

**COALITION PROVISIONAL AUTHORITY
REGULATION NUMBER 12**

IRAQ PROPERTY CLAIMS COMMISSION

Pursuant to my authority as Administrator of the Coalition Provisional Authority (CPA), and under the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolutions 1483 and 1511 (2003) and 1546 (2004),

Noting that the Statute of the Establishment of the Iraq Property Claims Commission, which was promulgated pursuant to Coalition Provisional Authority Regulation 8, Delegation of Authority Regarding an Iraq Property Claims Commission, (CPA/REG/14 January 2004/8), did not provide adequate mechanisms for the appointment, management, and operation of the Iraq Property Claims Commission,

Recognizing that the Statute of the Establishment of the Iraq Property Claims Commission requires amendment to ensure that the Iraq Property Claims Commission can function properly,

Acknowledging that an initial set of Instructions for Operation are needed to implement the Statute of the Establishment of the Iraq Property Claims Commission so that claimants, court officials, and administrators can understand better the claims process of the Iraq Property Claims Commission, and

Desiring to amend the Statute of the Establishment of the Iraq Property Claims Commission and to promulgate the Instructions for Operation of the Iraq Property Claims Commission,

I hereby promulgate the following:

**Section 1
Amended Iraq Property Claims Commission Statute**

The Statute of the Establishment of the Iraq Property Claims Commission, which became effective on January 15, 2004 pursuant to Coalition Provisional Authority Regulation 8, Delegation of Authority Regarding an Iraq Property Claims Commission, (CPA/REG/14 January 2004/8), is hereby amended and restated in full in the form attached hereto as Annex A.

**Section 2
Promulgation of Instructions for Operation**

The Instructions for Operation of the Iraq Property Claims Commission which are attached hereto as Annex B shall implement the Statute of the Establishment of the Iraq Property Claims Commission and shall apply to all claims filed before the Iraq Property Claims Commission.

Section 3
Entry and Force

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

L. Paul Bremer 6/24/04

L. Paul Bremer, Administrator
Coalition Provisional Authority

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Establishment of the Iraq Property Claims Commission (As Amended and Restated)

SECTION ONE Establishment

Article One

This Statute hereby establishes the Iraq Property Claims Commission (the "IPCC"), which shall resolve real property claims in a fair and judicious manner. The IPCC shall encourage the voluntary resolution of claims.

SECTION TWO Organization

Article Two

The IPCC shall consist of the following structures established by the Iraqi Interim Government:

- A. An Appellate Division, composed of judges and established as a separate chamber of the Iraqi Court of Cassation;
- B. Regional Commissions established in each governorate in Iraq, and a maximum of three regional commissions in the Kurdistan Regional Government area. The Appellate Division may then establish more than one Regional Commission in a governorate; and
- C. A National Secretariat which shall be responsible for overseeing all operational and management activities of the IPCC.

Article Three

A. The Appellate Division of the IPCC shall be composed of five judges, one of whom shall be nominated by the judicial authority in the Kurdistan Regional Government, who have experience in adjudicating property disputes. They may be retired or serving judges and are to be appointed by the Council of Judges. .

B. Each Regional Commission shall be composed of (i) a judge, appointed by the Council of Judges, who shall preside as chairman, (ii) the Director of the Office of Real Estate Registry in the Governorate, or his representative, and (iii) the Director of State Property of such Governorate, or his representative. The Regional Commission may also request the assistance of persons who are experts on the subject of any claim.

C. The National Secretariat shall be composed of (i) a Head of the National Secretariat who shall serve as the highest official of the National Secretariat, (ii)

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operational managers, auditors, data managers, legal advisers, public relations personnel, and any other staff necessary to ensure the orderly functioning of the National Secretariat, (iii) Regional Secretariats situated in each Governorate with all necessary staff to ensure the IPCC's orderly functioning, including Regional Commission Clerk's offices, which shall provide operational and legal support as necessary to each Regional Commission, and (iv) an Appellate Secretariat with the necessary staff to ensure the Appellate Division's orderly functioning, including an Appellate Division Clerk's office which shall provide operational and legal support as necessary to the Appellate Division.

Article Four

The Iraqi Interim Government shall ensure that the IPCC has the necessary funds to discharge its administrative duties and that the Regional Commissions and Regional Secretariats are provided with appropriate premises from which to operate in the capital of the relevant Governorate or Kurdistan Regional Government area or at any such locations as shall be deemed expedient by the IPCC.

SECTION THREE Procedures

Article Five

- A. The IPCC shall designate the form of documents for submission of claims and for administrative purposes.
- B. The process of adjudicating claims filed with the IPCC shall commence with the claimant(s), or his representative filing a claim in the proper form at any IPCC office, including any properly designated IPCC office outside Iraq.

Article Six

- A. Following receipt of a properly completed claim form, the Regional Secretariat shall open a claim file and record the claim in the intake register in the order received.
- B. After receipt of a properly completed claim form, the relevant Regional Secretariat shall serve notice of the claim on any interested parties, including natural or juridical persons, in accordance with the Guidelines issued by the National Secretariat and Instructions for Operation approved (if before June 30, 2004) by the Administrator or (if after June 30, 2004) the Iraqi Interim Government.
- C. The Regional Secretariat shall serve notice of the claim on the General Directorate of Real Estate Registration, and the General Directorate of Real Estate Registration shall cause the official title record to be endorsed with the date and reference number of the claim.

