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Delegations will find attached the declassified version of the above document.

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**FORWARDING NOTE**

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From: The General Secretariat

To: CIREA

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Subject: Report of the EU Heads of Mission on the situation in Afghanistan

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The CFSP bodies have approved (silent procedure which expired on 22 April 1999), the transmission to CIREA of the annexed report, sought by CIREA, of the Heads of Mission of the Fifteen in Islamabad.

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**REPORT OF THE HEADS OF MISSION****I. General Political Situation****1. Recent political developments**

Afghanistan has been in a state of continuous civil war since the Former Soviet Union invasion of 1979.

Following the withdrawal of the Soviets (1989) and the fall of Communist President Najibullah's government (1992), ethnically based groups of former mujahideen have competed for territory and power. This inter-Afghan fighting has, since 1992, resulted in the destruction of large parts of Kabul and other cities and most of Afghanistan's power, communications and transport infrastructure.

Changing military and political loyalties are a feature of this conflict. At present, the combatants can be divided into two groups - the Taleban and the Northern Alliance.

The Taleban are almost exclusively ethnically Pashtoons originating from Kandahar. They are a radical Sunni movement, seeking to impose their particular brand of Islam on Afghanistan's other ethnic groups. Since their emergence as a movement in 1994, they have captured - through bribery and fighting - most urban areas, and maintain loose control of 26 of Afghanistan's 30 provinces. Their main sources of income are from the opium trade, support from Pakistan and individuals of Arab origin (for example, Usama bin Laden) as well as customs income. Only Saudi Arabia, the United Arab Emirates and Pakistan have formally recognised the Taleban as the Government of Afghanistan.

The Northern Alliance is a loose political union with Ahmad Shah Masood as key military commander, who belongs to the Jamiat-e-Islami party headed by the former President Rabbani. Pashtoons loyal to Professor Sayyaf also hold key positions for the Alliance north of Kabul. Commanders affiliated to the parties formerly led by Uzbek leaders Dostum and Malik (Junbesh-e-Milli) and to Shia leaders Khalili (Hezb-e-Wahdat) and Anwari (Harakat-e-Islami) fight loosely under Masood's command. The Alliance, which controls four of Afghanistan's provinces, also gets funding from narcotics and Afghanistan's neighbours. Rabbani's representative continues to hold the Afghan seat at the UN.

International efforts by the UN, OIC, Afghan diaspora and others to end the conflict continue to be unsuccessful. UN Special Envoy Ambassador Brahimi identified an end to external support for the fighting factions as key to catalysing a negotiated settlement. Despite divergent policies on Afghanistan the six neighbours (Pakistan, Iran, China, Turkmenistan, Tajikistan and Uzbekistan), plus Russia and USA, form a group (the 6 plus 2) through which Ambassador Brahimi is trying to create an enabling environment for talks between factions. Representatives of the Taleban and the Northern Alliance met in Ashgabad in February and March 1999 for direct talks under UN auspices.

## **2. Current Situation**

### **Elections**

There is no central government and Afghanistan has virtually ceased to function as a modern state. Individual commanders maintain areas of influence; those areas controlled by the Taleban in the south tend to be more stable than others. None of these leaders have been elected.

### **Multi-Party System**

Affiliations tend to be on ethnic and tribal lines except where allegiances have been secured through conquest or bribery.

### **Freedom of Opinion and Assembly/Religious Freedom/Independence of Judiciary**

These are largely absent. Conversion from Islam is punishable by death. Shia/Sunni conflict continues, most recently in massacres of Shia Hazaras by the Taleban in August 1998. Sectarian conflict is often overlaid with ethnic intolerance, particularly noticeable at present in Pashto-Taleban mistreatment of non-Pashtoons. It is practically impossible to voice opposition to the leadership in any area. There is no functioning legal system and the controlling authorities use any remaining security service apparatus to further their own ends.

## **Security situation**

The Taliban have established a fragile stability in the southern areas under their control, curbing arbitrary road-blocks and harassment by individual commanders. The security situation in the north remains volatile. The overall situation in Afghanistan remains unstable: The war is continuing, with both sides well supplied and no political solution in sight.

