



**INDEPENDENT JOINT ANTI-CORRUPTION  
MONITORING AND EVALUATION COMMITTEE**

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کمیټه مستقل مشترک نظارت و ارزیابی  
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**Contents**

Acronyms..... 3

Executive Summary ..... 4

Chapter I - Introduction..... 5

    Objectives of MEC ..... 6

    MEC Work plan..... 7

Chapter II – Consultations ..... 9

    Provincial visit..... 11

    Recommendations & Benchmarks ..... 12

Chapter III – Follow up on Recommendations & Benchmarks..... 14

    Overall Challenges for the country..... 15

    Challenges for MEC ..... 16

    Future plans of MEC ..... 17

Conclusion ..... 19

Annex I, Recommendations, Benchmarks and Follow up after the second MEC Mission (JULY 14 – 27 2011)..... 20

Annex II, Recommendations, Benchmarks and Follow up after the Third MEC Mission (November 11 – 26 2011)..... 22

Annex III - Biographical Details:..... 24

Members of the Joint Anti-Corruption..... 24

## Acronyms

ACBAR:	Agency Coordinating Body for Afghan Relief
ACCI:	Afghanistan Chamber of Commerce and Industries
AGO:	Attorney General Office
ANDS:	Afghanistan National Development Strategy
ARDS:	Afghanistan Reconstruction and Development Services
CAO:	Control and Audit Office
GIROA:	Government of Islamic Republic of Afghanistan
HOO:	High Office of Oversight
IARCSC:	Independent Administrative Reform and Civil Service Commission
ICTAWG:	International community Transparency and Accountability Working Group
IWA:	Integrity Watch Afghanistan
ISAF:	International Security Forces for Afghanistan
MAIL:	Ministry of Agriculture and Irrigation and Livestock
MEC:	Monitoring and Evaluation Committee
MoD:	Ministry of Defence
MoF:	Ministry of Finance
MoJ:	Ministry of Justice
MoI:	Ministry of Interior
PDC:	Provincial Development Committee
PDP:	Provincial Development Plans
PPU:	Public Procurement Unit
PRT:	Provincial Reconstruction Team
UNAMA:	United Nations Assistance Mission in Afghanistan
UNCAC:	United Nations Convention Against Corruption
UNDP:	United Nations Development Programme
UNODC:	United Nations Office on Drugs and Crime

## Executive Summary

The Independent Joint Anti-Corruption Monitoring & Evaluation Committee (MEC) has been set up to ensure more help is offered to the government of Afghanistan and its international allies to reduce corruption.

Corruption is recognised as one of the biggest challenges and the country has to tackle before it can develop economically, politically, and socially.

The people of the country are disillusioned and extremely tired of this phenomenon and want the responsible actors to commit themselves to getting the problem under control. They want to see an end to corruption that runs through many sectors, both private and public. Understandably, they expect their leaders to demonstrate that they are putting in place strict methods and measures to ensure a decrease in corruption and towards improving the level of the trust of citizens into the domestic and international institutions and organisations..

The MEC has been set up therefore, as a result of agreement between national and international community to work towards monitoring and evaluating the efforts of controlling and decreasing corruption. This committee does not have executive powers but works with the executive bodies to ensure they have functioning mechanisms in place to prevent and fight corruption.

The committee has held three missions/meetings in 2011 since its establishment and has met with many stakeholders to identify the gaps, flaws and possibilities.

So far two sets of recommendations and benchmarks have been introduced for some government organisations as well as non-governmental institutions and the international community to fight corruption.

A progress report will be produced every six months as a result of monitoring and evaluating methods used, and their relative success or failure, in meeting the objectives set to fight against corruption. The committee members are keen for the public (civil society), government, parliament, international community, and all other stakeholders to know who is committed to the cause, how far the fight against corruption has progressed, what the main obstacles are, and what solutions are being proposed. This will help to pave the way for a 'cleaner' Afghanistan and more development in all other areas.

It is understandable that the first set of benchmarks and recommendations were not completely understood and agreed by all the stakeholders. Some found them too challenging to implement. Others felt that the timeframe was too limited and some did not respond at all. Being the first set of recommendations the MEC recognizes that more follow up is imperative to ensure that each relevant institution is clear about the aims and objectives and the ultimate benefits to the country. An absence of a full time secretariat has made this task almost impossible. The funds that the donors had made available for the MEC through UNDP were only released at the end of December 2011. This made it very difficult for the Executive Director working alone to follow up with each organisation regularly within the timeframe

The secretariat will be recruited in the first quarter of 2012 and this will ensure that the MEC can get results.

Despite the difficulties and constraints the MEC has still achieved a result of the recommendations. The Council of Ministers under the leadership of H.E. President Karzai analysed the recommendations and benchmarks and ordered the relevant institutions to take action on each of the elements in a first set of recommendations and benchmarks. Some organisations, notably the Customs department in the Ministry of Finance (MoF), and the

international community regarding the setup of a joint mechanism for anti-corruption have started discussions and planning.

## Chapter I - Introduction

As per the London Conference Communiqué and based on the Presidential Decree (61) dated 1388/12/27 (17 Feb 2010), Monitoring and Evaluation joint Committee (MEC) was established and commenced work on 1390/02/15 (5 May 2011).

