Radical Departure:
Toward a Practical Peace in Iraq

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1. Introduction

Progress toward a stable peace in Iraq and the withdrawal of US troops begins with the painful recognition that America's recent troubles are largely self-inflicted. This is due principally to the adoption of mission objectives that far exceed what is necessary or pragmatic.

While much attention has focused on the need to "internationalize" the postwar effort, the shortfall in international support that has beset the mission is a derivative problem. "Internationalization," although a prerequisite of success, is neither sufficient nor even primary. The first and most important step is selecting a practicable set of mission objectives. And these are not yet in sight. For this reason, neither the passage of UN Security Council Resolution 1546, nor the 28 June installation of a new interim government, nor the prospect of an increased UN role in Iraq will take the American mission out of the woods. For the same reason, Senator John Kerry's alternative to the Bush administration approach also falls short of being adequate.

The postwar mission in Iraq should have restricted itself to the following essential tasks -- which are daunting enough:

- Humanitarian relief and infrastructure repair;
- Assistance in re-establishing civil order and public services;
- Internment of those Iraqis most responsible for violations of human rights and international law;
- Limitation of future Iraqi military potential;
- Selected reforms associated with the protection of civil rights, civilian control of the military, and prevention of national fragmentation; and
- Preparation for and conduct of elections.

This set of postwar goals might have won broad support both internationally and inside Iraq. Additionally, these goals have the benefit of conforming more closely to what is justifiable under international law. But the Bush administration has had more ambitious objectives in mind.

2. A bright shining Iraq

The postwar mission has sought not only to repair and selectively reform Iraq, but to virtually reinvent the nation -- economically, socially, and politically. The mission also has aimed to *substantially decide the future political balance inside Iraq* and to establish the country as a reliable ally and base for US operations. In the Administration's vision, Iraq is meant to serve not only as an example, but also as a "lever arm" for a program of coercive transformation throughout the region, affecting both the external behavior and internal constitution of Arab and Muslim states.

These ambitions -- which significantly intrude on the prerogatives of the Iraqi people -- have made the mission an enemy to too many Iraqis and an affront to too many more. They are the source of a series of serious policy blunders and excesses, including:

- The wholesale demobilization of the Iraqi army and police forces;
- The precipitous dismissal of tens of thousands of Iraqi civil servants;
- Broad-brush sanctions against tens of thousands of former lower-level Ba'ath Party members;
- The elevation to positions of influence of too many Iraqi expatriates who enjoy little popular support inside Iraq; and.
- The failure to convene any type of truly representative body of indigenous Iraqi leaders to act as a partner to the mission.

The combined effect of these decisions was to feed the insurgency and provide it with a resonant base of popular disaffection. This exacerbated the challenge of restoring public order, which the administration was ill-prepared to handle at any rate. The administration's grand plan and the problems it ignited also distracted the mission from the basic tasks of reconstruction, humanitarian relief, and service provision -- a dereliction that further eroded popular support.

It should not be surprising that few nations have been willing to seriously invest themselves in the Iraq project: Its goals constitute a recipe for protracted occupation and insurgency. Nor is it surprising that the response among America's allies in the Arab and Muslim world has been ambivalent, at best: the project displays a vision in which reform is conflated with foreign hegemony. The new UN deal on Iraq marginally softens this impression, but the illusion of progress will not hold.

3. The 28 June makeover

Security Council Resolution 1546 will do little to resolve the Iraq imbroglio. Nonetheless, it represents an important political victory -- a respite -- for the Bush administration. The victory is all the more remarkable for having been won handily despite the mounting controversies over the Administration's manipulation of prewar intelligence and the postwar mistreatment of Iraqi prisoners.

The UN Security Council (SC), by its resolution, has declared the occupation of Iraq to be over, formally, and has declared the handpicked "Interim Government of Iraq" (IGI) to be a sovereign and independent one. Nonetheless, Iraq will remain an occupied country with a non-representative government appointed by foreigners and possessing only truncated powers (as outlined in *Appendix 3*). The SC resolution has made this simple, important truth easier for leaders to evade and harder for journalists to report in a straightforward fashion. The resolution has cast it into the realm of editorial opinion. Of course, the mass of Iraqis who live this truth daily will not be easily swayed. Their destiny is not yet in their hands and they know it.

Disappearing Democracy

Discussion of the 28 June 2004 transition in Iraq has focused mostly on whether the new government is "fully sovereign". *A more fundamental issue is whether or not the new government is representative of the Iraqi people.* This question seems to have disappeared in the debate surrounding the transition. It has been capsized by the spat between the Coalition Provisional Authority (CPA) and the appointed IGI, which wants as much power as it can accumulate. For many members of the IGI, the next six or seven months constitutes a brief "window of opportunity" during which they might accrue what most of them do not yet possess: a power base. But this self-serving drive for power does not alter the fact that the IGI is a creature of the US mission and deeply dependent on it.

In fact, the new government is less representative of the Iraqi people than was its predecessor, and obviously so. Like its predecessor, it is a foreign-appointed instrument -- a product of compromise between the CPA, the CPA-appointed Governing Council, and (to a lesser extent) UN envoy Lakhdar Brahimi. Notably, the role of the religious parties has been reduced, while their manifest popularity has increased.[1] Iraq's new president and prime minister have low popularity ratings, while the most popular figures in the country are either under-represented or not represented at all.

Decoding the sovereignty game

People can disagree about the meaning of the term "sovereignty" and how it should be utilized. For practical purposes, however, there are several issues relevant to the Iraq situation that the discussion of "sovereignty" touches on. Setting aside semantic disputes, these are the issues that should concern us:

- Does the new government control the territory of Iraq?
- Does it fulfill all the basic functions of a state – legislative, executive, and judicial?
- Is it independent of foreign states or agencies?
- Does it meet standard criteria of legitimacy? And,
- Is it recognized internationally as legitimate?

By virtue of SC Resolution 1546, we can answer the final question in the affirmative. With regard to all the others, however: the answers are either negative or ambiguous – which should cast doubt on the wisdom of the UN's designation of the IGI as the legitimate government of Iraq.

As noted above, the IGI is not in any sense a "representative" government, which pertains to its claim to legitimacy. Also, the IGI clearly does not enjoy a monopoly on force in Iraq; indeed, it exercises little control over Iraq's security situation. Of all the armed players in Iraq – including the coalition's forces, insurgents, and militias – those controlled by the IGI seem to be the weakest or least reliable. Governments can earn international recognition because they are seen as representative of a people, or because they exercise predominant control over a territory, or both. In the case of the IGI, neither of these conditions pertain.

