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Subject: I:PP:CONF:IRAQ: POLITICAL PROCESS:IRAQR/FCOLN  
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SUBJECT: IRAQ: POLITICAL PROCESS

#### SUMMARY

1. An early transfer of sovereignty to the Iraqis raises constitutional and practical problems and is unlikely to deliver our aim of a democratic and stable Iraq. The current political process still offers the best way forward and has not yet been derailed. Nevertheless we should be thinking about fallbacks. There may be some mileage in the idea of re-badging the IGC and the Ministers as an interim government but it depends on what this means in practice. The Coalition would need to think hard about the consequences if it involved giving up ultimate authority in key areas.

#### DETAIL

2. The P5 discussion in Geneva (FCO Telno 432) confirmed the broad consensus in favour of transferring power as quickly as possible to the Iraqis but no agreement on when or how to do this.

3. In July Bremer and Sawers mapped out a political process for delivering a democratic and stable Iraq: a Governing Council would choose a Cabinet of Ministers and prepare a Constitutional Convention; the Convention would draft a new constitution which would be put to a referendum which would then open the way for national democratic elections and the formation of a new sovereign government. In the meantime the IGC Cabinet Ministers would be responsible for the day to day running of the country but with ultimate authority

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vested in the CPA and Bremer as Administrator.

4. Bremer still believes that this is achievable and on a timescale that would see elections by the end of next year (though he is still hoping it can be done more quickly). He has deliberately, and with Presidential backing, set this out publicly in his Seven Steps, to make deviation more difficult. But the plan has run into trouble on two fronts:

- pressure to have direct elections to choose the members of the Constitutional Convention which would lead to a long delay in launching the Convention with knock-on effects on the rest of the timetable;

- pressure in New York to accelerate the process of handing over sovereignty/authority to the Iraqis. This and the possible delay in holding the Convention have been seized on by GC members like Pachachi and Chalabi who are keen to get their hands on real power, though the majority still consider that any early transfer would be premature.

5. An immediate or very rapid transfer of sovereignty would remove the fact of occupation and allow the Iraqis to get on with managing their own affairs. But there are practical and constitutional considerations which stand in the way. Firstly, how can one be sure that a decision to hand over sovereignty to the IGC would be acceptable to the Iraqi people? Building up the legitimacy and credibility of the IGC both internationally and within Iraq has been a tough task, with many doubters on both fronts. The IGC has been seen by some as a Coalition stooge. As long as it is only a broadly representative body involved in directing policy in consultation with the Coalition this is not too problematic. As soon as it becomes a sovereign body the questions about legitimacy come to the fore.

6. Another possibility - to meet the legitimacy argument - is to hold "quick and dirty" elections for a provisional assembly, which would then draft a constitution and provide an interim but sovereign government. But holding elections begs questions about electoral method, constituency boundaries, allocation of seats, political party laws, relationship with Government Council etc.

7. Whatever route is chosen, speeding up the process raises tricky constitutional questions. If the occupation ends and we have a sovereign government, the questions become much more pressing. Who is the Head of State? How is legislation formed and passed? What is the relationship of the regions to the centre (especially important regarding the Kurds)? How is the government accountable? And to whom?

8. To these political and constitutional problems we have to add the severe practical problems that would face a new government, the most pressing of which is security. It will be many months before Iraq's new and under-strength security forces will be ready to take on this responsibility. Lawlessness and criminality are more of a problem to ordinary Iraqis than anti-Coalition attacks. The end of the occupation would not bring these problems to an end. The Iraqi army and border police are virtually non-existent. The police force now numbers some 37,000, which is roughly half the number required. And most of the current police are yet to be properly trained. If the IGC were to be given responsibility to manage security, it would

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probably start by setting up sectarian or party-based militias, which would guarantee instability. So transferring sovereignty could worsen rather than improve security.

9. Then there is the task of financing the reconstruction. Bush is asking Congress for an extra \$210bn for infrastructure and security in Iraq. These resources are desperately needed. Would the Americans make the same commitment if power were handed over to an interim Iraqi government? And if they did, they would expect to determine how the money was spent.

10. If our aim remains handing over power to a united, democratic and stable Iraq we should stick to the route we have mapped out and do all we can to overcome the pressures noted above. Nevertheless it would be prudent to start thinking about possible fallbacks. If it would be premature to hand over full sovereignty, is it possible to devolve partial sovereignty? TUR suggests that re-badging the IGC and the Ministers as interim government may offer a way forward. We are already giving authority for policy implementation and budget execution to the Iraqis. Some further authority which would enable Iraqi Ministers to represent Iraq at international meetings and facilitate IFI lending would be useful and help presentationally.

11. But Bremer is hard set against handing over control of the real levers at an accelerated pace. As long as the Coalition remains a major presence in Iraq, it is difficult to see how it could cede ultimate authority over policy decisions which would affect the security of the Coalition forces, the expenditure of Coalition resources or Iraq's commitment to human rights, a free market and democracy. If we on the UK side think differently because we judge the Coalition does not have the time and the opportunity to deliver these wider goods, then we have a gap in perceptions and objectives with the US which we need to resolve.

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