



Islamic Transitional Administration of Afghanistan

United Nations Assistance Mission in Afghanistan

United Nations Development Programme

Support to the development of a new Constitution for
Afghanistan

AFG/02/012/01/34

One of the key mandates for the Islamic Transitional Administration of Afghanistan is to prepare a new Constitution that will guide the legal framework of the country. This programme is the basis of providing necessary support for the Constitutional Commission, including for its Drafting Commission. As required this project may also provide support for the preparations and conduct of the Constitutional Loya Jirga.

Date: 11 March, 2003

Government:

Prof. Nematullah Shehrani, Vice-president &
Chairman of Constitutional Drafting
Commission

UNAMA:

Mr. Jean Arnault, Deputy SRSR (Political)

UNDP:

Mr. Ercan Murat, Country Director



**UNITED NATIONS DEVELOPMENT PROGRAMME
PROJECT OF THE GOVERNMENT OF AFGHANISTAN**

PROJECT AFG/02/012

Title: Support to the development of a new Constitution for Afghanistan

Short Title: Development of New Constitution

End Date: 31/12/2003

Executing Agent: UNDP - UNDP (Direct Execution)
Implementing Agent: UNDP - UNDP (Direct Execution)
Project Site: Kabul, Afghanistan
Beneficiary Countries:
ACC Sector/Subsector: POLITICAL AND SECURITY ACTIVITIES - POLITICAL AFFAIRS
DCAS Sector/Subsector: Development administration - Public administration and management

Primary Areas of Focus/Sub-Focus: Promoting Sound Governance - Improvement of governing institutions and democratic processes

Primary Type of Intervention: Direct Support - Advisory services
Primary Target Beneficiaries: Target Groups - Other - population at large

| Summary of UNDP and Cost-Sharing Inputs in US\$ as per attached budget(s) | |
|---|----------------|
| INPUTS | |
| UNDP: | 0 |
| 01-UNDP-IPF / TRAC - (Trac 1.1.1 & 1.1.2/Line 1.2) | 70,000 |
| Cost Sharing: | 0 |
| Third Parties: | 97,087 |
| CCF C/S: | 40,000 |
| TOTAL INPUTS | 207,087 |
| Country Office Administrative Costs: | 2,913 |
| TOTAL | 210,000 |

| | |
|---------------------|----------------------|
| LPAC approval date: | January 10th, 2003 |
| BPAC approval date: | / / |
| Programme Officer: | Katarina Ammitzboell |

Brief Description:

One of the key mandates for the Islamic Transitional Administration of Afghanistan is to prepare a new Constitution that will guide the legal framework of the country. This programme is the basis of providing necessary support for the Constitutional Commission, including for its Drafting Commission. As required this project may also provide support for the preparations and conduct of the Constitutional Loya Jirga.

| Approved by: | Signature: | Date: | Name/Title: |
|--------------|------------|-----------|--|
| Government: | | 11.3.2003 | Prof. Nematullah Shehrani Chairman of Constitutional Drafting Commission & Vice President |
| UNDP: | | 11.3.2003 | Ercan Murat, Country Director |

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Situation analysis

The Bonn Agreement states: “the Transitional Administration will, within two months of its commencement and with the assistance of the United Nations, establish a Constitutional Commission”. Further, the Emergency Loya Jirga of June 2002 agreed that His Majesty the former King of Afghanistan, Mohammad Zaher, in his capacity as Father of the Nation will oversee the work of the Constitutional Commission.

The development of a constitutional structure for Afghanistan is one of the most fundamental tasks of the Islamic Transitional Administration of Afghanistan. The constitutional framework will undoubtedly lay the foundations for sustainable peace and long-term socio-economic development for the people of Afghanistan. Accordingly, the Islamic Transitional Administration established a nine-member Constitutional Drafting Commission on October 5, 2002, which was formally inaugurated by His Majesty the former King, Mohammad Zaher on November 3, 2002.

The Commission is chaired by Vice-President Prof. Naematullah Shahrani and its membership consists of legal scholars and jurists from a variety of ethnic, gender and regional backgrounds. The Commission has stated that its work will be guided by Islamic principles, Afghan legal traditions, and international laws and norms. Further, the Commission will consult the public to ensure that their views and aspirations are fully represented in the new constitution.