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- D. The Regional Secretariat shall verify the claim administratively, and authenticate the identity of the parties.
- E. The Regional Commission Clerk's Office shall then review each claim file, and, prior to submitting the file to the Regional Commission, prepare for the Regional Commission a case report which summarizes the factual background of the case, the legal issues involved, the parties' arguments, and the Clerk's Office's recommendation, made by a legal advisor, as to how the case should be decided.
- F. The Regional Commission may request the assistance of other governmental and non-governmental parties for purposes of valuation of interests and other related matters.
- G. The Regional Commission shall issue its decision with respect to the claim, but the Regional Secretariat shall be responsible for notifying the claimants and any known interested parties of the Regional Commission's decision.

Article Seven

- A. Any appeal of a decision of the Regional Commission must be filed within sixty days from the date of the decision.
- B. Orders issued by the Regional Commission shall be final and binding unless appealed within sixty days.
- C. A decision of the Regional Commission will not be enforceable until the requisite period for filing an appeal has passed and no appeal has been lodged.
- D. A decision made by the Appellate Division is final and binding in respect of any IPCC related matter.
- E. The final order of the Regional Commission or Appellate Division, as appropriate, shall be issued to all relevant parties and the appropriate competent authorities for enforcement.
- F. If the property in question is occupied, possessed or used by the non-prevailing party, and such party has no other property, then the non-prevailing party would be granted a prescribed period of time to surrender possession of the premises. The Regional Secretariat shall also inform the displaced person(s) of the availability of any services for assistance.

SECTION FOUR General Principles

Article Eight

The IPCC shall comply with, but not be limited to, the application of the following examples when resolving real property claims:

- A. Any properties that were confiscated or seized, or on which liens or other encumbrances were placed by the former governments of Iraq

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(not in the ordinary course of commercial business), but with title remaining in the name of the original owner shall be returned to the original owner, freed and discharged from any such liens or other encumbrances.

- B. Any properties that were confiscated or seized and whose title was transferred to the former governments of Iraq, or an agent thereof, and which were not sold to a third party, shall be returned to the original owner.
- C. Any properties confiscated by the former governments of Iraq that were used as mosques, other places of worship, religious schools, charities or were associated with such uses shall be returned to the appropriate *waqfs* (religious endowments) connected to such uses or to the appropriate holders of title to such properties prior to their confiscation.
- D. Any properties whose title is in the name of senior members of the former governments of Iraq shall be returned to the rightful owners, if it is established that such properties were improperly acquired.
- E. If a property was confiscated and subsequently sold to a buyer (the "First Buyer"), and (i) title remains in the name of the First Buyer and (ii) no improvements were made to the property, then title to the property will be transferred back to the original owner, and the First Buyer would not be entitled to compensation from the original owner.
- F. If the property was an unimproved property (that is, a property not built upon) when confiscated or otherwise seized, and then subsequently sold to the First Buyer, and the First Buyer has improved the property by building upon it, then the original owner would be entitled to either (i) having title transferred to him, provided that he pays the First Buyer the value of the improvements or (ii) being paid appropriate compensation for the property (as an unimproved property).
- G. If the property was sold to the First Buyer, who subsequently acquired an adjoining property from the state, then title to both the original property and the adjoining property shall be transferred to the original owner, provided that such original owner pay the First Buyer the amount that such First Buyer paid for the adjoining property.
- H. If the property has a building on it and then was sold to the First Buyer, who subsequently demolished the original building and built a new building on it, then the original owner of the property may (i) request that title be transferred to him, after paying for the new building, less the value of the old demolished building, or (ii) may request that the First Buyer acquire the property, including the demolished building (less any amounts paid by the First Buyer to the former governments of Iraq).
- I. If the property was subsequently sold by the First Buyer to other buyers, then the original owner could either (i) request that title be transferred to him, or (ii) request compensation for the value of the

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- property. If the original owner chooses option (i) above, then the final buyer would be entitled to compensation for the value of the property.
- J. If the property was charged as security to a lender for a loan to the First Buyer, then title to the property would be freed and discharged from any such charge, and the lender would then have a right of action against the First Buyer to recover any outstanding balance due under the loan.
 - K. If the property was unimproved and a building was built on it by the First Buyer, and the property was charged to a lender as security for a loan, then any amounts due to the First Buyer by the original owner (pursuant to Paragraph F above) would be paid by the original owner direct to the lender to fully or partially satisfy the loan.
 - L. If the property was confiscated and sold in a public auction and was purchased by either the original owner or his heirs, then they will be entitled to compensation from the state in an amount equivalent to the purchase price.
 - M. If the property is currently being used for a public or charitable purpose, the property shall continue to be used for that purpose, and the Government or current owner, user or possessor shall provide the original owner, user or possessor with compensation.
 - N. Any other relevant situation in line with these provisions.