Turning to the independent capacities of the new Iraqi government: it is best suited to simply carry forward and administer the legacy of the CPA and its chief, Paul Bremer. Although the IGI enjoys more *administrative responsibility* than did its predecessor, the Governing Council, its *powers to legislate* are tightly constrained. It is straight-jacketed by a web of previous CPA decrees, contracts, and commissions that it would be hard-pressed to overturn. And the Transitional Administrative Law (TAL), which is a temporary constitution effectively penned by the CPA, allows the IGI little freedom to affect Iraq's destiny.[2]

In order to override or rescind the CPA's ordinary decrees – of which there are 96 – the IGI must muster a majority of ministers plus the unanimous support of the three-person Presidency Council. The TAL, or constitution, cannot be changed until the *next* government takes control – presumably sometime in 2005. At that point, a democratically-elected Iraqi National Assembly can alter Paul Bremer's TAL with a three-quarters vote plus the unanimous support of the Presidency Council.

Thus, for the IGI, the obstacle to changing Bremer's constitution is probably insurmountable; for the next government, it is merely enormous. The TAL will probably remain the supreme law of the land until 2006.

The structure and manufacture of the IGI reveal two types of control mechanisms employed by the US mission. The first involves government appointments; the second involves laws scripted by the CPA that limit the new appointees' freedom of action. Apart from these limits, both the IGI and its successor in 2005 will have to contend with the predominant position of the United States in Iraq. This involves not only military power, but also financial, material, and bureaucratic strength. Not to put too fine a point on it: The United States will retain a unique and profound capacity to shape and crimp the "free will" of the Iraqi government. This circumstance has led Adam Roberts of Oxford University to conclude that Iraq will have "the same independence as a dog on a leash."[3]

The CPA's influence in deciding who can hold office in Iraq will persist even beyond 2006. This, through the work of special commissions appointed by Bremer to manage ballot access, fight government corruption, and impose sanctions on former Ba'ath Party members. Sanctions against recent members of "illegal" militias will serve this function as well. These commissions and laws provide mechanisms to bar supposed miscreants from seeking office or to toss them out should they get elected. But the protocols and standards of proof governing these processes are not rigorous, in the sense of typical court proceedings. The responsible commissioners – appointed to long terms of service by Bremer – enjoy broad latitude to selectively take action against people who have been convicted of no crime.

The political uses of sovereignty

There is great potential for mischief in the fiction that the new Iraqi government is independent and enjoys sovereign power. It gives the IGI greater credibility as a "spokesperson" for a people it does not represent and who have little confidence in it. This credibility was put to work preemptively on 3 June 2004 when Iraq's appointed Foreign Minister, Hoshyar Zebari, called on the Security Council to adopt the US-UK resolution – a resolution that would empower him and his cohort.[4] The resolution also gives the Bush administration greater freedom to portray its own policies -- which tightly bind the IGI -- as the independently expressed will of the Iraqi government.

Perhaps what is most relevant to the potential for continuing conflict is that the UN resolution does not promise an early end to occupation (except semantically, insofar as it *declares* occupation to be over). And it does not ensure that democratic elections will occur before 31 January 2005 -- 21

months after Hussein's fall.[5] Until then, most of the CPA decrees in effect on 30 June 2004 will remain in effect; the Interim Government cannot easily contravene them.[6]

The UN resolution and the 28 June advent of a new Iraqi government give the impression that Bush administration policy in Iraq has tacked toward the United Nations and international opinion. And it has, *minimally* -- reflecting the power shift between the US departments of Defense and State. But what, in fact, has the UN won?

The United Nations has won a somewhat greater role in shaping Iraq's future and the *pledge* of some real progress on elections in 2005.   Former opponents of the war sitting on the Security Council may also see value in the mere *appearance* of greater US-UK compliance with international opinion. It boosts their status as arbiters of international affairs. This may explain why the other big powers are willing to give so much (in the way of legitimizing the American mission) while gaining so little in terms of real, immediate progress on the ground. At any rate, it is Iraqis and Americans -- not Russians, Chinese, or the French -- who will pay the greatest price for continuing the misadventure in Iraq.

For the Bush administration, the gain achieved through SC Resolution 1546 is two-fold:

> *First,* the resolution will serve the administration well in the US electoral contest by giving the impression that US policy has turned a corner in Iraq and gained greater international support; The Bush administration's gambit shrinks the apparent difference between its position on Iraq and Senator John Kerry's.

> *Second,* it grants the Bush administration greater freedom to suppress the Iraqi opposition.

Trumping the opposition

Throughout the first year of the occupation, the CPA sought to characterize the opposition as solely comprising foreign jihadists, Al Qaeda affiliates, and "Saddam-istas" (that is, remnants of the former regime). Against this reading, there was growing evidence that a large part of the open insurgent activity had a popular base in the Sunni and Shiite communities and that it was new, not residual.[7] Moreover, the fact that Iraq was a nation under foreign occupation and rule lent some "nationalist" legitimacy to a part of the insurgency, at least. Resolution 1546 may alter or complicate this perception. The resolution, by recognizing the new Iraqi government as "sovereign" and by declaring the occupation to have ended, may undermine the insurgents' claim to legitimacy.

The Bush administration's new Iraq strategy has combined a drive for international legitimacy with more vigorous action against Iraqi insurgents. This was first evident in the Falluja offensive and the subsequent crack-down on Moqtada al-Sadr's Mahdi Army. Sadr's Shiite militia, especially, presents a problem in that it does not remotely conform to the characterization of the rebels as Hussein regime die-hards or foreign jihadists. So, in tandem with its push for Resolution 1546, the Bush administration formally broadened its Iraqi enemies list to encompass "illegal militias," as President Bush outlined in a 24 May 2004 speech at the US Army War College.[8]

On 7 June, CPA Administrator Paul Bremer promulgated an order making illegal those militias that fall outside a reintegration and (partial) disarmament plan.[9] The list of sanctioned militias, announced by the IGI on 8 June, pointedly excluded Sadr's Mahdi army and the Falluja Brigade. Also by virtue of Bremer's decree, all members of illegal militias -- including the very popular al-Sadr -- are banned from public office for three years after they leave their militia organizations.[10] Thus, additional thousands of disgruntled Iraqis join the tens of thousands of former Ba'athists already partially barred from "working within the system."