This Committee consists of six members – three are prominent international experts and three are Afghan professionals and scholars. This committee is a unique body on anti corruption in the world.

Based on the article 8 of the above Decree:

'The Committee is responsible for identifying effective development criteria for institutions, and, with necessary monitoring and evaluation of activities conducted against corruption at the national level, and surrounding the aid from donor countries and international organizations, shall report to the President, Parliament, people and international community'.

The MEC held three joint sessions in May, July and November 2011. During July and November sessions, the committee established recommendations and benchmarks to fight corruption after wide ranging consultations with high level government authorities, representatives from the international community, and leaders and representatives of the private sector and civil society.

The MEC's mission is to i) research and study areas prone to corruption and identify areas for improvement. ii) through consultation with different sectors identify the priorities and make practical recommendations for the institutions to implement. Such recommendations will need to be clearly understood and easily implemented. Follow ups will ensure the relevant institutions understand the importance of implementation and the resulting benefits for the country. Afghanistan can decrease corruption and operate a better, more transparent system of working. The recommended reforms will hopefully prevent many covert practices.

Important benchmarks are at the Strategic Level, Tactical Level and the Operational Level with specific due dates for compliance.

In the first set of the benchmarks and recommendations which were published after the second visit in July 2011 at the strategic level, the MEC recommended to the High Office of Oversight (HOO)(the body responsible for anti corruption) to compile all existing strategies with the aim of producing a cohesive set of objectives, and one unified strategy,, to take the lead in coordination of all other Afghan institutions in these efforts and to produce a unified Afghan anti-corruption strategy, which will enable its serious implementation. The MEC also recommended to UNAMA that it should prepare a unified anti-corruption strategy for all parts of the international community in Afghanistan in order to systematically eliminate the threat of corruption there, too.

At the tactical level, the MEC has dealt with the improvement of customs procedures, enhancement of law enforcement activities in the area of corruption, simplification of administrative procedures, the land usurpation problem, and public procurement.

At the Operational Level, the MEC issued 7 recommendations in the case of the Kabul Bank, aimed at coordinated investigations of all those suspected of being responsible for active (taking the “loans”) and passive (lack of monitoring) misbehaviour, immediate seizure of all illegally acquired assets, analysis of the functions of all responsible financial entities, preventing similar events in other banks and extending investigative powers of some institutions. The MEC also recommended a multidisciplinary approach through the establishment of a joint investigation team for the Military Hospital case, which should provide comprehensive information to the relevant prosecuting authority and ensure immediate seizure of all illegally acquired assets.

The second set of recommendations includes benchmarks and recommendations for the mining sector as well as access to public information. This was as a result of consultation and studies of the needs and priorities. A simplification of procedures is another area of concentration on the second set of benchmarks (details in annex II).

The recommendations at the Tactical level include assisting the Ministry of Mines and Herat province with the introduction of corruption risk assessment and a monitoring mechanism and compliance office.

## Objectives of MEC

As per the London Communiqué January 2010, key principles were defined to ensure success in fighting corruption. One was for all three branches of the public sector (executive bodies, judiciary, and parliament) to join together to fight against corruption and to create a good system of governance based on accountability and transparency. Success will be judged by progress in implementation of strategy. The government will seek help from civil society, the private sector, and the international community to produce a system of effective monitoring and evaluation.

The MEC is a consequence of the strategy defined initially in London in early 2010, and then later at a Kabul conference in July 2010.

The MEC prioritises its efforts after study of existing documentation and information defining the needs of the people, strategies such as the Afghanistan National Development Strategy (ANDS) and many other anti-corruption strategies, development priorities of the government, laws and legislations, upcoming sectors’ needs, better governance plans, and transparency and accountability of the national and international institutions to the public.

In order to help the government with its efforts on better governance at the national level, the MEC defined a number of benchmarks and forwarded its first set of recommendations to the relevant institutions three months ago. At sub-national levels, the MEC has planned to help develop ideas and plans for Herat as a pilot case to demonstrate that good practice is possible if the motivation and commitment is there.

The committee is also choosing major upcoming sectors such as mining to setup transparent policies, using qualified law firms involved in the tendering and letting of major public contracts, and ensuring all contracting agencies (including their subcontractors) to have an anti-corruption policy.

The MEC will continuously follow up on the implementation of recommendations it has made to the relevant institutions and report back to the public on progress or reasons for the lack of it e.g. if there are any obstacles that prevented the organisations from taking action on the recommendations.

The committee believes that soon it will be able to report some progress to the government and its allies and that it will have achieved a level of control over corruption and strategies, policies and action plans that will create a more accountable environment for the people of Afghanistan.