SECTION FIVE Other Matters

Article Nine

This Statute governs claims:

- A. (1) Arising between July 17, 1968 and April 9, 2003, inclusive;
(2) Involving immovable property, assets affixed to immovable property, easements or servitudes ("real property"), or an interest in real property;
(3) That was confiscated, seized, expropriated, forcibly acquired for less than full value, or otherwise taken, by the former governments of Iraq for reasons other than land reform or lawfully used eminent domain. Any taking that was due to the owner's or possessor's opposition to the former governments of Iraq, or their ethnicity, religion, or sect, or for purposes of ethnic cleansing, shall meet this standard; or
- B. (1) Arising between March 18, 2003 and June 30, 2005, inclusive;
(2) Involving real property, or an interest in real property;
(3) That was confiscated, seized, expropriated, forcibly taken for less than full value, or otherwise acquired and/or reacquired:

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- i. as a result of the owner's or possessor's ethnicity, religion, or sect, or for purposes of ethnic cleansing, or;
- ii. by individuals who had been previously dispossessed of their property as a result of the former Ba'athist governments' policy of property confiscation.

Article Ten

- A. Newly introduced inhabitants of residential property in areas that were subject to ethnic cleansing by the former governments of Iraq prior to April 9, 2003 may be (i) resettled, (ii) may receive compensation from the state, (iii) may receive new property from the state near their residence in the governorate or area from which they came, or (iv) may receive compensation for the cost of moving to such area.
- B. The Ministry of Displacement and Migration shall be responsible for administering this policy.

Article Eleven

- A. Claims must be filed in the proper form and properly completed by June 30, 2005. Any claims filed with the IPCC after such date will not be accepted.
- B. Any claims with respect to properties within the jurisdiction of this Statute but filed subsequently to June 30, 2005 may be referred to the Iraqi Courts, which shall apply the principles included in this Statute. This provision is not available to any claimant who has already filed a claim with respect to the same property with the IPCC.
- C. The IPCC is to have exclusive jurisdiction over all claims involving immovable property, assets affixed to immovable property, easements or servitudes on property or land or other interests in real property brought in accordance with Articles 9A and 9B. Any such cases pending must be transferred by the relevant court to the jurisdiction of the IPCC.

Article Twelve

The terms of this Statute shall take precedence over any provisions in resolutions or orders or laws that are inconsistent.

Article Thirteen

The National Secretariat shall issue Guidelines which will set forth the procedures to be followed by the IPCC.

The National Secretariat may issue interpretative memoranda which set forth the manner in which it shall construe the Instructions for Operation.

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Article Fourteen

The Iraqi Interim Government means the Government appointed on June 1, 2004, and assuming sovereignty on July 1, 2004. The authority of the Iraqi Interim Government for the purposes of this Statute will transfer to the successor governments of Iraq.

Article Fifteen

Transfers of real property pursuant to this Statute shall not be subject to income tax, a tax on a transfer of real property, or any other tax or duty.

Article Sixteen

This Statute will become effective on 1 July 2004.

Iraq Property Claims Commission INSTRUCTIONS FOR OPERATION

SECTION ONE General Provisions

Article 1

These Instructions implement the Statute of the Establishment of the Iraq Property Claims Commission (As Amended and Restated) (the “Statute”) and apply to all claims filed before the Iraq Property Claims Commission (IPCC). Unless otherwise stated, references to Articles are Articles in these Instructions.

Article 2

Together with the Statute, these Instructions govern:

- a. The composition of the IPCC;
- b. The submission of claims before the IPCC;
- c. The reception of claims by the IPCC;
- d. The process for deciding claims;
- e. The legal effectiveness of IPCC decisions.

SECTION TWO Composition of the IPCC

Article 3

In accordance with Article 2 and Article 3 of the Statute, the IPCC shall consist of a National Secretariat, an Appellate Division and one or more Regional Commissions in each governorate or Kurdistan Regional Government area.

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National Secretariat

Article 4

a. A National Secretariat for property claims shall be established. The initial Head of the National Secretariat shall be appointed by the Administrator after consultation with the Iraqi Interim Government for a term of two years which may be renewed once at the discretion of the Prime Minister of Iraq. The initial Head of the National Secretariat shall then take action to manage the work of the National Secretariat by setting up an office, including but not limited to, the following staff:

i. Operational managers to oversee IPCC operations, to coordinate among the different branches of the IPCC, and, where appropriate, to issue user manuals and operating guidelines to direct certain functions of the IPCC;

ii. Auditors to inspect IPCC operations for fraud, waste or mismanagement;

iii. Data managers to enter into the national database of claims the information on forms submitted to the IPCC, and to review the national database for cases with similar and recurrent factual patterns;

iv. Legal advisers to ensure consistent application of IPCC rules, to oversee orders of compensation, and, where appropriate, to request that the Appellate Division issue an advisory opinion addressing an unresolved issue of law or fact;

v. Public relations personnel to advertise the existence of the IPCC, the location of IPCC offices, the rules of procedure of the IPCC, and other issues it deems appropriate;

vi. Appellate Division Secretariat and Regional Secretariats in accordance with Article 3(C) of the Statute and Article 8, Article 9, Article 16, and Article 17; and

vii. Any other staff necessary to ensure an orderly functioning of the National Secretariat in accordance with the responsibilities outlined in these Instructions.

b. All subsequent appointments to the office of Head of the National Secretariat shall be for four years, without term limits, and made in accordance with the following procedure:

The Council of Judges shall recommend three candidates to be considered for appointment as Head of the National Secretariat. The Iraqi Interim Government

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or successor Government of Iraq shall then appoint one of these candidates as Head of the National Secretariat.

