COALITION PROVISIONAL AUTHORITY ORDER NUMBER 54

TRADE LIBERALIZATION POLICY 2004

Pursuant to my authority as Administrator of the Coalition Provisional Authority (CPA), and the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolutions 1483 and 1511 (2003),

Noting the responsibility of the Department of Border Enforcement, in CPA Order Number 26, to monitor and control the movement of persons and goods into and out of Iraq,

Further implementing the Reconstruction Levy imposed by CPA Order Number 38 (CPA/ORD/19 September 2003/38),

Having worked closely with the Governing Council, international organizations and relevant Ministries in developing policies that will foster international trade and a free market economy in Iraq,

I hereby promulgate the following:

Section 1
Suspension of Customs Charges

All customs tariffs, duties, import taxes (not including the Reconstruction Levy imposed by CPA Order Number 38), and similar surcharges for goods entering or leaving Iraq are suspended until the sovereign transitional Iraqi administration imposes such charges following the CPA's transfer of full governance authority to that administration.

Section 2
Contraband

1) Prohibited imports and exports ("Contraband") and restricted exports and restricted imports are listed in Annex A to this Order.

2) Except with respect to the Contraband and restricted exports and restricted imports listed in Annex A, there shall be no restriction as to the kind, origin or source of goods that may be imported into or exported from Iraq.

Section 3
Application to Existing Law

1) Notwithstanding any provision in this Order, the following laws shall remain in force:

   a) CPA Order Number 38, Reconstruction Levy (CPA/ORD/19 September 2003/38); and
   b) Drugs Law Number 68 of 1965.

2) This Order shall not apply to the importation or exportation of crude oil, residue crude and all other oil products, which may only be imported or exported by, or with the authorization of, the State Oil Marketing Organization. However, importation of petroleum products intended for use by the Coalition Provisional Authority, Coalition Forces, and forces of nations working in coordination with Coalition Forces shall not require authorization of the State Oil Marketing Organization.

3) Customs Law Number 23 of 1984, as amended, ("Customs Law") shall remain in force except as amended by this or any other CPA Order, including in particular CPA Order Number 16, Temporary Control of Iraqi Borders, Ports and Airports (CPA/ORD/26 June 2003/16) and CPA Order Number 26, Creation of the Department of Border Enforcement (CPA/ORD/24 August 2003/26).

4) CPA Order Number 12, Trade Liberalization Policy (CPA/ORD/7 June 2003/12) and CPA Memorandum Number 8, Exportation of Scrap Metal Under Order Number 12, Trade Liberalization Policy (CPA/MEM/25 January 2004/8) are hereby rescinded. Notwithstanding the foregoing, any licensing regime established under CPA Memorandum Number 8 shall continue to be effective to the extent that it is not inconsistent with the terms of this Order.

Section 4
Reconstruction Levy

1) The Minister of Finance, in consultation with the Director of the CPA Office of Management and Budget, may issue policy guidance as necessary to implement the reconstruction levy pursuant to Section 3 of CPA Order Number 38. Consistent with such policies, the Minister of Interior, in consultation with the Senior Advisor for Interior, may issue administrative instructions and procedures for implementing the reconstruction levy.

2) For the purpose of Section 1(2) of CPA Order Number 38, "international practice" means the customs valuation as set forth in the Agreement on Implementation of

Article VII of the General Agreement on Tariffs and Trade 1994. The customs value shall be determined by the transaction value of the imported goods, which shall be the price actually paid or payable for the goods when sold for export to the country of importation plus certain adjustments as provided for in the Agreement on Implementation. If the customs value cannot be determined on the basis of the transaction value, it will be determined using one of the following methods, as provided for in the Agreement on Implementation, in hierarchical order:

a) The transaction value of identical goods;
b) The transaction value of similar goods;
c) The deductive value method;
d) The computed value method; and
e) The fall-back method.