The international community, led by the United Nations, has expressed its support for the strengthening of a peaceful and prosperous Afghan State. As such, and as required by the Bonn Agreement, the United Nations will endeavor to provide as much support as required to the Constitutional Commission in all its activities.

IB Strategy

The process from drafting to endorsing a new Constitution will follow a three-stage process.

- a. The first stage, known as *Tasweed* (Drafting), will be carried out by a **Constitutional Drafting Commission**. The Drafting Commission will submit by about **March 01, 2003**, to His Excellency President Hamid Karzai who will brief His Majesty the former King, Mohammad Zaher a ***preliminary Draft Constitution***. The Constitutional Drafting Commission will seek the views of representatives of Afghans and experts to incorporate them into the Preliminary Draft.
- b. The second stage, known as *Tadqiq* (Finalising), will be carried out by the **Constitutional Commission**. This will consist of **30** members, including members of the Drafting Commission. The Constitutional Commission will also include prominent national figures, regional representatives and scholars from

various disciplines. Members of the Commission will be appointed by His Excellency the President of the Transitional Administration in consultation with the former King, Mohammad Zaher by about March 01, 2003. The Commission will conduct broad public consultations in all 32 provinces and with Afghan refugees in Iran and Pakistan to benefit from the views of the public and to present an accurate picture of the issues at stake in the Constitutional Process. Based on outcome of the consultations, the Commission will deliberate on, refine and finalize the **First Draft Constitution** and present it to His Excellency the President of the Islamic Transitional Administration by about **August 30, 2003** who will then brief His Majesty the former King, Mohammad Zaher, about it. The public will be then informed about the contents of the First Draft through audio, video and print media.

- c. The final stage, known as *Tasweeb* (Adoption), will be carried out by a **Constitutional Loya Jirga**, which will convene on about **October 1, 2003**, and will review and adopt the Constitution by **October 25, 2003**. The mechanisms and processes to be used for selecting representatives to the Constitutional Loya Jirga (CLJ) as well as the mechanisms for conducting the CLJ will be decided between the Administration and the Constitutional Commission. The United Nations will provide support to the Constitutional Loya Jirga as required.

The Constitutional Drafting Commission and the Constitutional Commission will be supported by a **Secretariat**.

The Secretariat will provide Administrative support, such as office, logistical, transportation, archival, technical and other appropriate support needed for the Constitutional Drafting Commission, the Constitutional Commission and, as may be required, for the Constitutional Loya Jirga.

One of the critical elements to ensuring that the Constitution is able to function once adopted is that the wider community is aware of the purpose of the Constitution and have a reasonable understanding of its key features. This will require public information campaigns as well as engagement by the Drafting Commission and the Constitutional Commission with representatives of the public to seek an understanding of their expectations and hopes with regard to the Constitution.

II Results framework

Support to the development of a new Constitution for Afghanistan

Intended Outcome: The adoption of a new Constitution for Afghanistan

Outcome Indicator: The Constitutional Loya Jirga adopts a new Constitution when it convenes by about October 2003.

| Intended Outputs | Output Targets | Indicative Activities | Inputs |
|---|---|---|---|
| Support for preparation of Draft Constitution by the Constitutional Drafting Commission | Completion of the preliminary draft before March 1, 2003 | Conduct of regular sessions by the Commission including regular meetings with the Head of The Administration as well as public information on proposed ideas | Support for the operations of the Secretariat of the Commission, provision of necessary facilities for the Commission to work, provision of technical inputs and advice as requested by the Commission. |
| Support for conclusion of an agreed Draft by the Constitutional Commission | Submission of the finalized Draft Constitution by the Commission to the Head of The Administration by the end of August 2003 | Conduct of regular sessions by the Commission including regular meetings with the Head of The Administration as well as public information and sharing views on proposed components of the Constitution | Support for the operations of the Secretariat of the Commission, provision of necessary facilities for the Commission to work, provision of technical inputs and advice as requested by the Commission and support for the Commission to inform and seek views from the community |
| If required the following output would be envisaged | | | |
| Support the conduct of a Constitutional Loya Jirga | Adoption of a new Constitution by the conclusion of the Constitutional Loya Jirga by 25 October 2003 | Conclusion of processes for selecting members of the Constitutional Loya Jirga, conduct of the Loya Jirga and informing the public of proceedings and conclusion of the Loya Jirga | Support for facilitating the selection of members of the Constitutional Loya Jirga, preparation of venue for conduct of Loya Jirga, conduct of the Loya Jirga and broadcasting and informing public of the proceedings and outcome of the Loya Jirga |