Article 5

The National Secretariat shall:

- a. Ensure consistent implementation of, and compliance with, the Statute, these Instructions, any legal determinations made by the Appellate Division, and any IPCC Guidelines issued by the National Secretariat;
- b. Audit IPCC offices;
- c. Establish a national database of claims, and enter into that database the information received from the Regional Secretariats, IPCC offices or from persons living outside Iraq.
- d. Review the national database for cases with similar and recurrent factual patterns and common legal issues, and notify the Regional Commissions or Appellate Division, as necessary, of such cases for coordinated treatment.
- e. Coordinate among the different branches of the IPCC, and between the IPCC and the Ministry of Housing, the Ministry of Justice, the Council of Judges, the Ministry of Displacement and Migration, and the Ministry of Finance, and any other resource as necessary;
- f. Issue user manuals and operating guidelines;
- g. Manage IPCC public relations and communications;
- h. Oversee orders of compensation and the implementation of orders requiring persons to surrender possession of their property;
- i. Support the Appellate Division and Regional Commissions; and
- j. Accomplish other tasks assigned to it herein or in future IPCC Instructions.

Appellate Division

Article 6

The Appellate Division shall be an independent review body within the IPCC located in Baghdad and established as a separate chamber of the Iraqi Court of Cassation. It shall hear appeals of decisions made by the Regional Commissions.

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Article 7

- a. In accordance with Article 3(A) of the Statute, the Appellate Division shall be comprised of five retired or serving judges who have experience in adjudicating property disputes, to be appointed by the Council of Judges. The judges of the Appellate Division shall represent a cross section of the Iraqi population. Each Judge shall have a deputy who must be approved by the Council of Judges.
- b. To the extent that the Council of Judges appoints to the Appellate Division any serving judges, such judges shall be transferred to the IPCC to serve on a full-time basis.
- c. Each judge of the Appellate Division shall act as Chief Judge in turn, in an order of appointment to be determined by the Council of Judges. Each appointment shall have a maximum duration of two years.

Article 8

In accordance with Article 3(C) of the Statute, an Appellate Division Secretariat shall be established for the Appellate Division to assist in the IPCC's administration. The Appellate Division Secretariat shall report to, and take guidance and instructions from, the National Secretariat. To establish the Appellate Division Secretariat, the National Secretariat shall appoint a Head of the Appellate Division Secretariat, who shall then take action to establish a support service for the Appellate Division by setting up an office, including but not limited to, the following staff:

- a. Receptionists to ensure the orderly flow of people through the office, and to answer basic questions relating to the IPCC.
- b. Persons tasked with notifying the Regional Commissions and Regional Secretariats of Appellate Division decisions, as required by these Instructions.
- c. Persons trained in: (i) distributing and receiving claim, response and appeal forms, and (ii) entering such forms into a computer and sending the electronic data to the National Secretariat for data processing.
- d. Docket managers to oversee case files and issue final orders.
- e. Any other staff necessary to ensure the orderly functioning of the Appellate Secretariat, in accordance with the responsibilities outlined in these Instructions

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In accordance with Article 3(C) of the Statute, an Appellate Division Clerk's Office shall be established in the Appellate Division Secretariat and provide operational and legal support as necessary to the Appellate Division. The Appellate Division Clerk's Office shall report to, and take guidance and instructions from the Appellate Division Secretariat and (as necessary) the National Secretariat.

To establish the Appellate Division Clerk's Office, the Head of the Appellate Division Secretariat (in consultation with the Head of the National Secretariat) shall provide the Chief Judge of the Appellate Division with a list of ten candidates qualified to serve as the Head of the Appellate Division Clerk's Office. The Chief Judge of the Appellate Division (in consultation with all other Appellate Division Judges) shall then appoint one candidate from the list of ten candidates provided by the Appellate Division Secretariat as the Head of the Appellate Division Clerk's Office. The Head of the Appellate Division Clerk's Office shall then set up an office in the Appellate Division Secretariat which shall be composed of legal advisors who shall review case files and prepare for the Appellate Division a case report which summarizes:

- (i) the factual background of the case;
- (ii) the legal issues involved;
- (iii) the parties' arguments; and
- (iv) the Clerk's Office's recommendation, made by a legal adviser, as to how the case should be decided.

Article 10

In accordance with Article 2(B) of the Statute, the Appellate Division may determine that a governorate or Kurdistan Regional Government area would benefit from more than one Regional Commission, and, if it does, shall establish the territorial boundaries of each Regional Commission within a governorate or government area. The Appellate Division also may determine that a Regional Commission should operate in more than one governorate.

