

Update Note for the Secretary General
2 December 2010

1. DRC

Meece informs¹ of his 30 November meeting with FM Mamba in which they discussed the possible consequences of the referendum in South Sudan and the risk of subsequent violence.

The FM raised concerns of a worse case scenario which compared to the influx of Rwandan refugees in 1994. He said that the Government of the DRC would close the border, but admitted practical limitations to effectively doing so, considering that most of the frontier consists essentially of hundreds of kilometres of savannah with a minimal presence of border security. He expressed particular apprehension about the possibility of renewed support from Khartoum to the LRA, which would have dire consequences for the Congo and other countries in the sub-region.

On 1 December, the Security Council Sanction Committee on the DRC added four individuals, three linked to the FDLR and one ex-CNDP Officer who is an integrated Officer in the FARDC, to the list of individuals and entities subject to sanctions (assets and travel ban)².

2. Liberia/ Côte d'Ivoire

This Update does not include a briefing on the electoral crisis in Côte d'Ivoire as the SG has received, over the course of the day, the most recent information on this unfolding drama. Meanwhile, Løj reports that the early movement of Ivorian refugees into Liberia has reached 353³. These individuals are moving into adjacent towns and villages on the Liberian side, mainly where they have families. The Guinean borders with Liberia remain closed.

3. Afghanistan

Le Roy has sent the SG a note⁴ providing an analysis on the final results of the September parliamentary elections. With the IEC certification yesterday of the results for Ghazni (the rest of the results were certified on 24 November), the results

¹ (CCX 677 of 30/11/10)

² (Daily Sitrep of 1/12/10)

³ (Daily sitrep of 2/12/10)

⁴ (10-11165 of 1/12/10)

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are now binding. While it concludes the procedural element of an electoral cycle, its political conclusion will depend on Karzai's next actions. (*Attachment #1*)

4. Georgia

Turunen has informed⁵, on a strictly confidential basis, that the information obtained from a reliable Georgian interlocutor indicates that David Sigua, missing since February 2007, was kidnapped and killed by Georgian Special Purpose Force personnel. Sigua, an ethnic Georgian, was an official of the Abkhaz de-facto administration in Gali. Shortly before the kidnapping, he attended a public rally in Sukhumi, condemning Georgian interference in the internal affairs of Abkhazia.

5. Haiti

Mulet updates⁶ that with the exception of *Inite* members, all of the legislative candidates in the Grand Anse Department called for an annulment of the elections yesterday. The CEP, in yesterday's press release, noted the concerns that candidates raised and will take measures to address them if there is a second round. The CEP also reaffirmed that it is the only body legally competent to release any figures or statistics on the elections adding that it would do so on 7 December as planned.

Presidential candidates demanding the annulment of the elections have, through the media, called for public demonstrations in Port-au-Prince on 2 December to support their position. Meanwhile, personalities linked to *Inite* appeared on television on 30 November claiming that it had won the presidency in the first round.

Three cholera patients have been reported in the prison at Port de Paix (North West Department). Last night three prisoners died at the National Prison in Port-au-Prince, bringing the cholera-related deaths there to 25. At the prison in Mirebalais (Centre Department) two new cholera cases have been reported among the 62 prisoners recently transferred from the detention centre in Gonaives.

6. International Tribunal for the Law of the Sea

Mathias informs⁷ that on 24 November 2010 Saint Vincent and the Grenadines instituted proceedings against Spain at the International Tribunal for the Law of the Sea in Hamburg. The Proceedings concern the arrest in February 2006

⁵ (CZY 049 of 2/12/10)

⁶ (Daily sitrep of 30/11/12-01/12/10)

⁷ (10-11122 of 29/11/10)

by Spanish authorities of the *MV Louisa*, flying the flag of Saint Vincent and the Grenadines.

According to Saint Vincent and the Grenadines, the *MV Louisa* was involved in conducting sonar and cesium magnetic surveys of the sea floor of the Bay of Cadiz in order to locate indications of oil and methane gas. The vessel was arrested for the alleged violations of Spain's historical patrimony or marine environment laws. Saint Vincent and the Grenadines maintain that the vessel was involved in scientific research with a valid permit from Spain and requests damages in the amount not less than US\$ 10 million.