4. Hard truths, bitter lessons

The prerequisite of real progress in Iraq is a roll-back in US postwar objectives. A sensible postwar mission might, in addition to undertaking humanitarian and reconstruction tasks, seek to establish some guarantees in each of these areas: militarism, human rights, stability, and representative governance. If we are to see our way clear to a practicable mission, however, we first have to face up to and absorb several truths and lessons of the Iraq experience to date:

- **The insurgency in Iraq has a popular base.** The insurgency is not principally the product of Hussein regime hold-outs and foreign terrorists, as the Bush administration contends. It enjoys a substantial base of popular support in several communities and it resonates with broad popular discontent.[11]

- **There is no good reason for the long delay in implementing some form of representative governance in Iraq.** Discussion of this issue has focused mostly on the practical difficulties of holding national elections in the midst of insurgent and terrorist activity. But such difficulties have not been elsewhere insurmountable -- for instance, in Kashmir or Vietnam. The risks one is willing to run in this regard correspond to the perceived relationship between insurgency and elections. But the CPA was unwilling to admit that lack of a representative government was a key source of Iraqi discontent. At any rate, alternatives were possible that would have sidestepped or mitigated the insurgent problem, which did not

become pronounced until Fall 2003. For instance: provincial elections might have been held in many areas. Or, early in the occupation, the CPA could have *selected* an assembly of *several hundred* Iraqis that was much more representative of indigenous communities and authorities than was the original governing council of 25. This assembly, *and not the occupation authority,* could have elected a provisional government, giving it a degree of popular legitimacy.

■ **The CPA's elevation of Iraqi expatriates to positions of influence has proved to be no substitute for representative governance; Indeed, it contributed to popular disaffection with the US mission and the Governing Council.** While some expatriates have a popular base (notably the representatives of the Kurdish and religious parties), others do not. This path produced partners for the CPA who were more dependent and compliant than otherwise would have been the case, but at a cost in lost legitimacy that the mission could not afford.

■ **"De-Ba'athification" has been more extensive than necessary or wise; it has fed the insurgency.** The broad-brush policy of "de-Ba'athification" practiced by the occupation authority, guided by Ahmed Chalabi, and codified in Iraq's transitional constitution is counter-productive. The policy mimics the practice of "de-Nazi-ification" in Germany following the Second World War. But the Ba'ath Party was not comparable to the Nazi Party in the sense of comprising a large cadre and wide leadership circle fiercely loyal to its leader and his policies.[12] A better analog is the moribund communist parties of the former Soviet bloc. Nor was Hussein's popular following comparable to that enjoyed by Hitler, the Emperor Hirohito, or Mao. By 2003, his support base had grown desperately thin. Nonetheless, de-Ba'athification has reached well beyond Hussein's leadership circle to impose sanctions on all but the lowest level of former party members. The policy has barred more than 30,000 Iraqis from public office, jobs, and contracts. And it threatens many more with similar sanctions. In so doing it has created a constituency for insurrection and convinced some ethnic and tribal communities that the political process is stacked against them.[13]

■ **Efforts to restructure the Iraqi economy and commit the nation to a number of long-term commercial relationships intrude unnecessarily on the prerogatives of the Iraqi people.** Many of these efforts exceed the basic requirements of bringing peace, stability, and representative government to Iraq. And they contributed to the deleterious impression that the US mission is an extractive enterprise. (The major elements of economic reform program are enumerated in *Section A2.1.,* below)

■ **It was a mistake for the CPA to dissolve the entire Iraqi military, dismiss tens of thousands of civil servants, and largely usurp the functions of the Iraqi state.** Unlike Somalia, Iraq did not suffer from a collapsed or non-functioning state. The state was seriously weakened *after* the war as a result of CPA policies, notably: the wholesale demobilization of the army and police and the dismissal of more than 30,000 other public employees (making for a total of more than 400,000 dismissals). Such sweeping measures were not necessary from a security perspective; indeed, they were detrimental. They fueled alienation and discontent while weakening the capacity to maintain social order and deliver essential services. Given close monitoring, indigenous Iraqis could have administered their own governmental affairs in most policy areas and provided for much of their own security beginning soon after the fall of the Hussein regime. Of course, some thousands of dismissals would have been warranted. But 400,000+ was far too many.

Appendix 1 of this report presents in greater detail what would have been a sensible approach to addressing the postwar challenge in Iraq. This alternative model might serve today as a touchstone for policy assessment and development. *Appendices 2* and *3* offer a detailed critique of the approach taken by the Bush administration, looking successively at pre- and post-30 June circumstances.

What is most difficult is charting a reliable path out of the Iraq mess as we find it today -- after 13 months of policy error and obfuscation. Nonetheless, there are a number of steps that might be taken by the current administration (or the next one) to correct past errors, move Iraq toward a stable peace, and facilitate a timely withdrawal of US troops.

5. Recommendations: Steps toward a practical peace in Iraq

Proposed measures related to peace building

■ The United States and the IGI should begin a broad and pro-active campaign of "truce making" and "political integration" with insurgent groups, through the intermediacy of local village, municipal, tribal, and religious leaders. Excluded from this effort would be foreign fighters and "lone wolf" terrorist cells. In order to gain leverage, this effort needs more than a promise of amnesty, as Prime Minister Allawi has suggested. Instead, the "lure" should involve significant adjustments across a range of policy areas – a "new deal" for Iraq – as outlined below.

■ The forthcoming Iraqi National Conference (in cooperation with the United Nations) should establish a forum for the mediation of insurgency outbreaks, such as those involving the Falluja rebels and the Mahdi Army.

■ Blanket sanctions against former members of the Iraqi Ba'ath Party should be ended -- excepting those individuals charged with criminal activity. Blanket dismissals from public service jobs and blanket cancellations of pensions should be rescinded. Instead, individuals should be dismissed when warranted due to poor performance, substandard qualifications, corruption, or other criminal activities -- including, of course, violations of human rights and international law.

■ The United States should act to lift the sanctions prohibiting selected militia members and leaders from holding public office, excepting those individuals indicted for criminal activity. The program of militia reintegration should be extended more broadly.

Proposed Measures Related to Security

■ The United States should declare that it wants no long-term military position in Iraq and that it aims to quite substantially reduce its military presence there in time for the one year review of SC Resolution 1546. Moreover, it should declare that it will seek to have NATO assume command of the mission at that point or earlier through a Combined Joint Task Force, open to participation by non-NATO states.

■ The IGI (with the United States in support) should immediately remobilize some units of the regular Iraqi army, with the aim of fielding a ready force of 150,000 troops by July 2005. This cannot be done if units are built from scratch; instead, selected battalions, regiments, and divisions should be called back to duty, screened for undesirables, restructured modestly, and given some new and refresher training.

■ As an alternative to long-term large-scale foreign military involvement in Iraq, the United States should favor the development of a *Military Monitoring Regime,* under UN auspices. Under this regime, the IGI and its successor would forswear weapons of mass destruction and support for terrorist activity, agree to limit the size and capabilities of Iraq's armed forces, and permit unfettered access to its military sites by a multinational corps of UN monitors. A reasonable term for the monitoring regime would be five years or less, as the Security Council sees fit. A highly effective monitoring corps might comprise 2,000 personnel and could be accompanied by a multinational security detail comprising 8,000 troops.