### **MEC Work plan**

Using the UN Convention against Corruption and other international standards as frameworks and bringing in best practices from other countries, the MEC will monitor and evaluate the government's whole-of-government approach to its anticorruption efforts. The MEC will meet in Afghanistan on a quarterly basis for a two week period; MEC members will have a week prior to each visit to devote to desk study in preparation for the meeting, and a week after each visit for written follow-up. The MEC will have broad authority to determine its agenda, which should have as subjects for examination the following four areas:

#### **1. Formulation of benchmarks and policy recommendations**

After reviewing the government's anti-corruption strategies, policies and mechanisms the MEC will provide recommendations for modification of these benchmarks or setting new or additional benchmarks and in doing so it will consult with GIROA and with all stakeholder groups. The MEC will monitor and evaluate these benchmarks for at least the first two years. The benchmarks will measure whether efforts to tackle corruption are having an impact on the prevalence and severity of corruption and on public perceptions. The benchmarks that will be set and subsequent policy recommendations made at a minimum will cover the following subjects:

- Preventive measures
- Transparency and public information
- Citizen participation mechanisms
- Legal framework and law enforcement
- Institutional independence and infrastructure
- Political will and commitment

In formulating benchmarks, the MEC shall take into account all information currently available regarding corruption in Afghanistan with specific reference to commitments made by the GIROA

in documents including but not limited to the results of the National Anti-Corruption Conference (held in December 2009), the paper presented at the London Conference, the communiqué from the London Conference, and the documents presented at Kabul Conference and lately reiteration in the Bonn 2 conference.

## **2. Monitoring and evaluation of execution**

The MEC will monitor and evaluate the performance of government in achievement of all benchmarks and implementation of policy recommendations, including (but not limited to):

- Civil service reforms
- Procurement reforms (for domestic as well as donor/international organization-funded contracting)
- Land tenure reforms
- Ministry anticorruption plans
- Legislative updates as needed
- Enforcement efforts
- Institutional independence and infrastructure: sufficiency to allow for an effective anticorruption regime
- Capacity building efforts

## **3. Recommendations for further action**

Based on its findings, the MEC will make recommendations for further action which will themselves form the basis for further review by the MEC, including but not limited to the areas indicated below:

- Additional legislative updates/reforms
- Institutional changes
- Procedural/Systemic changes
- Capacity building needs
- Enforcement recommendations

## **4. Donor coordination**

The MEC will review the effectiveness of international assistance in support of anticorruption efforts, and make recommendations to the international community in connection with changes in policy, practice, and direction; funding levels or priorities; quality and quantity of technical assistance, and/or conditions/terms of support, including direct budget support.



## Chapter II – Consultations

In the absence of the secretariat, after having done its preliminary desk research, the MEC has consulted thoroughly many sectors of the government, private sector, civil society and the international community during the last three missions. Their views have helped the MEC to identify and prioritise the urgent matters. There are of course many areas in the system that need attention and the committee identifies priorities in each mission and then adds to it during later mission while continuing to follow up their recommendations.

In the following a list of priority areas and the organisations that have been consulted is listed:

<b>Topic</b>	<b>Institutions Consulted</b>
Customs	Control and Audit Office (CAO)
	Ministry of Justice
	Ministry of Economy
	Ministry of Finance at all levels starting with the minister, deputy minister and technical staff and advisors
	Ministry of Commerce
	Afghan Chamber of Commerce & Industries (ACCI)
High Office of Oversight (HOO) Law	HOO
	Ministry of Justice,
	UNDP, and Management systems International (MSI)
Simplification of Procedures	Ministry of Finance (MoF)
	Ministry of Interior
	Integrity Watch Afghanistan (IWA)
	Agency Coordinating Body for Afghan Relief (ACBAR)
Anti Corruption Strategy	Ministry of Justice
	Supreme Court
	Ministry of Economy
	Mayor's Office
	HOO
	Independent Administrative Reform and Civil Service Commission (IARCSC)
	Integrity Watch Afghanistan (IWA)
Law Enforcement	Ministry of Justice
	Supreme Court
	Attorney General and his office (AGO)
	HOO
	IARCSC
	Mayor's Office

	Control and Audit Office
	Da Afghanistan Bank (Central Bank)
	Ministry of Interior
Land Confiscation	Kabul Municipality
	Afghanistan Land Authority
	HOO
	Attorney General's Office
	Ministry of Agriculture
Public Procurement	Ministry of Finance, Public Procurement Unit (PPU)
	Ministry of Public Health
	Ministry of Defence
	Ministry of Economy, ARDS unit
	Ministry of Interior
	Ministry of Labour, Social Affairs, Martyrs & Disabled (MoLSAMD)
	Ministry of Public Works
	ISAF Shafafiyat
Mining	Ministry of Mines (the minister and his senior management)
	Some Donors
Kabul Bank	HOO
	Attorney General's Office
	Kabul Bank Senior Management and Receivership Dept.
	Financial Transactions and Reports Analysis Center of Afghanistan (FINTRACA)
	International Community
Military Hospital	Attorney General's Office
	Control and Audit Office (CAO)
	ISAF Shafafiyat
International Community	Transparency and Accountability Working Group (ICTAWG)
	U.S. Embassy and USAID
	Embassy of Sweden
	UNDP
	ISAF Shafafiyat
	JICA, Japanese International Cooperation Agency
	UNODC, United Nations Office on Drugs and Crime
	European Union Delegation
	Department For International Development
	Danish Embassy
	UNAMA

	World Bank
	Special Inspector General for Afghanistan Reconstruction (SIGAR)

During each mission, the MEC met with various groups of civil society, political parties, and the private sector to discuss all of the above issues and took their recommendations.

The Senior Minister H.E. Hedayat Amin Arsala who is also responsible for the governance sector and in particular for the cluster, has also been consulted during each MEC mission and the President was consulted during the second mission. It is planned that another audience will be requested from the President during the February 2012 meeting to report progress and advise him of the issues.