III Management Arrangements

The Project

This is a project in support of the drafting, finalization and adoption of the Constitution of Afghanistan. The project has been developed by the Islamic Transitional Administration of Afghanistan with the assistance of the United Nations and has been reviewed by the Drafting Commission of the Constitutional Commission.

Role of the Islamic Transitional Administration of Afghanistan

The role of the Islamic Transitional Administration is to lead the process of developing the Constitution. Specifically, His Excellency the President will direct matters such as progress being made by the Constitutional Commission and its Drafting Commission as well as progress made by the Constitutional Loya Jirga. His Excellency the President will be also reviewing directions being taken by the programme in support of the overall constitutional development processes.

The President of the Islamic Transitional Administration of Afghanistan, with the assistance of the United Nations, will organize the Constitutional Loya Jirga and govern the process of electing/selecting its members.

Project Standing Committee

Day to day guidance for the implementation of the project will be undertaken through a Project Standing Committee comprising of two representatives from the Commission and one representative each from the Secretariat, United Nations Mission in Afghanistan (UNAMA) and United Nations Development Programme (UNDP). This Project Standing Committee will review the operational and budgetary needs of the project and consider any proposed changes that have budgetary implications together with addressing issues affecting the effective implementation of the programme.

The Project Standing Committee will consider regular reports and updates on progress and issues affecting the Commission submitted by the Secretariat. This will include substantive reports covering matters such as the activities being undertaken by the Commission, including updates on progress being made towards concluding their tasks. Additionally, reports will be sent to contributing donors as required on the use of finances by the programme.

The Project Standing Committee will ensure that a competitive and transparent recruitment system is set up and managed for staff to be recruited to the Secretariat.

Role of the Secretariat

The Secretariat will be established to provide logistical and technical support to the Constitutional Commission and its Drafting Commission and as required the Constitutional Loya Jirga. Specifically, the Secretariat will, with the assistance of the United Nations provide office, logistical, transportation, archival, academic and other appropriate support needed for the three phases of drafting, finalizing and adoption of the Constitution. The Secretariat will submit reports through UNDP to contributing donors as required on the use of finances by the programme. The Secretariat will be responsible for drafting quarterly operational plans in collaboration with other parties to the Project Standing Committee.

Role of UNAMA

UNAMA will have the primary responsibility for coordinating technical and financial support to the Project. In this regard, UNAMA has established the Constitution Commission Support Unit, which will regularly update the donors about the progress and needs of the Commission and assist them in developing the best means to provide support for it. With respect to technical support, UNAMA will assist in identification of experts and overseeing the process of making available option papers to the Commission and the Secretariat. Finally, a representative of the UNAMA Unit will be a member of the Project Standing Committee to provide day-to-day support to the Project.

Role of UNDP

On behalf of the Commission, UNDP shall establish, manage and administer the project fund in Kabul. It will have financial responsibility and accountability for the management of the funds, and will establish and manage the project cost-sharing and other appropriately structured agreements with donors and will report to donors accordingly on expenditure. UNDP will provide regular financial updates to the Programme Project Standing Committee for any reporting purposes. In addition UNDP will provide a quarterly (or more frequent as necessary) report on project implementation, including substantive and programmatic aspects, in coordination with the office of the Political Officer for Constitutional Affairs and the Secretariat of the Constitutional Commission. UNDP will support the work of the Commission Secretariat which will draft quarterly operational plans for the Project Standing Committee. UNDP will also contribute to the capacity building of the Commission in the areas of management of project cycles and management of financial and administrative management issues and will serve on the Project Standing Committee. Finally, UNDP will complement fund raising activities of UNAMA for this project.