Proposed measures related to Iraqi sovereignty and governance

- The United Nations (with the United States in support) should accelerate the process of building a *National Conference* and *Consultative Committee,* as mentioned in SC Resolution 1546. The political role of these bodies should be enhanced so that they may serve as "checks' on the appointed IGI. They should be comprised principally of recognized leaders in Iraqi society and the apportionment of seats should *partially* reflect the existing balance of influence among Iraq's different constituencies, organizations, and movements. In other words: the *National Conference* and *Consultative Committee* should be used to help fill the gap in *representative* governance. Relevant to this: former members of the appointed Iraqi Governing Council should not be guaranteed positions in this body, as is currently the case.

- The United States and United Nations Security Council should agree that all government appointments, decrees, contracts, and treaties completed during the occupation period and prior to the establishment of an elected government are subject to review by that government.

- All activities in Iraq of foreign governments and their agents should be made fully transparent. Foreign governments and private concerns working under government contract should make a full accounting of their activities, contracts, finances, and personnel in Iraq. The United Nations should charge the Special Representative of the Secretary-General and the *United Nations Assistance Mission for Iraq* (UNAMI) with the responsibility of monitoring this activity and reporting on it regularly and publically to the United Nations.

- All internment facilities and all judicial proceedings having to do with war crimes, terrorist activity, and other violations of human rights and international law should be open to monitoring by the United Nations and Red Cross. *No foreign government should be empowered to intern Iraqis on Iraqi soil or move them elsewhere without undergoing extradition proceedings.*

Proposed measures related to the Iraqi economic development and reconstruction

■ The privatization and sell-off of Iraqi government and national assets must be halted, at least until a democratically elected government takes office. Short-term leasing agreements and management contracts might take their place in the meantime. Likewise, new commercial contracts and trade agreements must be time-limited to allow for early review by the first democratically-elected government.

■ As a stability-building measure, the United States should significantly increase the employment of Iraqis and Iraqi firms in its postwar reconstruction efforts. Indeed, quotas should be established.

■ As a confidence-building measure, the United Nations should establish an *Economic Review Commission* that would monitor new economic initiatives and contracts in Iraq, with an eye toward protecting Iraqi national interests and safe-guarding the prerogatives of the first elected government of Iraq. The commission would have investigative powers only and report publically to the UN Secretary General. A majority of its members should be Iraqis from outside the IGI, chosen by the United Nations and the forthcoming Iraqi National Consultative Council.

Proposed Regional Confidence and Stability Building Measures

■ Participants in the multinational force should vow that they will not use Iraq as a base for operations outside of Iraq or outside the scope of the mandated mission.

■ A Group of Contact States should be formed under UN auspices, comprising representatives from Iran, Jordan, Kuwait, Saudi Arabia, Syria, and Turkey as well as the participating states of the MNF. This group should function as a forum for discussing and addressing security concerns related to the postwar circumstances and mission in Iraq.

■ State members of the contact group would pledge not to interfere with the UN mission or the internal affairs of Iraq (except through formal cooperation with the UN mission).

Appendix 1. The road not taken: a practicable postwar mission in Iraq

A1.1. Overview

A practicable postwar mission in Iraq would have focused on a more modest and consensual set of objectives than that attempted by the Bush administration. This would have facilitated both international and Iraqi cooperation.

Legitimacy is key to the ability of such missions to win indigenous cooperation, prevent violence, and establish a stable framework of governance. In turn, legitimacy depends on the mission's not reflecting or advancing narrow, partisan interests or views -- especially those of another nation. Instead, it should reflect a few core principles and concerns that enjoy broad assent in Iraq and abroad.

Prior to the war there had been wide concern about Iraqi militarism and military potential -- especially regarding weapons of mass destruction -- and about the Hussein regime's gross violations of human rights. What principally divided proponents and opponents of the war was differing assessments of the immediacy of these problems, the means for addressing them, and the priority to be given to Iraq among the universe of international security concerns.   There also was a broad desire, both inside Iraq and outside, to see the country evolve a representative form of government -- although, again, no consensus existed regarding how to proceed.

Once the war was a *fait accompli*, the common desires regarding Iraq might have come to the fore, forming a basis for common action. Similarly, the war itself created requirements for outside involvement that few would dispute, regarding humanitarian assistance, reconstruction, and post-conflict security and stability in postwar Iraq.

Taken together, these goals could have formed the basis for a practicable, consensual postwar mission. In line with this, the postwar mission in Iraq should have limited itself to the following tasks:

- Humanitarian relief and infrastructure reconstruction;
- Establishment of postwar civil order;
- Limitation of future Iraqi military potential;
- Arrest and internment of war criminals and violators of human rights and international law;
- Establishment of a basic framework for stable, democratic governance -- including civilian control of the military; and,
- Preparation for and conduct of elections.

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To further enhance its legitimacy, the postwar mission should have operated fully within the existing body of international law and institutions. Of course, a fundamental principle of international law is that one nation should not attempt to impose a government or form of government on another. Nonetheless, the international community can have legitimate security concerns regarding the internal affairs of sovereign nations and can be justified in promoting some internal changes on the grounds of overarching collective security interests. Sharp differences exist over the appropriate means and extent of such interventions, but these differences are less acute regarding situations in which a power vacuum already exists.

With regard to international action in postwar Iraq: the creation of some structural guarantees regarding human rights, militarism, and stability would have been within the bounds of international law and consensus. Similarly, the creation of a *basic framework* of representative governance and elections should have been agreeable and permissible as a means of achieving stability while respecting civil rights.

What probably could not have been sustained in law or consensus, however, was the imposition of policies in those areas of substance (like education and the economy) that are properly the business of the Iraqi people. After all, unlike Somalia, Iraq did not suffer the complete absence of state structures and systems of social service delivery. Also unsustainable would have been efforts to selectively exclude from the political process (or otherwise disadvantage) any of Iraq's legitimate, indigenous political forces or currents. The point of recognizing and respecting these limits is not to ensure an abstract adherence to international law and consensus, but rather to ensure that the mission's goals are practicable.

In addition to the positive objectives outlined above, a practicable postwar mission would have adopted a set of self-limiting guidelines:

- The mission should not advance or appear to advance the narrow interests, foreign policy agenda, or power of any one state or group of states;

- Mission leaders should avoid making decisions that usurp the prerogatives of the Iraqi people -- such as restructuring the Iraqi economy and education system, setting the foreign policy of the nation, or committing the nation to alliances or long-term contracts;

- The mission should move Iraq as quickly as feasible to national elections.

