party. The investigator will advise the employee that he or she has the right to appeal this factual finding (whether he or she was a Ba`ath Party member). Based upon the investigator's finding, the Senior Ministry Advisor will take action in accordance with the criteria for removal set forth in CPA Order No. 1 (CPA/ORD/16 May 2003/01), unless an exception is granted.
 - c) *Prepare the Case for Exceptions Where Appropriate.* When the ministry team requests an exception for an individual, the investigator will determine whether the person in question is eligible. The investigator will subsequently prepare the case for an exception.

Section 3

Phased Process for Identifying Ba`ath Party Members

- 1) As the Administrator determines that the responsibility for identifying Ba`ath Party members effectively can be transferred to Iraqi citizens, the Administrator shall direct the Iraqi De-ba`athification Council to assume an increasingly significant role in carrying out the de-ba`athification process.
- 2) Initially, the Council will advise the Coalition on de-ba`athification policies and procedures (including the appropriateness of granting exceptions to CPA Order No. 1 (CPA/ORD/16 May 2003/01)) and meaningfully involve the Iraqis in the de-ba`athification effort.
- 3) The Council will provide information to the investigators (through the Administrator) and nominate Iraqi legal professionals to participate in the ARCs described in Section 4 herein, and in the investigatory process. When appropriate, it is anticipated that the Council will assume the investigative responsibility entirely.

Section 4

Accreditation Review Committee

- 1) The Commander of Coalition Forces is authorized to establish and administer one or more ARCs. These bodies will be comprised of one military and two civilian members (one of whom will be an Iraqi). The ARCs shall remain in operation until the people of Iraq adopt a representative form of self-government. The ARCs will:
 - a) *Hear Appeals of Fact.* The ARCs will hear the appeals of Iraqis who believe they were wrongly found to be ba`athists. These appeals will be conducted in a manner that comports as nearly as practicable to tribunals convened by Coalition Forces under Article 5 of the 1949 Geneva Convention.
 - b) *Grant or Deny Requests for Exception.* The ARC will review applications for exceptions prepared by the investigators, and grant or deny them. All ARC decisions will be immediately reported to the Administrator, who retains the authority to overturn any decision to grant or deny an exception. The ARC will take into account all available and relevant information, including whether the individual:
 - i. Is willing to denounce the Ba`ath Party and his past association with it;

- ii. Was a senior Ba'ath Party member or simply a 'full' party member;
 - iii. Has exceptional educational qualifications;
 - iv. Left the Ba'ath Party before April 16, 2003;
 - v. Continues to command the support of his colleagues and respect of their subordinates;
 - vi. Is judged to be indispensable to achieving important Coalition interests, at least in the immediate term;
 - vii. Can demonstrate that he joined the party to hold his job or support his family.
- c) The information listed above in Section 4.1(b) shall be considered in deciding whether to grant an exception, but shall not in itself ensure that an exception will be granted.

Section 5
Entry into Force

This Memorandum shall enter into force on the date of signature.



L. Paul Bremer, Administrator
Coalition Provisional Authority