Article 11

Upon request of the National Secretariat or a Regional Commission, the Appellate Division may issue an advisory opinion on any unresolved question of law or common issue of fact to establish the rule to be applied uniformly to subsequent similar cases.

Article 12

The term of office of the judges of the Appellate Division shall expire after five years and may be renewed upon decision by the Council of Judges, except that the term of office shall terminate upon completion of all claims before the Appellate Division.

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Article 13

The standards under which a judge of the Appellate Division shall disqualify himself or herself from considering a claim are the same as the standards under which a Regional Commissioner shall disqualify himself or herself. Where a judge of the Appellate Division is not available to consider a claim, whether because they disqualify themselves or otherwise, their deputy may sit on the Appellate Division and act with the full powers of the unavailable judge.

Regional Commissions

Article 14

- a. In accordance with Article 2(B) of the Statute, each Regional Commission shall serve a different governorate or Kurdistan Regional Government area and shall be located in the capital city of the governorate or Kurdistan Regional Government area in which it serves, unless the Appellate Division otherwise determines in accordance with Article 10.
- b. Notwithstanding Paragraph (a) of this Article, a Regional Commission may sit in any part of the territory over which it has jurisdiction if the Chairman of the Regional Commission or the National Secretariat determines, in their discretion, that the circumstances so warrant.

Article 15

In accordance with Article 3(B) of the Statute, each Regional Commission shall be comprised of (i) a judge appointed by the Council of Judges, who shall serve as the Chairperson; (ii) the Director of the Office of Real Estate Registry in the Governorate in which the Commission sits, or their representative; and (iii) the Director of State Property of such Governorate, or their representative.

Article 16

In accordance with Article 3(C) of the Statute, a Regional Secretariat shall be established for each Regional Commission to assist in the IPCC's administration. The Regional Secretariat shall report to, and take guidance and instruction from, the National Secretariat. To establish the Regional Secretariat, the National Secretariat shall appoint a Head of the Regional Secretariat, who shall then take action to establish a support service for the Regional Commission by setting up any necessary offices, including but not limited to, the following staff:

- a. Receptionists to ensure the orderly flow of people through the office, and to answer basic questions relating to the IPCC.

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- b. Persons tasked with notifying interested parties, as required by these Instructions.
- c. Persons trained in: (i) distributing and receiving claim, response and appeal forms, and (ii) entering such forms into a computer and sending the electronic data to the National Secretariat for data processing.
- d. Docket managers to oversee case files and issue final orders.
- e. Mediators and staff to assist in the voluntary resolution of claims.
- f. Any other staff necessary to ensure the orderly functioning of the Regional Secretariat, in accordance with the responsibilities outlined in these Instructions.

Article 17

In accordance with Article 3(C) of the Statute, a Regional Commission Clerk's Office shall be established in each Regional Secretariat and provide operational and legal support as necessary to the Regional Commission. The Regional Commission's Clerk's Office shall report to, and take guidance and instructions from the Regional Secretariat and (as necessary) the National Secretariat.

To establish the Regional Commission Clerk's Office, the Head of the Regional Secretariat shall provide the Chairperson of the Regional Commission with a list of ten candidates qualified to serve as Head of the Regional Commission Clerk's Office. The Chairperson of the Regional Commission (in consultation with all other members of the Regional Commission) shall then appoint one candidate from the list of ten candidates provided by the Head of the Regional Secretariat as the Head of the Regional Commission Clerk's Office. The Head of the Regional Commission Clerk's Office shall then set up an office in the Regional Secretariat which shall be composed of legal advisers who shall (in accordance with Article 6(E) of the Statute) review case files and prepare for the Regional Commission a case report which summarizes:

- (i) the factual background of the case;
- (ii) the legal issues involved;
- (iii) the parties' arguments; and
- (iv) the Clerk's Office's recommendation, made by a legal adviser, as to how the case should be decided.

Article 18

Members of a Regional Secretariat may be required by these Instructions, by the Chairperson of the appropriate Regional Commission or by the National Secretariat to travel to any part of the territory over which the Regional

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Commission has jurisdiction in order to facilitate the intake or processing of claims.

Article 19

The commissioners' term of office shall expire after three years and may be renewed upon decision by the relevant appointing authority, except that the term of office shall terminate upon completion of the Regional Commission's consideration of the claims before it.

Article 20

- a. A Regional Commissioner shall disqualify himself or herself from considering any claim in which their impartiality might reasonably be questioned.
- b. The impartiality of a Commissioner might reasonably be questioned, *inter alia*, if:
 - i. The Commissioner is a relative of one of the parties;
 - ii. The Commissioner or their spouse, child, parent, son-in-law or daughter-in-law has an ongoing dispute with one of the parties;
 - iii. The Commissioner has been a legal advisor for one of the parties, business partner of any kind, held an interest in a company, or been a board member of a company in which one of the parties has a controlling interest;
 - iv. The Commissioner or their relative has given advice or an opinion on the particular case before it reached the Regional Commission;
or
 - v. The Commissioner has any other interest (financial or otherwise) in the claim.
- c. For the purposes of these Instructions, "relative" is defined as "a relation through parentage, marriage or adoption up to the fourth degree".
- d. Where a Commissioner is not available to consider a claim, whether because they disqualify themselves or otherwise, their position shall be filled by an ad hoc appointment by the appointing authorities, so that the appointing authority which appointed the disqualified Commissioner shall appoint the ad hoc replacement.