## **Prospects**

Meetings of the 6+2 (see above) and between the factions are scheduled for the coming months. But these, if forthcoming at all, seem unlikely to affect the seasonal resumption of hostilities in Afghanistan following the spring thaw. Masood commands a well trained force and has long experience in defending his territories. The Taliban have a loose hold on large parts of Northern Afghanistan but having so far met little effective resistance. With both sides continuing to receive external assistance, the situation remains volatile.

## **II. General human rights situation:**

The general human rights situation in Afghanistan is extremely poor, with violations occurring frequently in all parts of the country. There is no constitution, no domestic human rights code, no independent courts.

Afghanistan as a member of the United Nations is bound by the principles enshrined in the Universal Declaration of Human Rights. Afghanistan has ratified the International Covenant on Civil and Political rights, the International Covenant of Economic, Social and Cultural rights, the Convention against Torture, the Convention on the Rights of the Child and the 1946 Convention on the Privileges and Immunities of the United Nations. Afghanistan has not signed the Convention on the Rights of Refugees.

However, all of the above instruments for the protection of human rights are continuously violated. The Taleban authorities, who control most of Afghanistan, only recognise their own interpretation of Islamic law and do not accept secular legislation or international human rights' conventions. Other civil war-parties in the north of the country also do not comply with the obligations that derive from these instruments.

It is difficult for international organisations to monitor the human rights situation inside Afghanistan. In general, independent investigations of alleged violations and atrocities are hindered by continuing warfare, lack of security and the unwillingness of local commanders to grant access to investigators. The Taleban authorities have, however, generally co-operated with the UNHCR-appointed special rapporteurs for the country. Also, the International Committee of the Red Cross (ICRC) does have access to a large number of prisons on both warring sides in Afghanistan.

A recent UN proposal to station civilian monitors inside the country has been accepted "in principle" by the Taleban. These monitors would serve as "early warning mechanisms" and would hope to investigate alleged human rights violations. The proposal has yet to be implemented, partly due to the security situation inside Afghanistan.

In a recent development, a senior human rights advisor has joined the UN office for co-ordinating humanitarian assistance to Afghanistan (UNOCHA).

Torture, as well as inhuman and degrading treatment and punishment is common in Afghanistan. Although it does not seem to be applied systematically, there are credible reports of torture in both Taleban and Northern Alliance prisons. Amnesty International has also reported that some Taleban prisoners held by Masood were forced to do work of extreme danger, such as digging trenches in mined areas.

Extra-judicial killings occur frequently inside the country. There are also occasional cases of prominent Afghan exiles - almost exclusively anti-Taleban - being killed in Pakistan.

The death penalty is applied throughout Afghanistan - most frequently in Taleban-controlled areas. Executions are often held in public, such as in the well-known displays at Kabul stadium after Friday prayers which many hundred of inhabitants of Kabul attend. Additionally, and in accordance with the Taleban interpretation of Sharia law, convicted thieves are punished by amputation of hands and feet.

Other examples of inhuman/degrading treatment are the public lashing or stoning of convicted adulterers and the practice of shoving a stone wall over persons "convicted" of homosexuality. In the latter case, if the accused survive, they are exonerated. Less severe but nonetheless degrading forms of punishment are arbitrarily meted out. An example was a recent incident where money-changers, accused of cheating customers, were paraded in public with Afghan currency stuffed in their mouths.

Prison conditions are poor. Prisoners share often overcrowded cells and in some cases they are not given food. Food is considered the responsibility of the prisoners' relatives, who are occasionally allowed to visit. Large metal containers are sometimes used as temporary prisons or detention centres, for example during the summer offensive by the Taleban against Shiberghan and Mazar-i-Sharif. These containers are extremely cold during winters and unbearably hot during summers. Prisoners are known to have died from the extreme temperatures - even more have suffocated due to lack of oxygen.