Notwithstanding the definition of value as set forth in Article 34 of the Customs Law Number 23 of 1984 as amended ("Customs Law"), the principles of this Section 4(3) shall apply in determining customs value.

3) The reconstruction levy exemption for goods listed at Section 2(1) of CPA Order Number 38 shall also apply to goods that are imported for the personal use of the traveler when those goods are not intended for sale.

a) With respect to an individual who is a resident of Iraq, this exemption will apply only where the total value of the goods entering Iraq with this individual is less than ID 500,000 for any 72 hour period. In no event will personal use exceed the following:

Cigarettes—200
Cigars—10
Cigarillos—25
Smoking tobacco—250 grams
Beer—8 liters
Wine—2 liters
Spirits— 1 liter
Fortified wine
(e.g. port/sherry)—2 liters

b) With respect to an individual who is not a resident of Iraq, the exemption in Section 4(4)(a) of this Order will apply to goods entering Iraq with this individual for personal use irrespective of value of the goods, provided that the goods are not intended for sale. Procedures for administering this exemption will be issued by the Ministry of Finance in consultation with the Director of the CPA Office of Management and Budget.

4) For purposes of section 2(1)(g) and (2)(f) of CPA Order Number 38, and subject to Section 4(8) of this Order, a "not-for-profit organization" is an organization that is not organized for commercial purposes and no part of the income or surplus of which is at any time payable to, or otherwise available for the personal benefit of, any proprietor, member, shareholder, or any individual who is a spouse, child, grandchild, parent, grandparent, or sibling of any of the aforesaid, or majority owner of an entity that is a member or shareholder of the organization. The organization may provide such a proprietor, member, shareholder or any individual who is a spouse, child, grandchild, parent, grandparent, or sibling of any of the aforesaid, or majority owner of an entity that is a member or shareholder of the organization with benefits that are generally available to the general public.

5) For purposes of section 2(1)(g) of CPA Order Number 38, the term "public benefit" means activities aimed at achieving a universal or common good for the general public through the advancement, protection, maintenance, support, improvement or enhancement of:

   a) Health, which includes without limitation, the prevention and relief of sickness, disease or of human suffering;
   b) Education;
   c) Social and community welfare, which without limitation includes:
      i. The prevention and relief of poverty;
      ii. The care, support and protection of the aged, minors, vulnerable persons and populations, and people with a disability;
      iii. The care and support of members or former members of the armed services;
   d) Religion;
   e) Culture;
   f) The natural environment; and
   g) Other purposes beneficial to Iraq.

6) For purposes of Sections 2(1)(g) and (2)(f) of CPA Order Number 38, an "international organization" is an organization with an international legal personality and an independent decision-making organ that is established under international law by an international agreement or other formal constitutive document, and performs functions of a genuinely international character. Such term includes, but is not limited to, the United Nations (including its agencies), the Arab League, the International Monetary Fund, the World Bank, the Organization for the Prohibition of Chemical Weapons, the International Atomic Energy Agency, and the World Trade Organization.

7) Organizations that meet the definitions of not-for-profit organizations and international organizations set forth in Section 4, paragraphs (4) and (6), respectively, of this Order will be considered a not-for-profit organization or international organization for purposes of Section 2(1)(g) and (2)(f) of CPA Order Number 38 only after the organization has registered with the Customs Department, including, where applicable, registration as a non-governmental organization pursuant to CPA Order Number 45. An organization that has not registered with the Customs Department prior to importation of goods will be required to pay the reconstruction levy at the time of importation. The levy will be refunded if the organization meets the applicable definition and registers with the Customs Department within 60 days of the date of importation.