At the conclusion of the programme an independent financial audit of the finances will be undertaken by UNDP in accordance with its procedures as endorsed by its Executive Board.

Work Plan for all three stages of the Constitutional Process, December 2002 – October 2003

| December 03 | | | January 03 | | | February 03 | | | March 03 | | | April 03 | | | May 03 | | | June 03 | | | July 03 | | | August 03 | | | September 03 | | | October 03 | | | | | |
|---|----|----|------------|----|----|-------------|----|----|----------|----|----|----------|----|----|--------|----|----|---------|----|----|---------|----|----|-----------|----|----|--------------|----|----|------------|----|----|----|----|----|
| 10 | 20 | 30 | 10 | 20 | 30 | 10 | 20 | 30 | 10 | 20 | 30 | 10 | 20 | 30 | 10 | 20 | 30 | 10 | 20 | 30 | 10 | 20 | 30 | 10 | 20 | 30 | 10 | 20 | 30 | 10 | 20 | 30 | 10 | 20 | 30 |
| Preparation of the Preliminary Draft of the Constitution by the Commission on Constitutional Drafting, the Commission on the Drafting of the Constitution, the Commission on the Drafting of the Constitution and the Commission on the Drafting of the Constitution. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Consultation for and establishment of the full Constitutional Commission | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Review of the Preliminary Draft by the Full Commission | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Public Consultation in all 32 Provinces and with Afghan Refugees in Iran and Pakistan. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Finalization of the Draft based on analysis of the public consultation. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Dissemination of the Draft Constitution | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Preparation for holding of the Constitution Loya Jirga | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Holding of the C.I.J & approval of the new Constitution | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |



Main Source of Funds: 01 - UNDP-IPF / TRAC - (Trac 1.1.1 & 1

Executing Agency: UNDP - UNDP (Direct Execution)

| SBLN | Description | Implementing | Funding | Total | 2002 | 2003 |
|---------------|-----------------------------------|--------------|------------|---------|--------|--------|
| 010. | PERSONNEL | | | | | |
| 016. | Mission Costs | UNDP | | | | |
| 016.01 | Relocation expenses | | Net Amount | 3,500 | | 3,500 |
| | | | Total | 3,500 | | 3,500 |
| 016.99 | Line Total | | Net Amount | 3,500 | | 3,500 |
| | | | Total | 3,500 | | 3,500 |
| 019. | PROJECT PERSONNEL TOTAL | | Net Amount | 3,500 | | 3,500 |
| | | | Total | 3,500 | | 3,500 |
| 020. | CONTRACTS | | | | | |
| 021. | Contract A | UNDP | | | | |
| 021.01 | Premises | | Net Amount | 51,000 | 21,000 | 30,000 |
| | | | Total | 51,000 | 21,000 | 30,000 |
| 021.02 | Drafting Committee Fee | | Net Amount | 56,800 | 12,800 | 44,000 |
| | | | Total | 56,800 | 12,800 | 44,000 |
| 021.03 | Secretariat Support Fee | | Net Amount | 29,299 | 10,299 | 19,000 |
| | | | Total | 29,299 | 10,299 | 19,000 |
| 021.04 | Rental Car | | Net Amount | 8,290 | 4,290 | 4,000 |
| | | | Total | 8,290 | 4,290 | 4,000 |
| 021.99 | Line Total | | Net Amount | 145,389 | 48,389 | 97,000 |
| | | | Total | 145,389 | 48,389 | 97,000 |
| 029. | SUBCONTRACTS TOTAL | | Net Amount | 145,389 | 48,389 | 97,000 |
| | | | Total | 145,389 | 48,389 | 97,000 |
| 030. | TRAINING | | | | | |
| 034. | Conferences & Meetings | UNDP | | | | |
| 034.01 | Seminars and Meetings | | Net Amount | 15,029 | 29 | 15,000 |
| | | | Total | 15,029 | 29 | 15,000 |
| 034.99 | Line Total | | Net Amount | 15,029 | 29 | 15,000 |
| | | | Total | 15,029 | 29 | 15,000 |