■ Prior to elections, the mission should quickly bring forward a group of leading Iraqis to serve as advisors and partners during the pre-election period. This body should be representative of existing indigenous Iraqi authorities and communities -- and obviously so.

■ The mission should define the postwar "enemy" as narrowly as possible. It should limit the scope of punitive actions and sanctions to individuals who are guilty of crimes or strongly suspected of being so. Those not charged and convicted within a reasonable period should be released from sanctions.

■ While acting decisively to suppress violence, the abuse of human rights, and other criminal behavior, the mission should otherwise remain neutral with regard to indigenous political trends -- ie. the mission must not be or appear to be "anti-fundamentalist" or "anti-Arab nationalist".

In accord with the objectives and self-limiting principles outlined above, the next section of this appendix gives a fuller specification of what would have constituted a practicable postwar mission in Iraq.

A1.2. Specification of alternative postwar goals

In addition to the basic tasks of humanitarian relief, reconstruction of the Iraqi infrastructure, and restoration of civil order, the postwar mission in Iraq should have undertaken a series of initiatives addressing the issues of militarism, human rights abuses, and postwar stability:

Implement a Military Monitoring Regime

The interim Iraqi government and its successor should forswear weapons of mass destruction and support for terrorist activity, agree to limit the size and capabilities of its armed forces, and permit unfettered access to its military sites by a multinational corps of monitors under UN auspices. A reasonable term for the monitoring regime would be five years or less, as the Security Council sees fit. A highly effective monitoring corps might comprise 2,000 personnel and could be accompanied by a multinational security detail comprising 8,000 troops. This deployment could be reinforced rapidly, if necessary, by US ground and air units stationed in Kuwait. The mission of these foreign troops on Iraqi soil should be strictly limited, however, as should the duration of their stay: they are there for no other purpose than to protect the monitoring mission for as long as it lasts. (This deployment is an increment to that required for postwar security tasks.)

Bring violators of international and humanitarian law to justice

The occupation authority would intern for prosecution those most responsible for the depredations of the Hussein regime and subsequent war crimes: this group might comprise more than 1000 individuals. *However, no wholesale program of sanctions against former Ba'ath Party members should occur, although the party's offices should be closed and its assets seized.*   To ensure the legitimacy of the proceedings, the initial high-profile internees should be remanded for prosecution to the International Criminal Court or a special international tribunal. Additional indictments might occur at a later date based on subsequent investigations by the Iraqi government.

Initiate institutional and legal reforms to strengthen the protection of human rights:

- Disband Iraqi secret police and special guard units and register all their former members;

- Promulgate laws and constitutional provisions protective of individual and community rights -- an Iraqi Bill of Citizens' Rights;

- Assist Iraq in developing an independent judiciary; establish permanent prosecutor offices to investigate cases of civil rights violation.

- Create new intelligence and gendarme agencies, entirely separate from the armed forces and screened for the presence of Hussein-era human rights violators; Implement human rights training for intelligence, security, and police personnel; Create permanent "internal affairs bureaus" to monitor the performance of these agencies.

Facilitate Free Elections and Government Reform

- The mission should adopt the goal of holding general elections no later than one year after the fall of the Hussein regime.

- Apart from overseeing the technical preparations for elections, the mission should create the framework for a transparent, multi-party system.

- Together with Iraqi leaders the mission should reform the Iraqi structure of governance to (1) devolve more power to the governates (provinces); (2) adopt a bicameral parliament, similar to the US system, and (3) adopt a system of proportional representation. A bicameral system would allow one of the houses of parliament to be comprised of equal numbers of representatives from each of the provinces. Empowering the provinces in these ways might

address some concerns of Iraq's major ethno-cultural groups without actually encouraging a division of Iraq into three ethnic sub-states. This, because Iraq's ethnic and religious communities are unevenly distributed among the provinces.

■ Develop watch-dog agencies -- responsible to parliament -- to ensure government transparency and to control waste and graft.

Reform and Restructure Iraq's Security Forces

■ The postwar mission should aim to turn security functions over to Iraqi units as soon as possible. Many police and some military units might begin to serve almost immediately in conjunction with coalition forces. Within six months of the war's end, the role of the Iraqi military in providing for the nation's security should be significant and obvious. Within 18 months or so -- that is, before December 2004 -- all regular security should be in Iraqi hands.

■ The new Iraqi military should have 170,000 personnel, approximately. This would give it the fourth largest military among a group of seven nations comprising Iraq and its neighbors. At this size, the percentage of its population under arms would be less than the average for this group. In line with the proposed Military Monitoring Regime, the Iraqi military might be restructured along more defensive lines.

■ Neither the regular army nor the Republican Guard should be demobilized wholesale. Instead, regular army units should form the nucleus of the future Iraqi army -- although temporarily under Multinational Force (MNF) commanders. Screened members of the Republican Guard can fill out these units as needed. Some members of anti-Hussein and community militias should be integrated with regular army – especially officers and those with regular military experience. Other militia should form provincial and "home guard" units. These latter should be formally under the control of provincial governors.

■ As a confidence-building measure, an *Iraqi Civilian-Military Relations Commission* should be established, answerable to the Iraqi parliament and operating as a temporary agency of that body. This commission should place a team of three civilian monitors in every battalion-size military unit. The commission would regularly report to parliament on the progress of military and police restructuring, professionalization, civilian control, and respect for citizens' rights. The Iraqi parliament might disband the commission once confidence grows in democratic, civilian control.

■ Regarding development of regular Iraqi police units: as in the case of the military, selected dismissals would be warranted, but no general demobilization. And, as in the case of the armed forces, police units should be subject to a monitoring system rooted in the communities that they serve.

■ An entirely new "gendarmerie" should be built to assume counter-terrorism and border patrol duties. Similarly, new "provincial police forces" should be established for purposes of highway and river patrol as well as to assume local police duties in sparsely populated areas. As noted above, these special police forces should be entirely separate from the military. Moreover, the preparation of these units should occur under a different authority than that responsible for the screening and restructuring of the army

■ Both military and police units should be trained in principles of civilian control and citizens' rights.

A1.3. Mission Framework and Iraqi Governance

Ideally, leadership of the postwar mission should have been the job of the United Nations Security Council, exercised through a special representative acting as the top civilian official in Iraq.

The postwar transition process should have occurred in three phases:

Phase One (lasting no more than 100 days): The head of the external mission would exercise sole authority in Iraq. Among the tasks of this period would be the convocation of an Interim National Assembly of 200-300 Iraqi leaders and authorities -- at least 90 percent of them indigenous. The membership of this Assembly would be chosen to be broadly recognizable to Iraqis as a fair representation of the nation's constituent regions, communities, and groups. This assembly would choose an Executive Council that together with the head of the mission would select an interim government, to take office no later than four months after the war's end.