8) The reconstruction levy exemption for the persons and entities listed at Section 2(2) of CPA Order Number 38 shall apply as follows:

   a) Section 2(2)(c) of CPA Order Number 38 covers forces of countries and their contractors and sub-contractors acting in coordination with Coalition Forces only to the extent of activities that are in coordination with Coalition Forces and with respect to goods imported for such activities;
   b) Section 2(2)(d) of CPA Order Number 38 covers Coalition contractors and sub-contractors only with respect to imported goods supplied to the Coalition Provisional Authority and Coalition Forces; and
   c) Sections 2(2)(e) and 2(2)(f) of CPA Order Number 38 cover contractors and sub-contractors of Coalition Forces' departments and agencies, governments, international organizations, and not-for-profit organizations, only with respect to goods that those persons or entities import for the provision of technical, material, financial and human resource assistance.

Section 5
Revision of Customs Law

For purposes of implementing the reconstruction levy, the Customs Law shall be applied with the following revisions:

1) Article 55 of the Customs Law is revised by adding the following sentences at the end of that article to read as follows:

   The Director General of Customs shall determine the type of Reconstruction Levy Computation Form, number of copies, information that must be included on the form, documents to be attached and any exceptions to the stated requirements. Reference to "Customs Declaration" or "Declaration" in this law shall refer to the "Reconstruction Levy Computation Form" whenever applicable.

2) Claims for repayment of overpayments of the reconstruction levy resulting from disputes of valuation may be submitted to the Opposition Body pursuant to Articles 74 to 77 of the Customs Law, regardless of whether the goods remain in the custody of the Customs Department.

3) Article 77(2) of Customs Law is hereby suspended for purposes of this Order.

4) The exemption provided by free zones legislation will not apply to the reconstruction levy.

5) The reconstruction levy will not be imposed on the value of goods that entered Iraq under an exemption set forth in section 2 of CPA Order Number 38 if the property is destroyed or is otherwise no longer usable. Article 149(2)(c) of the Customs Law is hereby suspended for purposes of this Order.

6) The reconstruction levy shall not be refunded as a drawback when goods are re-exported abroad. Articles 151 and 152 of Customs Law are hereby suspended for purposes of this Order.

7) The reconstruction levy shall not be imposed on goods in transit, as defined in Part 8 of the Customs Law.

8) Section 2 of CPA Order Number 38 provides the exclusive list of exemptions (both exempt goods and exempt persons and entities) for purposes of the reconstruction levy. Part 10 of the Customs Law is hereby suspended for purposes of this Order.

9) Fines imposed for offenses under Part 15, Chapters 4, 5, and 7 of the Customs Law (as amended by Decision 103 of 2001) shall apply to the reconstruction levy. To account for inflation, the amount of fines listed in dinars in those chapters will be multiplied by 10.

Section 6
Excise Tax on Alcohol and Tobacco

Notwithstanding Section 1 of this Order, the Administrator or his delegee may reinstate the Excise Tax on Alcohol and Tobacco products.

Section 7
Effective Date of Reconstruction Levy

The Reconstruction Levy shall be imposed on goods imported into Iraq beginning April 1, 2004.

CPA Order Number 38, Section 7, paragraph (4), on the Reconstruction Levy is therefore amended to read in its entirety as follows:

"4) Unless exempted under this Order, the Reconstruction Levy shall be imposed on all goods imported into Iraq from all countries beginning April 1, 2004."

Section 8
Entry Into Force

This Order shall enter into force upon signature.

2/26/04

L. Paul Bremer, Administrator
Coalition Provisional Authority

ANNEX A

COALITION PROVISIONAL AUTHORITY ORDER NUMBER 54

TRADE LIBERALIZATION POLICY 2004

RESTRICTED IMPORTS

The following items cannot be imported in any quantity unless the Ministry of Trade issues a license authorizing the import:

- Non-military explosives imported for industrial and commercial uses;
- Industrial materials that may be used in the manufacture of explosives, but that have a primary use unconnected to the manufacture of explosives, such as fertilizer; and
- Fowl or poultry products from countries known or suspected to have had outbreaks of pathogenic bird flu (avian influenza virus). As of the date of signing of CPA Order Number 54, these countries are Cambodia, Japan, the Republic of Korea, Viet Nam, Indonesia, Laos, China and Thailand.