A meeting was held with the Governor of Herat province to discuss corruption and the efforts to fight corruption. The MEC as a result decided to support and assist the province in producing a strategy

As a result of a meeting with the Minister of Mines and his team, and consultation with some of the aforementioned stakeholders, the MEC has written recommendations for the strategically important mines sector.

### Provincial visit

Parwan was the first “non-Kabul” province that the MEC visited in November 2011 mission. The objective was to see the structure of systems within the Governor’s and District Governor’s offices and their management and decision making practices, their responsibilities and obstacles to progress and functions. Strengths and weaknesses in the systems were identified in order to produce recommendations for better governance at sub-national levels.

It was stated by many of the individuals the committee met, including the Governor himself, that most decisions are very centralised at the Independent Directorate of Local Governance (IDLG) level. They claimed they have very little autonomy to deal with problems, cases and issues reported by the people. Their budget is also decided centrally and appointments made centrally too through the civil service commission and IDLG.

Decisions in terms of projects including the bidding process are centralised and take place in Kabul. The senior management of government organisations illegally benefit out of certain projects as a result.

Other issues reported:

- Budget is centralised and not prioritised according to the needs identified by the local community. These priorities have been ignored by the central government and the donors,
- No local budget is ring fenced for emergency needs. An example was a building destroyed in the governor’s office as a result of a bomb, but it is still left unrepaired because there is no budget,

- The Provincial Reconstruction Team (PRT) is working towards its own priorities not those identified, requested and needed by the people,
- The Provincial Development Plans (PDPs) that were prepared by the people and the Provincial Development Committee (PDC), have been shelved somewhere in Kabul. None of the priorities are being budgeted for and instead the central government and donor community select projects according to their own agendas,
- Corruption cases that are referred to the central office in Kabul are not always dealt with. Occasionally, on the insistence of Provincial Council members there is a follow up on reported cases.

Provincial council members are not satisfied with the way local government is spending its budget. This includes the municipality revenue. There is also corruption at some of the directorates of the government. It is however, difficult to find proof because people are not cooperating as they are afraid of the powerful corrupt individuals.

Lack of capacity and prioritisation in the government impacts on donor projects too. There is no monitoring and evaluation of donor funded projects implemented directly through NGOs or companies. In most cases the quality of work is bad and there is no accountability.

The MEC decided that during each mission in Afghanistan it will visit one province. The committee will therefore, visit Herat province in February when it convenes for the fourth time. MEC will try to identify common problems for some more provinces and then to issue recommendations and benchmarks in the attempt to bring forward general solutions for all of them.

### **Recommendations & Benchmarks**

As a result of all these consultations and meetings, the MEC members have produced two sets of recommendations and benchmarks after the second and third missions consecutively (July and November missions).

These recommendations and benchmarks were defined in three areas of Strategic, Tactical and Operational levels (see annex I and II for details).

At the strategic level the compilation and dissemination of all anti-corruption strategies of the government were recommended to HOO, as well as UNAMA coordinating the donor community with the aim of producing one combined strategy against corruption for the international community. This will help the government and the international community to provide better accountability. There are some good strategies in place but they are not coordinated or combined. The international community also has good policies and strategies that have been produced by individual countries. However, there is no combined or coordinated effort to fight the corruption that is draining their funds mainly through NGO contracts and private companies that deliver services in Afghanistan.

At the tactical level, the MEC looked at various government functions prone to corruption and made recommendations to some such as custom and procurement. Recommendations were made to various institutions to simplify administrative procedures, on law enforcement efforts, and to institutions that deal with land issues. A number of benchmarks have also been defined.

At operational level two outstanding cases of the Kabul Bank and the National Military Hospital (Sardar M. Daoud Hospital) were looked at and recommendations given to the relevant institutions. There were many cases that the MEC could have looked at but these two are prominent and crucially important cases that are still outstanding and that are affecting the level

of funds that reach the people and the amount of contributions that reach the Army. Security is one of the main issues in the country, and the Army relies on all the funds it can get transparently and the development of a system to prevent corruption, whether Afghan or International is an urgent priority.

In the second round of recommendations and benchmarks defined after the November mission, at the strategic level it was suggested to analyse the possibilities to expand the HOO's authorities, and the anti-corruption law be reviewed and submitted.

At the tactical level, customs and related taxes have been studied again and further recommendations given. Other areas include: legislation on taking cash abroad through the airport of Kabul to prevent money-laundering, strengthening the oversight bodies for effective internal audits and corruption prevention, and simplifications of procedures in land purchase as well as formal registration of foreign/donor contributions, merit based recruitment, and drafting legislation for access to public information.

The committee suggests that in Herat a Corruption Risk Assessment and monitoring mechanism and compliance office should be established.

Mining also took priority in the last mission of the MEC as a result of consultation with various bodies.

Under operational level there is only one recommendation about Kabul Bank and the auditors involved. This was as a result of findings during the last few months and the weaknesses seen in the system. The donors have been advised to investigate the auditors they have appointed and in particular in the case of the Kabul Bank audit.

### Chapter III – Follow up on Recommendations & Benchmarks

The level of feedback from stakeholders has been limited for various reasons. Some of them claimed that they did not receive the benchmarks. Others are still working on their responses to the document and some have not taken them seriously enough to respond. To such organisations another letter/email has been sent with no response<sup>1</sup>.