Submission and Reception of Claims

A) Information on claim submission

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Article 21

The National Secretariat shall carry out national and international information programs, and Regional Secretariats shall carry out such programs within the territories of their respective Regional Commissions, to ensure that potential claimants receive notice of, and instructions on submitting a claim to the IPCC. Such programs shall employ notices to be published widely (i.e., both inside and outside Iraq, as appropriate, and via a number of different media) and repeatedly in order to reach all potential claimants.

B) Submission of claims

Article 22

Any person, natural or juridical, or their heirs, may submit a claim to the IPCC so long as the claim:

- A. (1) Arose between July 17, 1968 and April 9, 2003, inclusive;
- (2) Involves immovable property, assets affixed to immovable property, easements or servitudes (“real property”), or an interest in real property;
- (3) That was confiscated, seized, expropriated, forcibly acquired for less than full value, or otherwise taken, by the former governments of Iraq for reasons other than land reform or lawfully used eminent domain. Any taking that was due to the owner’s or possessor’s opposition to the former governments of Iraq, or their ethnicity, religion, or sect, or for purposes of ethnic cleansing, shall meet this standard; or

- B. (1) Arose between March 18, 2003 and June 30, 2005, inclusive;
- (2) Involves real property, or an interest in real property;
- (3) That was confiscated, seized, expropriated, forcibly taken for less than full value, or otherwise acquired and/or reacquired:
 - i. as a result of the owner’s or possessor’s ethnicity, religion, or sect, or for purposes of ethnic cleansing, or;
 - ii. by individuals who had been previously dispossessed of their property as a result of the former Ba’athist governments’ policy of property confiscation.

For purposes of the IPCC’s jurisdiction, actions or inactions attributable to the former governments of Iraq include, but are not limited to:

- 1. The actions or inactions of any State organ in Iraq, whether of the central government or of a territorial unit of the State, and whether the organ

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exercised legislative, executive, judicial or any other functions within the former governments;

2. The actions or inactions of a Ba'ath party member, or of a relative of a senior official of the Government or party, operating with apparent authority, or under color of authority, or with the implicit or explicit license of the former governments.

Claims for damages only are not within the jurisdiction of the IPCC.

Article 23

A claimant who brings a claim in bad faith and with knowledge that such claim is fraudulent will be deemed to commit a criminal offence under the Iraqi Penal Code.

Article 24

A claimant who, after issuance of these Instructions, willfully returns to currently occupied property and takes measures to force the current occupiers to vacate that property will be deemed to commit a criminal offence under the Iraqi Penal Code.

Article 25

- a. Claims shall be submitted in person, in the prescribed form, at any IPCC office as required under Article 5 of the Statute.
- b. Claims submitted by persons located outside Iraq will be governed by a separate set of Instructions.
- c. Claims will be deemed to be filed once the claim has been accepted by the Regional Secretariat acting through any IPCC office and the applicant has been issued an acknowledgement bearing the claim reference number.

Article 26

Where security conditions or geographical conditions so warrant, the Regional Secretariat may dispatch a mobile team, consisting of members of the Regional Secretariat, to an area with a concentrated population of potential claimants, to facilitate the intake and processing of claims.

Article 27

- a. Where a representative acts on behalf of a claimant, the representative must prove their representation. The IPCC shall prescribe the form of evidence of

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representation, and the signature of the claimant authorizing representation on that form shall be considered sufficient evidence of representation unless there is reason to believe that such signature was wrongfully obtained.

b. Where property rights are communally held, and the person in whose name the property is registered cannot be found, other members of the community may file a claim on behalf of the entire community if such members offer proof of the registered person's absence and proof of membership in the community.

Article 28

The claimant, or their representative, shall attach to the claim form any available evidence, including any testimonial evidence, proving their rights to the claimed property.

a. Written testimony shall be sworn and notarized, in accordance with Iraqi law.

b. For documentary evidence, the claimant, or their representative, shall submit a certified copy. Wherever possible, the IPCC shall review and certify, as true and correct, any original documents pertaining to the claim, but the IPCC will not accept custody of any original documents.

Article 29

The claimant, or their representative, may withdraw the claim or part of the claim at any time until a decision is issued.

a. A withdrawal shall be explicit, in the prescribed form, signed by the claimant and filed in the manner specified for claims in Article 25.

b. Upon receipt of notification of a withdrawal, the Regional Commission may accept the withdrawal, with or without prejudice, and the Regional Secretariat shall record in the national database that the claim has been withdrawn.

C) Processing of Claims (in-country claimants)

Article 30

Upon receipt of a claim in the proper form, the Regional Secretariat shall review the form in the claimant's presence, or in the presence of their representative, to ensure that all obligatory information is provided. Where the claim form is missing obligatory information, the Regional Secretariat shall advise the claimant, or their representative, of what must be done to provide the missing information and shall return the claim form to the claimant, or to their representative, without processing it.