With the absence of legal and law enforcement institutions, arbitrary arrests are common. Procedures for taking people into custody, bringing them to justice, sentencing and carrying out the punishment vary depending on the locality, the local commanders and other authorities. The Sharia courts in Taleban areas often pass sentences swiftly, sometimes after only a few minutes' proceedings. There are no higher appeal-courts.

Little is known about the judicial system in Northern Alliance areas. Generally, justice seems to be dependent on the whims of the local commanders.

All factions, including the Taleban, hold political prisoners. Actual numbers are hard to verify.

War, shifting frontlines, mines, a dilapidated road network and lack of adequate communications all make travelling in Afghanistan difficult. However, there are no official travel restrictions. In general, Afghans can travel more easily in Taleban-controlled areas, due mainly to the recent removal of local militia checkpoints and the arbitrary taxation that was imposed.

### **III. Specific information on persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion**

There is no legal or constitutional protection that prevents discrimination based on race, sex, religion, disability, language or ethnicity. Local customs dominate and, as such, discrimination against women, for example, varies in severity between areas. Nevertheless, discrimination against women and ethnic minorities are the most serious forms of discrimination in Afghanistan.

The Taleban are a Pashto-dominated movement and discrimination against other smaller ethnic groups, is common. While all minorities have suffered to a certain extent, only the Shia Muslim Hazaras have been persecuted on a wider scale. A well-known - but as yet not thoroughly investigated - example of this is the widespread killing of Hazaras during the Taleban conquest of Mazar-i-Sharif in northern Afghanistan in mid-August 1998. While there were fighters among the killed, it is beyond doubt that a large number of civilian Hazaras were killed by Taleban and other Pashto troops. Many Hazaras from northern Afghanistan are still in Taleban detention.

Other groups that are persecuted include individuals linked to the former communist regime. Most have fled Afghanistan over the years. Some, who have taken refuge across the border in Pakistan, continue to live in fear of retribution by other Afghans, often believed to be linked to the Taleban. However, it is also known that many former communists have joined the Taleban, particularly those formerly part of the military and security apparatus.



The group most subject to discrimination in Afghanistan is women. There are a large number and variety of restrictions imposed upon women in Taleban-held areas. Among other restrictions, women are forced to wear a full-length burqa in public; women are rarely allowed to work outside the home; girls are frequently not allowed to attend school (particularly not in urban areas); women's access to health care is severely restricted, sometimes because they are not allowed to be treated by male doctors; women are not allowed to drive and women in their homes must not be visible from the street.

Security from criminal acts for women in Taleban-held areas has generally improved. However, Taleban guards and soldiers often take it upon themselves to beat women, often using the pretext of "immodest" dress. These guards tend to use their powers arbitrarily and harshly.

Taleban restrictions on women are, in general, enforced much more diligently in urban areas. While the same rules exist in principle for all Taleban-controlled Afghanistan, they are often not applied in the countryside, depending upon the personal stance of a local governor or other Taleban leader. In general, Taleban-imposed restrictions have had less impact on women in the conservative Pashto-dominated countryside, since their living conditions were already restrictive before the arrival of the Taleban movement. As such, it is in the non-Pashto and urban areas, as well as in northern Afghanistan, that the Taleban-imposed restrictions against women are most harshly applied and most acutely felt.

In areas not controlled by the Taleban, the situation for women is generally better, with the exception of their security situation. They are frequently at risk of incidents of rape, forced marriage and kidnapping. These problems remain common in the north. Freedom of religion is severely restricted, mainly due to the Taleban zealously trying to impose their version of Sunni Islam. There are reports that the Taleban have forcibly converted some mosques of the minority Shias to Sunni mosques. There are also credible reports that the Taleban have forced Shia Hazaras to pray with open hands (the Sunni way) as well as follow the Sunni prayer timings.

The small number of non-Muslims living in Afghanistan may practice their faith if it is done discreetly. They may not proselytise. However they are under great pressure in a state where the dominant groups objective is to create a pure hard-line Islamic society.