In order to assist more actively in the implementation of MEC's recommendations, MEC will strengthen its efforts to finally make its secretariat fully operational. The appointment of the MEC secretariat staff will begin in the months of January with some of the basic staff to follow up on the benchmarks.

When the secretariat is fully functional by March, the team can better follow up on all the benchmarks and recommendations. There are three pillars: prevention, governance, and law enforcement. In each team there will be one international expert and one Afghan advisor who will be supported by an officer. The responsibility of these groups will be to do research, identify gaps in their respective sectors, and come up with advice and policy solutions. This will be backed by thorough desk research by each team. These teams are also responsible for following up with each relevant institution that the recommendation refers to. Some of these institutions may require discussion and further explanation from the MEC. And at all times they will need to be advised and supported. The MEC secretariat will be responsible for facilitating such support because members of the staff will be experts familiar with Afghanistan as well as with good practice from abroad in the fight against corruption.

Once each recommendation is defined it is the responsibility of these teams to ensure follow up. In order for each recommendation to be implemented the responsible organisation is to have the capacity for that. Some institutions do not have the necessary capacity and the secretariat can to some extent help or facilitate for another national or international organisation to assist and support.

Part of the international community has not been able to fully utilise the funds committed to anti-corruption efforts.

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<sup>1</sup> Emails and letters were sent to all the stakeholders in the month of September (Sunbula) and responses were received as follows:

HOO: letter dated 3<sup>rd</sup> December, received a week later,

AGO: a focal point has been introduced but no response to recommendations, however in response to the press conference of MEC on 22<sup>nd</sup> Nov there was a detailed letter explaining the Kabul Bank case status,

CAO: response dated 11 Jan 2012,

MoI: response dated 7<sup>th</sup> Jan 2012,

MoF: Procurement unit responded in December and Customs early Jan 2012,

ARDS: responded in December,

Municipality: no response,

Da Afghanistan Bank: no response,

MAIL: response dated 17 Dec 2011, received 9<sup>th</sup> Jan 2012,

IDLG: no response,

MoJ: has introduced a focal point but no comments on the recommendations,

Parliament: no response,

International community through ICTAWG: Shafafiyat responded very quickly and two donors responded in December.

The secretariat will bring the capacity of each institution to the attention of such donors and request assistance. Defining the benchmarks and recommendations is not enough for the national and international community to understand and implement immediately. There will need to be discussion and agreement on the way forward.

The MEC has already been contacted by members of the international community as well as the Afghan government asking for further clarifications and suggestions on how certain recommendations can be implemented. This is where the MEC and its secretariat have to play an advisory role to all stakeholders. Discussions are necessary in relation to the implementation of the recommendations and the challenges should be discussed and solutions sought.

So far with its limited staff capacity the MEC feels that although there is the possibility and capacity of implementation of all recommendations, there may not be either understanding or the (political) will to really implement them. This applies to most cases of the stakeholders. When each of the benchmarks or recommendations was being defined by the committee, the capacity and possibility of each institution was studied. Most of the institutions stress is that the deadlines given are too short. In the MEC's opinion they need to remember that Afghanistan and its people cannot afford to be relaxed with the level of corruption in the country. If the stakeholders really want to help these people then they need to stick to the deadlines given that are more or less realistic and possible to work within if the willingness is there. The MEC feels that part of the stakeholder community has become too complacent considering the situation the country is in. Huge amounts are spent for corruption and this is Afghan revenue money as well as international funds raised by international tax payers. Both Afghans and internationals in the country are obliged to ensure no money is wasted. Afghanistan's revenue is not very high and if a large percentage of it goes to corruption then there is little left for public services which is why many people in Afghanistan have no option but to continue to endure poor conditions.

The international tax payers' money is aiming to support all people of Afghanistan and not to additionally improve the wealth of the few corrupt individuals.

It is therefore, necessary that when monitoring, evaluation, and oversight organisations such as the MEC are working to help this country to reduce corruption, then support should be given by the domestic authorities as well as by internationals. Every effort should be put in place to ensure that all recommendations are implemented on time.

The MEC will also try everything to get civil society mobilised to help the efforts with this cause. There are several civil society organisations as well as youth groups that are already working as networks to fight corruption. The MEC will work with them to raise awareness, seek their support in publicising the recommendations and any issues that have arisen from other stakeholders. The MEC believes the public needs to be completely in the picture of problems and made aware of all efforts to fight corruption or the lack of will.