Phase Two (lasting from month four through 12): a "power sharing" arrangement would exist between the civilian head of the mission and the interim Iraqi government. Although most executive power would reside with the mission leader, the interim Iraqi government might immediately assume administrative control of all ministries except finance and security. It might also be given veto power over long-term contracts and decisions affecting the development of the Iraqi military, parliamentary system, and economy.

Phase Three (commencing with true national elections, one year after the war's end): The external mission would relinquish its executive authority in Iraq. During this period, the principal function of the external mission would be to conduct military inspections and to offer the Iraqi government reconstruction assistance and advice. The new, popularly-elected government of Iraq would be recognized as independent and sovereign. It would remain bound, however, by obligations relating to military inspections and arms control.

A1.4. Multi-national Force Deployment

Ideally, the military component of the mission would have been assumed by NATO acting under and circumscribed by an explicit UN mandate. NATO would have assembled a Combined and Joint Task Force that could have incorporated contingents from both NATO and non-NATO countries. Any significant participation by Germany, France, and Russia would have increased the international legitimacy of the mission. Even more important would have been participation by Arab and Muslim nations which, in addition to enhancing the mission's legitimacy, would have facilitated relations with the local populace. Possible candidates would have been Jordan, Pakistan, and Egypt.

The MNF deployment would have occurred in phases corresponding to the changing relationship between the mission and the Iraqi government as well as to the readiness of the Iraqi military.

Phase One (lasting four months) would involve a deployment of between 200,000-225,000 troops.

Phase Two (lasting from month four through 12) would have comprised between 80,000 and 150,000 troops. During this phase, the size of the MNF deployment would decline as Iraqi police and army units returned to full-readiness. Most of the withdrawn troops would be American. Thus, as the MNF reduced in size, it would become more multinational in character.

Phase Three (beginning no later than 1 December 2004): The MNF presence inside Iraq would reduce to less than 10,000 troops with the limited mission of supporting a five-year program of military inspections to ensure Iraqi compliance with arms limitation agreements, as noted above. This force might involve very few American troops. However, 20,000-30,000 US troops might remain in Kuwait in order to (1) increase regional confidence in Iraqi stability and (2) provide for rapid reinforcement of the MNF mission in Iraq, should it be needed.

A1.5. Regional confidence- and security-building measures.

- The mandate for the mission, confirmed by participating states, should explicitly state that neither the mission nor the states participating in it would seek to permanently station troops in Iraq or use Iraq as a base for operations outside of Iraq or outside the scope of the mission.

- A *Group of Contact States* should be formed under UN auspices, comprising representatives from Iran, Jordan, Kuwait, Saudi Arabia, Syria, and Turkey as well as from the states participating in the Iraq mission. This group should function as a forum for discussing and addressing security concerns related to postwar Iraq.

- State members of the contact group would pledge not to interfere with the UN mission or the internal affairs of Iraq (except through formal cooperation with the UN mission.).

Appendix 2. A bright shining Iraq? How
the mission to Iraq overstepped its bounds

As noted in previous sections, a practicable postwar mission in Iraq might have sought, in addition to undertaking humanitarian and reconstruction tasks, to establish guarantees related to concerns about Iraqi militarism, human rights abuses, stability, and representative governance. In several ways, however, the US-UK postwar mission has over-stepped these bounds significantly. The mission has sought to fundamentally transform both the Iraqi economy and state, determine the balance of political forces inside Iraq, and establish the country as a reliable ally and base for US operations.

The next sections look in turn at efforts to (1) transform the Iraqi economy, (2) determine the political order, and (3) entrench American influence.

A2.1. Prying open the Iraqi economy

The planned re-engineering of the Iraqi economy adheres closely to US neoconservative orthodoxy. Along these lines, CPA decrees have:[14]

- Flattened and reduced income tax rates to low levels;
- Set up Iraq's financial system along purely monetarist lines;
- Launched a program of privatization affecting most state industries and services;
- Opened most of the nation's assets to full-foreign ownership and 40-year ownership licenses, allowing full remittance of profits and other funds to home countries;
- Opened the banking sector to foreign control;
- Sharply reduced tariffs and eliminated most other trade barriers;
- Liberalized regulatory regimes and loosened restrictions on property rights.

Due to 24 years of war and a decade of sanctions, the Iraqi economy and market are today artificially weak and susceptible to penetration. In this context, the Bush administration's program of radical and rapid economic liberalization may leave many of Iraq's assets in foreign hands, its markets overwhelmed by foreign products, and its economy uniquely vulnerable to the vicissitudes of world financial markets.

The CPA-controlled reconstruction and restructuring process has already given US corporations and banks privileged access to the Iraqi economy, while largely shutting out key foreign competitors.[15]

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Iraq's public firms also have been largely shut out from reconstruction contracts.[16] Regarding private Iraqi capital (which is not insubstantial): it might try to compete in sectors where it enjoys local advantage, but presently it is under siege for possibly benefitting from the years of Hussein's rule.[17] The cumulative effect of these factors could give American businesses a dominant position in Iraq's economic future.

The wisdom and necessity of the Bush economic blueprint for Iraq is debatable. It constitutes a fairly radical instance of trade and market liberalization. What is beyond dispute, however, is that:

- The plan is being imposed on Iraq by a foreign power with minimal indigenous Iraqi input, discussion, or preparation;

- Its implementation is likely to cause significant social and economic disruption and instability over the short- and mid-term, at least; and,

- Market and trade liberalization is not a prerequisite of representative governance; Indeed, even a more comprehensive democratization would not obviously require the extent or pace of economic liberalization envisaged by the Bush administration blueprint.

A2.2. Beyond government reform: Creating a new political order

Turning to the US program for altering the political balance inside Iraq: US authorities have sought to curtail and supplant the influence of pan-Arab nationalism and Islamic fundamentalism in Iraq -- two of the three principal political currents in the country. In their place, the Bush administration originally hoped to implant and nurture elites who shared its neoconservative political philosophy and neoliberal economic agenda. With the fall from favor of Ahmed Chalabi, the administration has put more emphasis on moderate Iraqi and Kurdish nationalists with strong ties to the United States.

- The primary means for shaping Iraq's postwar political balance has been the appointment of selected Iraqis to governing bodies and administrative positions -- a process largely controlled by the United States. This has produced two successive Iraqi governments with numerous leaders that have little popular standing in the country -- but significant dependence on the United States.

- More generally, the United States has materially supported expatriate Iraqis -- especially those recently residing in the United States and Europe, catapulting them to positions of

influence in governing and administrative bodies, either as officials or advisors.[18] The first governing council (with 25 members), comprised five Kurds (closely aligned with the United States), ten expatriates (most of them close to the West), and ten other Iraqis from inside the country. Apart from the Kurdish members, less than a half dozen of the council members might have had a significant constituency base inside the country. Eighteen of the 25 held foreign passports.