Main Source of Funds: 01 - UNDP-IPF / TRAC - (Trac 1.1.1 & 1
 Executing Agency: UNDP - UNDP (Direct Execution)

AFG/02/012 - Support of New Constitution
 Budget - Revision "E"

| SBLN | Description | Implementing | Funding | Total | 2002 | 2003 |
|--------|----------------------------|--------------|---------|------------|--------|---------|
| 039. | TRAINING TOTAL | | | 15,029 | 29 | 15,000 |
| | | | | Total | 29 | 15,000 |
| 040. | EQUIPMENT | | | | | |
| 045. | Equipment | | | | | |
| 045.01 | Equipments | UNDP | | 16,258 | 1,258 | 15,000 |
| | | | | Total | 1,258 | 15,000 |
| 045.02 | Operations and Maintenance | UNDP | | 14,500 | | 14,500 |
| | | | | Net Amount | | 14,500 |
| | | | | Total | | 14,500 |
| 045.99 | Line Total | | | 30,758 | 1,258 | 29,500 |
| | | | | Total | 1,258 | 29,500 |
| 049. | EQUIPMENT TOTAL | | | 30,758 | 1,258 | 29,500 |
| | | | | Total | 1,258 | 29,500 |
| 050. | MISCELLANEOUS | | | | | |
| 053. | Sundries | | | | | |
| 053.01 | Sundries | UNDP | | 12,411 | 4,371 | 8,040 |
| | | | | Net Amount | 4,371 | 8,040 |
| | | | | Total | 4,371 | 8,040 |
| 053.99 | Line Total | | | 12,411 | 4,371 | 8,040 |
| | | | | Net Amount | 4,371 | 8,040 |
| | | | | Total | 4,371 | 8,040 |
| 059. | MISCELLANEOUS TOTAL | | | 12,411 | 4,371 | 8,040 |
| | | | | Net Amount | 4,371 | 8,040 |
| | | | | Total | 4,371 | 8,040 |
| 099. | BUDGET TOTAL | | | 207,087 | 54,047 | 153,040 |
| | | | | Net Amount | 54,047 | 153,040 |
| | | | | Total | 54,047 | 153,040 |



| SBLN | Donor | Funding | Total | 2002 | 2003 |
|---------------|---------------------------------|--------------|---------|--------|---------|
| 103. | Third Party cost-sharing | | | | |
| 103.01 | SWI | SDC | 97,087 | | 97,087 |
| | | Net Contrib. | 3.00 | | 3.00 |
| | | CO Adm. % | 2,913 | | 2,913 |
| | | CO Adm. | 100,000 | | 100,000 |
| | | Total | 97,087 | | 97,087 |
| 103.99 | Line Total | | 3.00 | | 3.00 |
| | | Net Contrib. | 2,913 | | 2,913 |
| | | CO Adm. % | 100,000 | | 100,000 |
| | | CO Adm. | 97,087 | | 97,087 |
| | | Total | 40,000 | | 40,000 |
| 104. | CCF Cost Sharing | | | | |
| 104.01 | UND | UND | 40,000 | 40,000 | |
| | | Net Contrib. | 40,000 | 40,000 | |
| | | Total | 40,000 | 40,000 | |
| 104.99 | Line Total | | 40,000 | 40,000 | |
| | | Net Contrib. | 40,000 | 40,000 | |
| | | Total | 40,000 | 40,000 | |
| 109. | COST SHARING TOTAL | | 137,087 | 40,000 | 97,087 |
| | | Net Contrib. | 2.12 | | 3.00 |
| | | CO Adm. % | 2,913 | | 2,913 |
| | | CO Adm. | 140,000 | | 100,000 |
| | | Total | 70,000 | 14,047 | 55,953 |
| 999. | NET CONTRIBUTION | | 70,000 | 14,047 | 55,953 |
| | | Net Contrib. | 70,000 | 14,047 | 55,953 |
| | | Total | 70,000 | 14,047 | 55,953 |