### **Overall Challenges for the country**

There are currently several strategies and policies in place in the fight against corruption. Although the MEC recommends that there should be one unified strategy that the entire country implements, what is available in practice are also noteworthy:

- 1) The administrative reform and anti-corruption strategy which was created under the guidance of H.E. Azimi, the Chief Justice of the country.
- 2) The strategy to fight corruption which was created and written by the ANDS committee.
- 3) Assessment on vulnerability to corruption by the World Bank
- 4) A road map to fight corruption by the Asian Development Bank

Following the study of the above documents and dialogue with leaders and representatives of the relevant institutions, it was ascertained that corruption has been conceived and established in the nation as a result of the following factors:

- Impunity
- Weaknesses in the implementation and enforcement of laws, decrees and executive orders
- Lack of necessary coordination among the branches of state power
- Complicated administrative and financial systems and regulations that are prone to corruption
- Lack of responsiveness by the judicial system in the face of existing difficulties
- Imposition of copied and foreign laws without their adjustment to the local circumstances
- Opportunity creation for capacity flight from governmental organizations
- Non-merit based appointments and lack of job security within the legal system of the country.
- Insufficient authority and discretion at sub-national levels
- Weaknesses in oversight, audit and control
- Establishment of overlapping and parallel departments even within the same ministries and independent institutions
- Land and property seizure and confiscation by illegal powers and authorities
- Market monopolization and import of low quality goods
- Nepotism and influence of powerful authorities
- Interference of some power brokers and authorities in protection of criminals and pardoning of their crimes
- Prevalence of corruption-causing by customs, courts, tariff, and municipality brokers
- Poverty of government employees
- Lack of interactions to secure cooperation of the population and civil society
- Lack of effective oversight and evaluation of donor institutions in their proper, timely and lawful contracting
- Misuse of tax and customs exemptions by internal and external contractors
- Lack of necessary effort by the government organizations and institutions in implementation of the National Anti-Corruption Strategy

### Challenges for MEC

Despite the absence of a secretariat and lack of other logistical necessities due to unaccommodating and impeding actions of the responsible body, the MEC carried on discussions within the team and with other relevant parties, stake holders, and specifically with the civil society.



The MEC has faced many challenges including the fact that the secretariat was still not in place as of 25th December 2011. The committee started working in May 2011 and the government has proven its full support for this committee but the chosen international organisation has not been able to support and provide funds so that the secretariat can start functioning.

The benchmarks and recommendations could not be followed up persistently with the stakeholders due to the fact that the staff has not yet been recruited. Several meetings with each stakeholder are required to introduce the committee and its values, explain the benchmarks, and follow up regularly. There is no staff to do research and prepare analysis for the committee to function better.

A small number of organisations have not understood the function of the MEC and a few others do not take its mandate seriously<sup>2</sup>. As a result there has been some negative publicity in the media by individuals from these organisations.

With no office and no staff, the MEC in return has not managed to publicise its work and plans to ask for cooperation from the public. The committee seriously counts on the role of the civil society and the media and will continue working with them. In addition to the existing interlocutors Parliament is another source that could be very beneficial to the MEC efforts. From what the committee understands the Parliament is also newly forming a committee of Public Accountability. Once that is functional it might become easier to work and follow up with the Parliament.

At the end the biggest challenge is that not everyone believes in fighting corruption. Political will has to be created, strengthened, and enforced. Public has to be encouraged and proven that their support is important and that they will be protected if they will help the anti-corruption system.

### **Future plans of MEC**

The MEC plans to meet 4 times a year in Afghanistan for 2 weeks and the committee members will continue working and supporting the secretariat from their home base for the rest of the time. The committee will continue its consultation with all the stakeholders and create working groups for brainstorming sessions and detailed discussions from time to time.

The MEC also plans to visit one province in each quarter and get a better picture of the development on the ground. Of course the secretariat will remain the main source of providing the committee with all the necessary data and research continuously but the visit of the members to the provinces will have a different function.

The secretariat once appointed early in 2012 plans to continue the follow up on the benchmarks from the July 2011 mission as well as follow up on the November 2011 mission (the second set

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<sup>2</sup> Some individuals in the HOO and AGO and few members of the international community. MEC assumes that anyone that has not responded to the recommendations and has not started its implementation does not understand the role of this committee.

of benchmarks and recommendations). The secretariat with its three main teams will start working in the areas of prevention, governance, and law enforcement.

The secretariat will in particular spend some extra time with the direct stakeholders such as the HOO, the Attorney General's Office, the Ministry of Mines, Ministry of Finance, (customs as well as procurement departments), the Herat Governor's office and other relevant offices in that province, the Ministry of Justice, Kabul Municipality, Shafafyat, and with few more highly prioritised partners of the committee which are fully capable to implement anti-corruption policies.

And important civil society stakeholders including the media and private sector will be extensively consulted on all areas of MEC's focus. The focus will stem from the continuous consultations and the research with and through the stated stakeholders.

## Conclusion

One of the main threats Afghan nation is facing today is the culture of impunity. This is what MEC heard many times from different groups of people, working for the government, private sector and civil society. Some international community members also pointed to this feature as the strongest enemy of the country.

Afghanistan is facing terrorism and many other threats. Drugs and corruption empower terrorism and the government and its international allies are seriously hampered in their attempt to fight it. Therefore, corruption is becoming an extremely urgent matter. People of the country, however, have a different perception of the government and its international allies' commitment: they speak about 'lack of political will to fight corruption'. Thus, if the government wants to prove that it does have political will to serve the people and to fight corruption then it needs to act on it before it is too late. This also applies to the international community; if they really want to show to their own public as well as the people in Afghanistan that they have no intention of handing over money to the enemy or to corrupt individuals then they need to apply strict rules and regulations on their own funding.

The MEC hopes that its recommendations and benchmarks, will pave the way for all stakeholders to setup and strengthen mechanisms to increase accountability, transparency, and integrity to ensure that, unlike now, all money reaches the people in need.

