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FROM: KOENIGS  UNAMA, KABUL  

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SUBJECT: Elections Update

Summary: After two years of largely UNAMA and UNDP attention to electoral issues, including assisting in the rather difficult transition of the Joint Electoral Management Body (JEMB) into the Independent Election Commission (IEC), electoral issues are now being paid serious attention by most donors. In recent months there has been considerable movement on electoral issues including, (1) a new draft Electoral Law which is currently being debated in the Cabinet; (2) the completion of a Civil and Voter Registry (CVR) Pilot Project; (3) discussions on the harmonization of the electoral calendar; and (4) Government review of the Independent Election Commission's structure and budget. Electoral discussions have only just begun and are expected to continue in the course of the next two years as there are a great many political, legal, operational and security issues that will need to be considered in advance of the next round of elections.

Transition from Joint Electoral Management Body (JEMB) to Independent Election Commission (IEC)

1. The JEMB was formally dissolved 30 days after the inauguration of the National Assembly in December 2005 at which point the Independent Election Commission (IEC) became the national institution responsible for Afghanistan's elections. Unfortunately, the transition of the IEC into a state and budgetary entity was incomplete by the 21 March 2006 deadline forecast by the Post Electoral Strategy Group (PESG) and was later extended to 20 October 2006.
2. After the departure of IEC Chairman Bismillah Bismil (now Ambassador to Indonesia) in late 2006, the President appointed Dr. Azizullah Lodin as the new Chairperson of the IEC. Dr. Lodin was the former Head of the Parliamentary Secretariat as well as a former Jihadi with close ties to President Karzai. He is originally from Herat Province and acquired his B.A. in Law and Political Science from Kabul University in 1964 and later received a Ph.D in Economics from the University of Koln, Germany in 1975. His strong personality and management style has caused some internal problems in the Commission. The Commission has not met to discuss electoral policy issues for the last 8 months but negotiations are underway to remedy this impasse.

Electoral Legal Framework

3. The Electoral Law was amended by the IEC through a long consultative process under which political parties, civil society, parliamentarians, international stakeholders and others reviewed options via roundtables in different provinces. Based on such discussions, the IEC included provisions for modified mixed proportional representation system under which 159 seats would be elected by SNTV (of which 68 would be reserved for women) and 80 by proportional representation; ten further seats would be reserved for Kuchis. This draft was then sent to the Ministry of Justice (MoJ) for review and subsequent submission to the Cabinet for debate. However, subsequent to Chairman Lodin's appointment and upon his request, the law was returned to the IEC to be redrafted to include a pure SNTV system rather than mixed PR. This latter draft was then finalized by the MoJ and is currently being reviewed by the Cabinet.
4. The Cabinet debate on the law has taken longer than expected, with long debates on the electoral system, the conduct of run-off elections, ineligibility issues relating to MP literacy and dual citizenship, and concerns over the ultimate authority to suspend elections in the face of security problems and any other unexpected circumstances.
5. The National Assembly has been prematurely reviewing an advance copy of the draft Electoral Law which has not yet been finalized by the Cabinet and the Electoral Sub-Committee of the WJ Legislative Commission has prepared a public appeal for inputs to the law by all Afghan political stakeholders and civil society in an attempt to aggregate differing public views on highly contentious issues such as the electoral system. Certain political groups have already started to submit their comments and more are likely to do so when the law is debated in the plenary session. The draft Electoral Law will likely be delivered to the National Assembly in late November and debate should begin on the law soon after the winter recess in January 2008. In accordance with the Constitution, the Electoral Law cannot be amended 12 months prior to the election date. If it is decided to hold elections in accordance with the constitutionally mandated time in the Spring of 2009 and 2010 for Presidential and Parliamentary Elections respectively, then the National Assembly will have to pass the draft Electoral Law by March 2008. It has been argued that the particular article requiring a 12 month in advance passage applied only to National Assembly Elections which would then push the deadline for the passage of the Electoral Law to March 2009. A draft IEC Structure Law will be submitted to the National Assembly after consideration of the Electoral Law.