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Article 31

Once the Regional Secretariat has reviewed the claim form and advised the claimant, or their representative, of any missing obligatory information, it is the responsibility of the claimant to complete the form within the filing period. The claim will not be accepted for processing by the Commission until all obligatory information is provided.

Article 32

Immediately upon receipt of a properly completed claim form, and, in the claimant's presence, or in the presence of their representative, the Regional Secretariat shall:

- a. Assign the claim a unique claim number;
- b. Affix a pre-printed label with the unique claim number to the claim form;
- c. Provide the claimant with confirmation of receipt in the prescribed form showing the unique claim number for future reference.

Article 33

After assigning a unique claim number to the claim, the Regional Secretariat shall serve notice of the claim on all identifiable interested parties, in accordance with Article 6(B) of the Statute.

- a. The Regional Secretariat shall serve notice of the claim on interested parties by:
 - i. Physically posting notice for a minimum of one month on the subject property, at the office of the Regional Commission and in any local or electronic venues that may attract an interested party's attention; and
 - ii. Communicating the notice in writing to any identifiable interested parties, unless impracticable.
- b. Upon serving or posting notice (whichever is later), the Regional Secretariat shall record the date of notice.
- c. The notice shall provide sufficient details to enable any interested party to file a response to the claim. Further information relating to the claim may be provided by the Regional Commission, if the Head of the Regional Secretariat determines that such information is necessary for the proper filing of a response.

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The Regional Secretariat shall identify interested parties by reviewing the national database for any other claims relating to the subject property, searching the appropriate property registry for current and previous owners, identifying any current users or occupiers of the property, and taking any other steps it deems appropriate.

Article 35

Absent good cause, interested parties shall have forty five days from the date on which notice is served or posted (whichever is later) to submit a response to the claim. A response shall be submitted in the prescribed form and shall be submitted in the manner specified for a claim form in Article 25.

Article 36

For any form received by the Regional Secretariat, the Regional Secretariat shall enter the data from the form into the computer, and transmit the electronic version of the form data to the National Secretariat for data processing. The Regional Secretariat shall also send the original version of the form to the National Secretariat for filing in the national repository.

Article 37

Upon receiving the data from the Regional Secretariat, the National Secretariat shall transfer that data into the national database. Upon receiving the original paper copy, the National Secretariat shall file it at a national repository.

D) Processing of Claims (of out-of-country claimants)

Article 38

The National Secretariat shall process the claims of out-of-country claimants in the same way that the Regional Secretariats process the claims of in-country claimants, except as provided herein or in future IPCC Instructions.

Article 39

The appropriate Regional Secretariat remains responsible for notifying all identifiable interested parties of a claim, and the Regional Commission with jurisdiction over the area in which the property is located shall decide the claim.

Process for Deciding Claims

Article 40

Annex B

The Regional Secretariat or the National Secretariat may, at any time, consolidate claims that arise out of the same sequence of events or that are otherwise intertwined, in the interest of expediting the resolution of all claims.

A) Principles

Article 41

The IPCC shall comply with, but not be limited to, the application of principles set forth in Article 8 of the Statute.

B) Settlement

Article 42

The Regional Secretariat shall encourage the voluntary resolution of claims, and may arrange mediation or otherwise facilitate the amicable settlement of issues among the claimant(s) and any identifiable interested parties. The National Secretariat will provide guidance on the procedures to be followed.

Article 43

Where all parties resolve a claim voluntarily, the claim shall be removed from the Regional Commission's docket in one of the following ways:

- a. The claimant may withdraw their claim, pursuant to Article 29; or
- b. The parties may notify, in the prescribed form, the Regional Secretariat of the settlement.
- c. Where the parties notify the Regional Secretariat of the settlement under Paragraph (b) above, the Regional Secretariat shall convey that form to the Regional Commission. The Regional Commission shall then approve or, in extraordinary circumstances, disapprove the terms of voluntary resolution.

Article 44

Where the Regional Commission approves the terms of voluntary resolution, such approval shall be final and binding between the parties to that resolution, not subject to appeal, and of the same force and effect as a Final Order.

- a. If the settlement is not submitted to the Commission because the claim is withdrawn by the claimant, or the Commission disapproves the settlement, the voluntary resolution will have only the legal effect that it would have had under Iraqi law in the absence of the Statute and these Instructions.

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b. Where the Commission disapproves the terms of settlement, the claim shall be adjudicated in accordance with these Instructions, unless the claimant chooses to withdraw the claim.

C) Adjudication

Article 45

Where the parties do not pursue amicable settlement or fail to resolve the claim voluntarily, the Regional Commission Clerk's Office shall review the case file and prepare for the Regional Commission a case report which summarizes:

- (i) the factual background of the case;
- (ii) the legal issues involved;
- (iii) the parties' arguments; and
- (iv) the Clerk's Office's recommendation, made by a legal adviser, as to how the case should be decided.

Article 46

If, in analyzing the evidence, the Regional Secretariat determines that the evidence submitted is insufficient or of doubtful reliability, the Regional Secretariat may initiate evidence collection and/or verification procedures.