The MEC has had a challenging eight months where it had to function without any field support. Lack of a secretariat has made it difficult for the MEC to see much in terms of the full implementation of its recommendations. Still the committee has had some achievements: quite a few of the partners have followed up on the recommendations of MEC and are coordinating efforts to understand them as well as examine the possibility of implementation.

MEC cannot promise complete abolishment of corruption in the coming months but it is hopeful that the people are becoming more aware of its dangers, that the government acts more seriously in fighting this scourge, and that the international community is putting more focus on these efforts, too. MEC with its staff will continue with further benchmarks and will always and without exceptions insist on their full implementation.. It will also become more proactive in its follow up and in "naming and shaming" through publicising. The committee members believe that they are given a very important task by the Afghan government as well as by the international community. They are fully determined and committed to pursue their main objectives whatever it takes and will stop at nothing in trying to fulfil their mandate..

## **Annex I, Recommendations, Benchmarks and Follow up after the second MEC Mission (JULY 14 - 27 2011)**

**Joint Monitoring and Evaluation Committee is meeting every three months in Afghanistan and starting from the second gathering it is issuing recommendations, accompanied with benchmarks and ways of monitoring of their implementation. Recommendations and accompanying benchmarks are given at three different levels: strategic, tactical and operational one.**

### **Short Summary Of Recommendations Of the Second MEC Mission<sup>3</sup>**

#### **I. Strategic level**

At this level the MEC came to the conclusion that many different anti-corruption strategies from different authors have been adopted in Afghanistan in the last years but none of them are being seriously implemented. Therefore, the MEC recommended to the High Office of Oversight as the body responsible in this area to collect all existing strategies and to start actions for compilation of all existing strategies into one, to take the lead in coordination of all other Afghan institutions in these efforts and to produce a unified Afghan anti-corruption strategy, which will enable its serious implementation.

In addition, MEC recommended to UNAMA to prepare a unified anti-corruption strategy for all parts of the international community in Afghanistan in order to systematically approach the threat of corruption there, too.

#### **II. Tactical level**

At the tactical level, the MEC dealt with many different areas, which are important for the well-being of Afghan people and for the improvement of the financial situation of the country.

##### **II.1. Improvement of customs procedures**

In the area of customs MEC recommended changes in the Afghan Customs Act with the aim of solving the problem of corruption, caused by customs brokers and to ensure strict control of all exported and imported goods, especially concerning low quality of important goods (i.e. fuel, pharmaceutical products,). As a possible way for the introduction of stricter controls of goods the MEC recommended the introduction of multiagency mobile task forces and extensive application of modern (information) technologies at the borders.

##### **II.2. Enhancement of law enforcement activities in the area of corruption**

The MEC required reports on the implementation of measures for improvements in the law enforcement area already given in the existing strategies. In addition and with the aim of improving coordination and cooperation among different anti-corruption institutions of the country, the MEC has recommended that the Attorney General's Office prepare statistics on the issue and ask the AGO, Police, CAO and HOO to express themselves on the position, powers and tasks of possible independent and specialised AC repressive bodies dealing with investigations and/or prosecutions of the most important cases of corruption in the country.

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<sup>3</sup> July 14 – 27, 2011

### **II.3. Simplification of administrative procedures**

The MEC recommended that HOO prepare general and comprehensive information on the rights of citizens in administrative procedures and to post it in all relevant institutions nationally (at central as well as local level). In addition, all ministries were asked to prepare legislative changes with the aim of achieving seven goals in the area of simplification of administrative procedures and preparing relevant instructions for all institutions concerned.

### **II.4. Land usurpation problems**

With the aim of obtaining a comprehensive view of the situation MEC asked for the reports of all relevant institutions on the implementation of measures already required by the existing strategies and additionally for a short analysis of land usurpation problems from all relevant institutions in the area.

### **II.5. Public Procurement**

The MEC asked for specialist training in the area of public procurement for all relevant public officials in Afghanistan and for review and necessary amendments of Afghan and international rules in this area.

## **III. Operational level**

### **III.1. Kabul Bank**

In the case of Kabul Bank MEC issued 7 recommendations aimed at coordinated investigation of all those suspected of being responsible for active (taking “loans”) and passive (lack of monitoring) misbehaviour, immediate seizure of all illegally acquired assets, analysis of the functions of all responsible financial entities, preventing similar events in other banks and extending investigative powers of some institutions.

### **III.2. National Military Hospital (NMH)**

MEC recommended a multidisciplinary approach through the establishment of a joint investigation team, which should provide comprehensive information to the relevant prosecuting authority and ensure immediate seizure of all illegally acquired assets.

## **Annex II, Recommendations, Benchmarks and Follow up after the Third MEC Mission (November 11 - 26 2011)**

### **Short Summary of Recommendations of the third MEC mission**

#### **I. Strategic Level:**

##### **I.1 Lack of support for HOO's operations**

MEC was informed and although HOO has begun the asset registration. There is a need for a MoUs between HOO and all government institutions for further support and verification in this area.

##### **I.2 Improvement of the draft Anti-corruption Law**

In the meantime MEC also recommends a revision of the proposed Anti-corruption law through an interdepartmental group in order for its compliance with UNCAC.