Items and technologies listed in the following international nonproliferation regimes (that are not otherwise prohibited under United Nations Security Council Resolutions or CPA Orders) cannot be imported in any quantity unless the Ministry of Trade issues a license authorizing the import:

- Australia Group
- Missile Technology Control Regime
- Nuclear Suppliers Group
- Wassenaar Arrangement

PROHIBITED IMPORTS

- Magazines, films, videotapes and CDs contrary to public norms;
- Arms, ammunition, all explosives other than industrial and commercial explosives, and materials used in the manufacture of explosives that do not have a primary use unconnected to the manufacture of explosives (other than any such items required by, or for purposes of, the CPA (including contractor security personnel), Coalition Forces, and foreign liaison mission security personnel ;
- Non-medical narcotics (heroin, cocaine, cannabis etc.);
- Nuclear, chemical, biological materials or weapons; components of such systems; technologies and equipment for the development, manufacture, use or storage of such materials or systems; delivery systems for such weapons; components of delivery systems for such weapons; technologies and equipment for the development, manufacture, use or storage of such delivery systems; and
- Nuclear materials, except for radioisotopes for legitimate industrial, agricultural or medical purposes.

RESTRICTED EXPORTS

The following items cannot be exported in any quantity unless a license is issued by the Ministry of Trade authorizing the export;

- Non-military explosives imported for industrial or commercial use
- Industrial materials that may be used in the manufacture of explosives, but that have a primary use unconnected to the manufacture of explosives, such as fertilizer

Items and technologies listed in the following international nonproliferation regimes (that are not otherwise prohibited under United Nations Security Council Resolutions or CPA Orders) cannot be exported in any quantity unless the Ministry of Trade issues a license authorizing the export:

- Australia Group
- Missile Technology Control Regime
- Nuclear Suppliers Group
- Wassenaar Arrangement

The following items in quantities in excess of personal use cannot be exported unless the Ministry of Trade issues a license authorizing the export:

Foodstuffs
- Sugar
- Tea
- Imported Rice
- Wheat and Wheat Flour
- Imported Vegetable Oils and Fats
- Lentils and Chickpeas
- Dried Beans
- Milk Powder and Infant Formula
- Yellow Corn for Animal Feed

Animals
- All animals (including fowl), excluding household pets

Manufactured Goods
- Ferro-concrete, Iron, Iron Reinforcing Rods
- Galvanized Iron Plates, Steel Sheets and Plates
- Wood of all kinds
- Mineral Water Pipes and their Fittings
- Ceramic and other Bathroom Furnishings including Taps and Sinks
- Plain and Colored Window Glass
- Metals of all kinds, including scrap

Other Articles

- Bar soap and detergents (in quantities that exceed personal use)
- Date palm seedlings and shoots

PROHIBITED EXPORTS

- Historical artifacts (excluding modern military artifacts and items not prohibited from export under existing Iraqi law)
- Magazines, films, videotapes, and CDs contrary to public norms
- Arms, ammunition, and all explosives other than industrial and commercial explosives and materials used in the manufacture of explosives that do not have a primary use unconnected to the manufacture of explosives (other than such items originally imported by, or required for historical or other purposes of, the CPA (including contractor security personnel), Coalition Forces, and foreign liaison mission security personnel)
- Non-medical narcotics (heroin, cocaine, cannabis, etc.)
- Nuclear, chemical, biological materials or weapons; components of such systems; technologies and equipment for the development,, manufacture, use or storage of such materials or systems; delivery systems for such weapons; components of delivery systems for such weapons; technologies and equipment for the development, manufacture, use or storage of such delivery systems. Except that such materials, components, systems may be delivered to Coalition authorities for disposition and elimination.
- Nuclear materials, except for radioisotopes for legitimate industrial, agricultural or medical purposes, and nuclear materials delivered to Coalition authorities for disposition and elimination.