Article 47

Upon receiving the case file and the case report from the Regional Secretariat, the Regional Commission may, in its discretion, hold a hearing to develop the factual record.

Article 48

a. In accordance with Article 6(F) of the Statute, the Regional Commission may request the assistance of other governmental and non-governmental parties for purposes of valuation of interests and other matters relating to the issues in dispute.

b. Where the Regional Commission requests the assistance of other governmental parties, such parties shall provide the requested assistance.

Article 49

The Regional Commission shall decide the claim and the appropriate remedy by majority vote with three members present.

Article 50

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In making a decision, the Regional Commission shall look to the previous decisions of other regional commissions for guidance and shall accept the previous decisions of the Appellate Division as conclusive on any resolved issue of law or fact.

Article 51

The Regional Commission shall issue a decision that:

- a. identifies the parties' names;
- b. identifies the property at issue;
- c. determines the parties' respective rights to the subject property, including ownership rights, rights of possession, and rights of use;
- d. provides the legal basis for that determination;
- e. sets forth such legal remedy as the Regional Commission deems appropriate; and
- f. if applicable, identifies for the parties the availability of any governmental services or assistance.

Article 52

In accordance with Article 6(G) of the Statute, the Regional Secretariat shall notify the parties, or their representatives, of the Commission's decision by delivering to them a copy of that decision, if such delivery is practicable, and by posting notice of the decision both at the office of the Regional Commission and in any local or electronic venues that may attract the parties' attention.

Article 53

Decisions of the Regional Commissions shall be final and binding on the parties, unless appealed within sixty days from the date of decision, except that the Commissions may correct any clerical or technical errors in any earlier decisions.

D) Appeals

Article 54

Any party may appeal a decision of a Regional Commission on the grounds of new evidence or manifest error.

Article 55

To appeal a decision of the Regional Commission, a party shall file, within sixty days from the date of the Regional Commission's decision, an appeal in the

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prescribed form. Such form shall be filed in the manner specified for claims in Article 25.

Article 56

Upon receipt of an appeal, the Regional Secretariat shall:

- a. Stay issuance of a Final Order; and
- b. Enter the form into a computer and send the electronic version of it to the National Secretariat for data processing.
- c. Forward the appeal form and the case file to the Appellate Division Secretariat.

Article 57

The Appellate Division Secretariat shall:

- a. Notify the Regional Secretariat of its receipt of the Appeal;
- b. Review the case file and the decision being appealed;
- c. Transfer the case file and the decision being appealed to the Appellate Division Clerk's Office who shall prepare for the Appellate Division a case report setting forth:
 - (i) the decision below;
 - (ii) the ground for appeal;
 - (iii) a summary of the parties' arguments; and
 - (iv) the Appellate Division Clerk's Office's recommendation, made by a legal adviser, as to whether to consider the appeal and how to resolve it.

Article 58

All decisions by the Appellate Division shall be made by a majority vote and with five members present. In the event that a Judge is unavailable, their deputy may sit on the Appellate Division and act with the full powers of the unavailable judge.

Article 59

The Appellate Division may not reconsider its decision, but it may correct any clerical or technical errors of any earlier decision.

Article 60

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The Appellate Division Secretariat shall notify the appropriate Regional Commission and Regional Secretariat of the Appellate Division's decision. The Regional Secretariats shall be responsible for notifying the parties, or their representatives, of the Appellate Division's decision in accordance with the provisions of Article 52.

Legal Effectiveness of IPCC Decisions

Article 61

Upon issuance of a decision by the Appellate Division, or, where no appeal is made, fifteen days after expiration of the sixty day period for appeal, the Regional Secretariat shall issue to the parties and to the appropriate Office of Property Registration a Final Order confirming that the decision is final and binding. The Final Order shall identify the name(s) of the rights holders, the subject property, and the remedy, if applicable. In addition, each Final Order shall have a unique serial number and shall be verified with an official stamp.

Article 62

In accordance with Article 7(E) of the Statute, Final Orders are directly enforceable by the competent authorities of the district where the subject property is located.

Article 63

Final Orders may be reopened only if a person:

- a. Files a claim or response before the IPCC within the filing period;
- b. Has a claim to the subject property under Article 22; and
- c. Demonstrates that they did not know, and could not reasonably be expected to know, of the previous claim with respect to that property.

Article 64

In accordance with Article 7(F) of the Statute, Final Orders requiring the current occupants to surrender possession of the property may be enforced after sixty days if the occupants do not vacate the premises voluntarily. All other Final Orders may be implemented immediately.

Article 65

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Where a Final Order results in a previous occupier, possessor or user of property surrendering possession of the premises, the Regional Secretariat shall inform that person of any services available for assistance, and of any policy of the Ministry of Displacement and Migration to resettle or compensate such persons, in accordance with Article 7(F) and Article 10(B) of the Statute.

Article 66

These Instructions may be revised or supplemented by the Iraqi Interim Government. Additional details regarding the claims process may also be found in Guidelines, interpretative memoranda, and literature prepared by the National Secretariat.

Article 67

The National Secretariat may issue interpretative memoranda which set forth the manner in which it shall construe the Instructions.