Elections Calendar and Timing

6. There has been general agreement both by JCMB members and the Government of Afghanistan that simultaneous elections would allow for a cost-effective and sustainable electoral cycle. The President recently requested that the National Assembly consider the feasibility of holding simultaneous elections in the interest of sustainability and cost-effectiveness. The Wolesi Jirga's Legislative Commission has started to discuss the possibility of holding simultaneous elections with the IEC and the State Minister for Parliamentary Affairs and there are varying options of increasing the Presidential term and/or reducing the Wolesi Jirga terms in order to arrive at harmonized elections either in 2009 or 2010. Discussions are expected to continue throughout the month.
7. After careful consideration of the numerous options for the timing of the next round of elections, UNAMA has ascertained that holding elections in the spring would be considerably difficult on an operational level given the climatic obstacles of snow, snowmelt and flooding in the Central and Northern provinces at that time. In addition, it would be very difficult to conduct critical pre-election day activities (public/civic awareness, distribution of electoral materials and ballots, etc.) under such conditions. Security considerations in the spring and summer, given the height of insurgent activity at that time, will also need attention as we near the electoral preparation period. Elections in the fall would be preferred but the ultimate decision rests with the GoA.

Civil/Voter Registry Pilot:

8. In order to meet the Afghanistan Compact benchmark to establish a Civil and Voter Registry by the end of 2008, a CVR Pilot Project was designed to test the best modality for a future CVR. The Pilot Project began last summer and was recently completed. Two types of systems were tested; an "automated system" using laptop computers, printers, facial and iris scanning cameras and a "paper-based" system using facial photos and hardcopy data collection. The Pilot Project was conducted in three target districts of Kabul, Jalalabad and Bamyan for a period of 2 months. At this time, experts at UNDP and IFES are reviewing the Pilot results to provide recommendations for the design of a National Civil and/or Voter Registry project that will specifically focus on the needs of the IEC for a voter register which can allocate individuals to specific polling locations.
9. There is debate as to whether the national civil and voter registries should be combined or kept separate given that a voter registry is less complicated and more time-sensitive. There is pressure by donors to commence with a voter registry (using past records to the extent possible) while making sure that the information collected is coordinated with whatever Civil Registry Project maybe underway in the future. The Commission's position has been to meet the Afghanistan Compact benchmark and while it believes that a combined civil and voter registration would save money, it also realizes that a combined civil and voter registration process will not yield a suitable voter register in time for the upcoming elections. Other JCMB donors are also in agreement. The IEC has asked for technical assistance to start planning for a national voter registration exercise soon and the UNDP ELECT Project will soon provide such assistance.

IEC Operations

10. On 12 October 2007, President Karzai appointed a ministerial committee to study the problems in the structure, budget and other requests and recommendations of the Independent Election Commission of Afghanistan. The Commission reviewed: IEC staffing requirements; IEC budget problems; clarification of the 25 June 2007 Cabinet decision which ordered the separation of civil registration and the issuance of national ID cards from voter registration; the placement of the IEC within the overall Government of Afghanistan. The Study Commission's findings and recommendations included: approval of the IEC's recommendation to increase its regular staff complement from 218 to 499 (includes HQ and 34 provincial offices); agreement that the IEC's budget request to support this increased staffing will be approved in the new fiscal year in March 2008; a request to the Cabinet to clarify its stance on the separation of the civil and voter registry; and clarification on placement of the IEC in the Government Structure.

EAD Mission

11. Given the many decisions that will need to be taken with respect to the role of the UN in upcoming elections, UNAMA has requested a high-level EAD Needs Assessment Mission to visit Afghanistan to help design the UN electoral support program, review the modalities for such support, and discuss funding for upcoming elections and other electoral policy concerns.

Best regards,

[Nassery/ODSRSG - Political]