A handwritten signature in black ink, appearing to be 'D. J. ...', followed by a horizontal line.

Political Unit
2 December 2010

cc: DSG, VN, KWS

Note to the Secretary-General

Certification of the Afghan Parliamentary Election Results

1. On 1 December, the Afghan Independent Electoral Commission (IEC) certified the results of the parliamentary election for Ghazni. One week ago, on 24 November, results from the 34 other constituencies were released (Afghanistan has 34 provincial constituencies and one constituency for nomads). This note provides an initial analysis on the final certification and on what to expect in the immediate future.
2. Procedural finality: The certification of the results, which are now binding according to the electoral law, concludes the procedural element of an electoral cycle that began in mid-2008 with the preparations for the presidential election. For the past two-and-a-half years, Afghanistan's politics have been consumed and distorted by electoral matters. Whether the procedural conclusion of the election will also mean a political conclusion now depends on President Karzai's next actions. He can prolong the process by challenging them through the legal system, or he can accept the certified results. Karzai has repeatedly expressed concerns over the preliminary and now certified results because of the reduction in Pashtun representation (see below). The Deputy Attorney General, undoubtedly acting on the president's instructions, last week launched a criminal probe of the IEC and the Electoral Complaints Commission (ECC). The Attorney General's office claims it has evidence of corruption within the IEC and requested that the results not be certified. The IEC accepted the Attorney General's jurisdiction over criminal matters, but insisted that it was the appropriate authority over the electoral process and continued to present letters of certification to winning candidates. Karzai has maintained an aloof stance, calling for calm while allowing his Attorney General to aggressively investigate the electoral institutions. UNAMA believes that the Attorney General is likely to take the cases of alleged irregularities to the Supreme Court. With the certification of the Ghazni results, Karzai will now have to decide whether to accept the certified results or escalate the judicial investigations into the process.
3. Composition of the new Parliament: This parliament will be different from the previous parliament in two ways. First, there are less Pashtuns (a decrease of approximately 20 Pashtun parliamentarians as compared to 2005 in the 249-seat lower house) and there is an increase of Tajik and Hazaras. The late certification of Ghazni was in part due to the fact that no Pashtuns were elected where Pashtuns comprise approximately fifty percent of the population of Ghazni. Second, according to preliminary assessments, two-thirds (82 of 249) of the new parliament will be composed of new members whose loyalties are difficult to discern, making it difficult for both the president and the opposition to gauge their support in the legislative body.
4. President Karzai and the new parliament: While the Afghan Constitution created a weak parliament, it does retain the power to approve cabinet members. This will be the first test of its attitude towards the president. An independent-minded parliament could cripple Karzai's governing style, which depends on balancing factions mostly through

cabinet and other appointments. The reduction in Pashtun representation could affect the reconciliation process, with the non-Pashtun bloc exacting a higher price for any deal with the Taliban. Both factors probably loom large in the president's present unwillingness to accept the election results.

5. Independence of the electoral institutions: The media narrative of the elections, by focusing on the common story of widespread fraud, missed the more important story of the rigorous independence of the electoral institutions and their pro-active approach in dealing with the fraud. IEC Chairman Manawi (a Tajik from Panjsher), unlike his predecessor, acted with robust credibility throughout the entire electoral process, resisting significant pressures from the presidential palace to alter the results or hold new elections. More recently, the IEC has withstood the threats from the Attorney-General's office. The ECC acted swiftly and with integrity in adjudicating controversial complaints that would impact the final results. While the process has been commended by many, concerns by many disenchanted candidates and some observers about the transparency of the electoral process have also been noted.

6. The role of UNAMA: UNAMA has handled the electoral process astutely and with finesse. Karzai's sound appointment of Manawi earlier in the year allowed UNAMA to base its position on defending the IEC. At the same time, the SRSG maintained excellent relations with President Karzai, which allowed him to keep open the possibility of achieving a political compromise on Ghazni, as a face-saving measure, but without undermining the credibility of the electoral institutions. The IEC's knowledge that it was backed by UNAMA gave the commission confidence at crucial moments to withstand the political pressure it faced. It appears, for now, that the correct approach was taken. The final verdict on these elections, however, must await the next moves of President Karzai.



Alain Le Roy
1 December 2010