■   The CPA has also invested heavily in efforts to discover, empower, and befriend "new leadership" at the local level -- ie. leadership outside the influence of Iraq's predominant ideological and political currents. US military civil affairs personnel, US AID and State Department officials, and contractors (notably the Triangle Research Institute) have worked together to build and help fund 250 local governing councils. The CPA has also sought to build links with tribal leaders throughout the country. Thus, a network of US-Iraqi relationships, either incipient or long-standing, involves expatriates, some new local leaders, and some tribal leaders.

■ Finally, broad-brush "de-Ba'athification" has barred tens of thousands of Iraqis from government and public service positions -- and put many more at risk.[19] This program has reached far beyond Saddam Hussein's leadership circle. The Ba'ath Party once boasted 1.5 million or more members in Iraq. For the vast majority, party membership was nominal and perfunctory.[20] Nonetheless, many Iraqis -- both inside the party and outside -- probably subscribed loosely to the party's pan-Arab ideals. It should not be surprising if the de-Ba'athification initiatives have had the effect of driving these sentiments underground and into opposition to the CPA. Likewise, with regard to the Sunni minority in Iraq: Sunni's were over-represented in the Ba'ath Party. Any sweeping program of "de-Ba'athification" is likely to be viewed and felt as a broad-brush campaign against Sunni influence.[21]

A2.3. Ensuring US dominance

The administration's postwar initiatives inside Iraq have aimed to structurally ensure America's predominant position in the country -- not only for the transition period but for years to come. Among the earliest acts of the occupation authorities was the enfeeblement of the Iraqi state and the demobilization of Iraq's military, security, and police forces. Almost immediately, 400,000+ military personnel, police, and civil servants were sacked.[22] The ministries of intelligence and defense were completely disbanded, while administrative leadership in other public institutions was decimated. The remnants of the Iraqi state were made an appendage of the CPA and CENTCOM,

while the Interim Governing Council -- a weak advisory body -- served to put an Iraqi face on the occupation.

In essence, the Bush administration established a parallel government in Iraq that exercised determinate authority in all policy areas. The governing mechanism comprised: (i) planning and administrative departments within the CPA and CENTCOM linked to (ii) US-employed manager/advisors in all Iraqi ministries, major public institutions, and governing bodies (federal, provincial, and big city), and (iii) US-contracted private firms in charge of most reconstruction and restructuring efforts. Iraqi expatriates were embedded in this scheme, as government leaders and advisors. Although the Interim Governing Council displayed some independence of thought, control of policy in the "power ministries" -- defense, foreign affairs, interior, oil, and finance -- was effectively controlled by the CPA and CENTCOM, which also carefully managed the Iraqi media.

The influence of US officials and agents derived from the CPA's and CENTCOM's virtual monopoly on instruments of force, their effective control of Iraqi financial resources and security forces, their superior resource base, and their superior organization. This left Iraqi governing bodies virtually powerless to implement any important decisions without US approval and support. Nor were they able to contravene or alter most US policy initiatives. Indeed, throughout the first 13 months of occupation, the appointed Iraqi authorities often learned of US initiatives after the fact. Their one recourse has been an appeal to international opinion. This proved a marginally effective tactic in cases where the United States was eager to gain international approval and support. On balance, however, the United States has called the shots in Iraq -- not only in the realm of security policy, but in all important policy areas.

The main pillars of US control and influence have been:

- The deployment in Iraq of 140,000 US military personnel as well as 3,000 civilian employees. Looking to the future: the new US embassy in Iraq will be America's largest in the world. The United States also is preparing 14 permanent military bases there that can support a large, long-term deployment.

- Predominant financial control: The United States is currently spending more than $4 billion per month on the occupation of Iraq. In addition, US expenditures for relief and reconstruction will probably exceed $8 billion in 2004. Together, these sums surpass the entire GDP of Iraq. The CPA also enjoyed control of Iraq's indigenous resources -- through its control of the Development Fund and the Program Committee that has overseen all oil contracts.

■ Control of foreign contract personnel: The total number of CPA foreign contract workers in Iraq certainly exceeds 30,000. Approximately 20,000 are involved in providing security, according to a 4 May 2004 DoD explanatory letter to Rep. Ike Skelton.[23]

■ A dependent repatriated exile community: Although Iraqi expatriate organizations have their own, varied agendas not entirely consonant with US goals, they mostly lack popular influence inside the country, which makes them uniquely dependent on the United States -- for the time being.[24] Hundreds of expatriates now hold positions of influence within the Iraqi central government, provinces, and public institutions -- by virtue of CPA appointment.

A2.4. Summary and evaluation

In sum: the effects of the US mission in Iraq have substantially exceeded or deviated from the goals of rolling back the nation's military potentials, curbing Iraqi human rights abuses, establishing order, and supporting the election of a popular government. As outlined above, the Bush administration has also or alternately sought to:

■ Radically and comprehensively liberalize the Iraqi economy;

■ Establish a new domestic political balance disfavoring pan-Arab nationalists and Islamic fundamentalists; and

■ Create a polity and economy over which the United States is likely to have a strong and enduring influence.

Regardless of how one evaluates the wisdom and value to the United States of these three ends, we should recognize that:

■ First, the US mission in Iraq as presently defined constitutes a profound and intrusive act of social, political, and economic engineering not simply reducible to the goals of demilitarization, democratization, and protection of human rights;

■ Second, a variety of CPA policies have had serious negative consequences for substantial numbers of Iraqis not implicated in Hussein's crimes. Chief among these was the mass dismissals of military, police, and civil servants, which added hundreds of thousands to the

ranks of the unemployed and exacerbated problems of security, public health, and social service delivery.[25] Likewise, broad-brush de-Ba'athification has tarred too many. And too few Iraqis have found employment in US reconstruction efforts. Looking to the future: Radical economic restructuring is bound to cause serious social and economic disruption.

- ■ Third, postwar policy in Iraq has not been adequately grounded in representative governance. Instead, it has been imposed -- by a foreign power acting across a divide of language, religion, and culture. Even the best, most discriminate, and moderate policies would be handicapped by such a circumstance, which is conducive to a nationalist reaction.

Taken together, these three characteristics of the postwar effort in Iraq are sufficient to generate broad dissatisfaction among Iraqis and significant active resistance. Insofar as this resistance is itself viewed as a reason to delay elections and extend the occupation, the postwar mission as presently defined is a recipe for protracted deployment and low-intensity conflict.

Appendix 3. The July 2004 transition: another false beginning

A3.1 Who does the new government represent?