##### **I.3 Illegal interference with the work of public bodies**

MEC found out that there is interference and lack of capacity with the monitoring organisations. It is recommended that a new decree is needed from the president of the country in order to help reduce issues and increase performance of these monitoring institutions such as AGO, HOO etc.

#### **II. Tactical Level:**

##### **II.1 Improvement of customs procedures**

In order to clearly separate activities of all border services and to enhance the establishment of their liabilities, especially the one from the customs service, Ministry of Finance with the cooperation of all border services should ensure that only customs officers are allowed to enter their facilities and to take part in the customs proceedings. They [MoF] should also ensure to coordinate with MoFA, Shafafyat and other relevant institutions to coordinate the taxation of imported goods to avoid any illegal and unnecessary tax exceptions.

##### **II.2 Enhancement of law enforcement activities in the area of corruption**

MEC has been informed that every day approx \$10m in cash is leaving the Kabul Airport. A revision of the law for anti money-laundering is needed and should go to the parliament early year Afghan year (March 2012).

##### **II.3 Enhancement of internal oversight**

MEC suggests that internal strengthening is more beneficial than any other outside intervention. It is therefore, recommending that for MoI, MoD, AGO and HOO to assess and reinforce their capabilities of internal oversight and investigative departments.

##### **II.4 Simplification of administrative procedures**

According to HOO's 2010 survey there are hundreds of steps to go through for one to take commercial building permit. Kabul Municipality together with other relevant government institutions should immediately start on the simplification of procedures in the area of building permits and completing it by the second of the Afghan year 1391.

## **II.5 Recruitment, procurement, and sanctions**

A reiteration of the implementation of the existing regulations and laws area recommended through a new Ferman by the president of the country in the areas of recruitment and procurement and application of reward and punishment processes.

Also strengthening of the MoF's Public Procurement Unit specially the appeal and review committee is recommended.

## **II.6 Mining**

With the mining sector upcoming in the near future, MEC made several recommendations including one for supplementing the national mining policy with an anti-corruption policy.. The involvement of highly qualified lawyers and law firms with the ministry is also recommended, as well as inserting provisions in the contracts to oblige all contractor and subcontractors to fully agree and follow the anti-corruption standards. The ministry is requested to publish all contracts with the name of the contractors and sub-contractors involved.

## **II.7 Access to public information**

MEC recommends that by the end of the second month of the Afghan year 1391 (May 2012) the government should propose a draft law on Access to public Information to the Parliament.

## **II.8 Office of the Governor of Herat**

MEC decided to start also working at sub-national level and the first province is Herat where the MEC recommends enhancing the capacity of the governor's office staff in ethics and anti-corruption area. The governor's office is recommended to introduce a risk assessment and monitoring mechanism and a compliance office in cooperation with MEC and international donors.

## **III Operational level:**

### **III.1 Kabul Bank**

After reviewing the progress and the forensic and inception report on Kabul Bank case, MEC recommends to the international community to evaluate the performance of Kabul Bank auditors hired by them. This task is to be completed before the end of the first quarter of the Afghan year (April 2012).

### **Annex III - Biographical Details:**

#### **Members of the Joint Anti-Corruption Monitoring and Evaluation Committee (MEC)**

**Mr. Mohammad Yasin Osmani** (First round Chairman; Afghan) is the former Director-General of the High Office of Oversight (2008-2010) and Advisor to President Karzai (2004-2011). He has more than 21 years of experience as an official at the Ministry of Finance of Afghanistan and has worked for Afghanistan Research and Evaluation Unit (AREU) (2003-2004).

**Dr. Mohammad Azam Dadfar** (Member; Afghan) is the former Minister of Higher Education and former Minister of Refugees and Repatriation. He has served on the Afghanistan Independent Human Rights Commission (2004) and has served as Deputy Chairman of Constitutional Loya Jirga of Afghanistan (Elected 2003-2004) as well as a delegate to the Emergency Loya Jirga and Bonn Conference.

**Dr. Sidiqullah**, Ph.D (International Law) (Member; Afghan). He has worked for 12 years with UN/UNAMA Southern Regional Office in Kandahar to present in various capacities – in reconstruction, development, and coordination, as a political affairs officer and finally as senior adviser and deputy to the Head of the Regional Office. He served as a regional focal point/person to the Emergency, Interim and Constitutional Loya Jirgas, Presidential and Parliamentary Elections and the head of Regional Afghan Currency Reform. Prior to his work at the UN, he also taught at the International University of Malaysia.

**Mr. Erry Riyana Hardjapamekas** (Member; Indonesian) is a former Vice-Chairman of the Indonesian Corruption Eradication Commission (2003-2007). He has served as President Commissioner of PT Bank BNI Tbk and President Director of PT TimahTbk.

**Mr. Drago Kos** (Second round Chairman; Slovenian) is the former President of the Council of Europe's Group of States Against Corruption (GRECO). He has served as the first Chairman of the Commission for the Prevention of Corruption in Slovenia and Co-Chair of the European Partners Against Corruption and Vice-President of the European Health Care Fraud and Corruption Network.

**Mr. Nuhu Ribadu** (Member; Nigerian) is the former Executive Chairman of the Nigerian Economic and Financial Crimes Commission. He has served as Nigerian Assistant Inspector General of Police (2007) and has 18 years of experience with the Nigerian Police Force.