

July 20, 2004

The Honorable Colin L. Powell
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Dear Secretary Powell:

We are writing to provide you with comments and concerns regarding recent decisions by the Coalition Provisional Authority and the Interim Iraqi Government to regulate the activities of Private Security Companies (“PSC”). This letter represents the views of the American and British companies currently represented on the PSC council in Baghdad and we suspect that it would also be endorsed by most of the PSC operating throughout Iraq.

The success of the Coalition’s efforts in Iraq depends upon contractors providing goods, services, protection and reconstruction. To ensure that success, we acknowledge and agree that sound and informed regulation of the PSC industry is prudent. To demonstrate our commitment to this process, we have formed PSC Working Groups both here and in Iraq to help facilitate and coordinate the implementation of sound regulatory policies.

To date, it appears that all proposed and enacted regulation has lacked adequate consultation with members of the PSC industry. To mitigate this lack of input, the PSC Working Group requests a meeting with you or members of your staff as soon as possible.

On June 26, 2004 the CPA enacted Memorandum No. 17 (“Memo 17”). Memo 17 gives the new Iraqi government significant authority over PSCs and their personnel. We are concerned that the new Iraqi government does not yet have the infrastructure or capabilities to oversee the programs envisioned in Memo 17. More important, Memo 17 and CPA Order 17 only provide limited immunity for U.S. PSC personnel and citizens working on U.S. Government contracts. Thus, such personnel will be subject to an unproven Iraqi legal and justice system.

Memo 17 adds sweeping authority for the new Iraqi government. The new proposals include, among other things:

- Bonding requirements that can be altered and manipulated at any time at the sole discretion of the Iraqi government.
- Requirements that PSCs obtain licenses from two different Iraqi government ministries that may be refused or revoked at their discretion.
- Requirements that PSCs provide the Iraqi government with the names of all employees and the serial numbers of all their weapons on an ongoing basis.

- Requirements that PSCs provide to the Iraqi government all “relevant financial and employment records” every six months.
- Unlimited and overly broad waiver authority for the Iraqi government that invites corruption and arbitrary differential treatment of PSCs.

These regulations create an opportunity for graft and are a troubling source of potential monetary and legal liability. Perhaps most troubling, Memo 17 provides insufficient immunity for PSC personnel from Iraqi criminal and civil law despite the fact that the vast majority of Iraqi law has yet to be written and the legal system lacks procedural protocol.

The Iraqi Ministry of Interior (“MOI”) is currently unable to administer Memo 17 within the proposed timeframe of 31 August 2004. At some point in the future, the sovereign Iraqi government will have the authority to repeal, modify, adjust, enhance or replace these proposals at any time as they see fit, making an already unpredictable process even more uncertain.

We have been proud to work side-by-side with coalition forces and private companies to build a stable, free Iraq. We would like to continue that work. To that end, we recommend two courses of action that would allow us to operate with adequate certainty and confidence as well as provide strong but reasonable oversight of PSCs.

First, we recommend that the Department of State work with the Iraqi government and the MOI to delay the implementation of Memo 17 for at least one year. It will take at least one year for the new Iraqi government to have the experience, infrastructure and capability to adequately administer Memo 17. It is our understanding that the MOI is currently considering extending the date. In the alternative, we request that the Department of State lobby the Iraqi Government for a solution that would permit PSCs to continue their support of the reconstruction effort in compliance with Iraqi law after 31 August 2004.

Second, we recommend that the PSC industry be consulted in connection with any potential regulation of PSCs by the DOS or any other U.S. Government agency. It is our understanding that the DOS and DOD have drafted an Interagency Policy regarding contractor security in Iraq. If adopted, any such regulation will set broad international precedent in regard to PSC industry regulation. For this reason, among others, it is paramount that any such regulation be based on informed opinion and sound policy. To this end, the PSC Working Group is ready, willing and able to assist.

With the PSC Working Group’s collective knowledge of private security and extensive experience in Iraq, we hope that you will value our input and request for a meeting. Without further protections and a change in the process of creating regulations, we anticipate that it could be difficult for the PSC industry to retain an adequate level of quality security professionals willing to continue to perform their vital roles in Iraq and elsewhere, potentially threatening the success of the Coalitions’ efforts.

We thank you for your time and consideration. We are available to provide any additional comments, answer questions or meet with you or members of your staff at any time to discuss this issue further.

Respectfully yours,

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cc: Whitehall, U.K.