The new Iraqi government is no more representative of the Iraqi people than the one it succeeds; indeed, it is less so. Nor does it rest on or incorporate a broad base of recognized indigenous authorities.

- The makeup of the post-30 June government was negotiated between the CPA, the CPA-appointed Interim Governing Council, and UN envoy Lakhdar Brahimi. Regarding the balance of power between these three, Brahimi observed: "Mr. Bremer is the dictator of Iraq. He has the money. He has the signature. Nothing happens without his agreement in this country." [26]

- Although only nine former IGC members carry over to the new government, members of non-Kurdish exile groups still comprise about 40 percent of the government. Together with the Kurdish party representatives, they constitute a clear majority. Members of the exile parties and Kurds together also control all of the "power ministries" -- Defense, Interior, Foreign Affairs, Finance -- as well as the presidency and the position of Prime Minister.

- The influence of UN Envoy Lakhdar Brahimi, who wanted technocrats to play a bigger role, can be seen in some of the appointments to the less powerful and less sensitive ministries, such as Oil, Electricity, Health, and Education.

- One significant outcome of the process is that the role of the religious parties has been reduced, while their manifest popularity has increased.[27]

A3.2. Security: a government that does not control its fief

The IGI cannot control the territory it supposedly governs and does not possess a monopoly on the legitimate use of force in Iraq. Quite the contrary: it is almost completely dependent on a foreign force that it does not control.

- The foreign forces on Iraqi soil are entirely under US command and have the right to engage in "all necessary measures" to provide security and stability.

■ Although the IG can request that coalition forces leave the country, as a practical matter it cannot provide for either the internal or external security of Iraq. This is largely a result of the CPA's postwar actions and omissions in Iraq, including the wholesale demobilization of Iraq's military and police forces.

■ As for Iraqi security forces: Although they are ultimately controlled by and responsible to the IGI, they are largely dependent on US forces on every level for development and operational support. Otherwise their capacity for significant action is virtually nil. The military, security, and intelligence agencies of the new Iraq are connected at many levels with those of the United States for purposes of support, training, and operations.

A3.3. Political power: a government with little freedom to govern

The capacity of the IGI to independently legislate and enact new laws is very restricted, which is to say: its governance powers are stunted. Its activity is mostly limited to administrative functions -- and even these are substantially dependent on coalition support.

■ *Article 26* of the *Transitional Administrative Law* states that "Except as otherwise provided in this Law, the laws in force in Iraq on 30 June 2004 shall remain in effect unless and until rescinded or amended by the Iraqi Transitional Government in accordance with this Law."[28] In order to override or rescind the CPA's ordinary decrees – of which there are 96 – the IGI must muster a majority of ministers in favor plus the unanimous support of the three-person Presidency Council. Once the Transitional Government takes control, the TAL can be amended by a three-quarters vote of the National Assembly and the unanimous support of the Presidency Council.

■ The "parallel government" constructed by the CPA will remain intact -- although "relocated" to the US embassy -- and its multi-level liaisons with ministries and public institutions will remain in place. These liaisons will become "advisory" -- but their influence is still reinforced by US financial and diplomatic power, billions of dollars in aid, links to the repatriated exile community, and nearly 200,000 Pentagon, State Department, and private contractor personnel.

■ The interim government is barred by mandate from taking actions affecting Iraq's "destiny" beyond its short time in office.[29] The exact opposite pertains to the actions taken by the former CPA: its decrees cannot be easily overturned -- including recent ones that established control commissions covering several important government functions. Thus, the

supposedly sovereign IGI is tightly bound by a framework of prior law and control commissions decreed by the CPA.

- Although the interim government has gained sole authority to disburse funds from the Development Fund for Iraq (DFI), this fund is not an Iraqi government account. It is an international account sanctioned by the United Nations. The account is supposed to reside at the Central Bank of Iraq. However, as of 10 June 2004, most DFI funds were being held at the New York Federal Reserve Bank in a "Central Bank of Iraq-Development Fund for Iraq" account. The International Advisory and Monitoring Board (IAMB) will continue to audit the DFI to ensure that transactions are conducted in a transparent fashion and that funds are disbursed in accord with the guidelines set out by the United Nations.

- The IG cannot cancel contracts negotiated by the CPA. The outstanding commitments exceed $4 billion (as 10 June 2004), a sum equaling nearly half of the DFI's current holdings.[30]

- The CPA has bequeathed the IG a set of control commissions whose members were appointed to five-year terms by the CPA Administrator. Among these are Office of the Inspector General, the Board of Supreme Audit, the Commission of Public Integrity, and the Iraqi Communications and Media Commission. The CPA also appointed Electoral Commissioners, chosen from a list of nominees vetted by the United Nations and ranked by the former Iraqi Governing Council. These election commissioners will serve until the end of the transition period. Concerning five-year appointees: The Office of the Inspector General and the Board of Supreme Audit together will have investigators in all ministries and have the authority to investigate all government contracts and all agencies and institutions using public funds. The point is to combat corruption, of course -- but such bodies are not themselves immune to political bias. The Iraqi Communications and Media Commission has control of telecommunications and media contracts and licenses, and it has the power to enforce censorship laws.[31]

- Also enjoying five-year terms are the National Security Adviser and the new chief of national intelligence, who were chosen by Ayad Allawi.

- The CPA also has bequeathed to the new government hundreds of judges and prosecutors -- including many exiles -- vetted, trained, and appointed by the CPA Administrator. In addition, the CPA appointed a Council of Judges, which is a watch-dog body, and an Iraqi tribunal to try members of the former regime.

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21. The initial de-Ba'athification order, promulgated in May 2003, removed and banned the top four levels of party members from employment in the public sector, which is quite large in Iraq. It also removed and banned all full members from the top three levels of management in all public institutions, including schools and hospitals. The number of people potentially affected certainly exceeds 50,000. Subsequently, the IGC's Higher Committee on de-Ba'athification (under the leadership of Ahmed Chalabi) began the process of screening civil servants.

A revision in CPA policy in January 2004 increased options for appeal and allowed that the lower four-levels of former party members might take a state pension rather than pursue appeals. The adjustment was meant to focus the process more precisely on those accused of having actively engaged in criminal or *political* activities. Nonetheless, in January 2004, Chalabi estimated that 28,000 former Ba'athists had been removed so far and that an equal number might be sacked before the process concluded.

In Fall 2003 the Chalabi's committee initiated another program -- "economic de-Ba'athification" -- with the aim of preventing former Ba'ath Party members and business people with ties to the Hussein regime from gaining public sector contacts. It also aimed to remove former Ba'athists from trade associations and to recover wealth from those who had benefitted from the Hussein regime.

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