#### **IV. Possibility of fleeing within the State (in the event of persecution)**

The persecution of ethnic Hazaras, Uzbeks and Tajiks is almost wholly confined to Taleban-held areas. Therefore the persecution can be said to be confined to certain parts of Afghan territory. Despite front lines and military activities, territories on either side remain reasonably accessible. Therefore, theoretically, political or ethnic persecution can be avoided by fleeing to the "other" area. This internal escape option is, however, severely limited by the fact that none of the parties to the conflict offer any acceptable system of rule of law.

Moreover, the areas not controlled by the Taleban have shrunk considerably over the past year, due to Taleban military successes. For example, while educated, working women from Kabul may in the past have been able to flee to Mazar-i-Sharif before the Taleban take-over of that city, that option is now closed.

#### **V. Movements of nationals of the state:**

The controls of the Afghan/Pakistan border are carried out by both sides through customs and passport checks. Checks are rudimentary and no mechanical or technical devices are in use. According to UNHCR (Branch Office Peshawar) the border controls are lenient on both sides and it is quite easy to cross the border without being challenged, even at the key crossing point at Torkham (Jalalabad- Peshawar). Bribing of customs officers is the norm. Both sides issue passports using the same documents, but different state names (Islamic Emirate of Afghanistan (Taleban) and Islamic State of Afghanistan (Northern Alliance)). The Northern Alliance controls most Afghan Embassies with the exception of Saudi Arabia, Pakistan and the United Arab Emirates.

The Taliban do not recognise visas issued by the Northern Alliance. To enter the Taliban-controlled areas in Afghanistan foreign nationals have to obtain a Taliban-issued visa. There have been no reports that Afghans holding non-Taliban passports have faced difficulties in renewing or replacing their documents with the Taliban authorities.

The controls carried out at the borders or airports do not discriminate between Afghans and other nationals.

#### **VI. Authenticity of documents:**

It is easy to obtain an Afghan Passport. Persons who apply have to prove their identity either through an identity card or, if no documents are available, by bringing three Afghan witnesses who can prove that the applicant is of Afghan nationality. The controls are inefficient and open to abuse. In addition, there is no difficulty in obtaining false documents. In Peshawar (Pakistan) false or even genuine passport documents and a variety of certificates and false visas are available on the black market. Most EU Missions are confronted with a large number of Afghan asylum-seekers who provide false documents in support of their applications for political asylum which are on the increase. At present, many of them are in possession of forged Taliban arrest warrants. It has to be noted that during the long civil war a large number of original passport documents have gone missing.

#### **VII. Return to country of origin:**

According to paragraph 2 of the Declaration of Amnesties and Invitation to Afghan Refugees to Repatriate, issued by the Afghan authorities on 26/06/1997 "no returnee shall suffer from harassment, discrimination, persecution or any form of punitive action on account of having fled Afghanistan and having sought and found refuge in Pakistan, Iran or any other country". Although it is unclear to what extent the Afghan authorities respect this declaration, the UNHCR is presently not aware of any Afghans being subjected to any form of persecution following their voluntary return to Afghanistan. It should be noted that 4 million Afghans have returned to Afghanistan voluntarily over the last six years. In recent years no rejected Afghan

asylum-seekers have been forcibly returned to Afghanistan from European countries. The Canadian authorities have deported some Afghans back to Afghanistan via Dubai, but nothing is known of their fate. It remains unclear what will happen if rejected Afghan asylum-seekers are sent back to Afghanistan against their will.

Apart from one Dutch national (of Surinam-Muslim descent) who applied for asylum in Kabul in November 1998 and whose case was rejected, there are no other known cases of foreign nationals having applied for asylum in Afghanistan.

### **VIII. Economic and social situation:**

The economy of Afghanistan is one of the poorest in the world and is in a state of virtual collapse. Reports largely rely on estimates. State institutions have almost completely collapsed. There is no clear tax system or functioning customs.

Roads, electricity, the transport system and communications have been badly damaged by the war.

The industrial infrastructure has been destroyed. Almost all manufacturing companies have stopped operating or are producing at only a fraction of their capacity. There is a shortage of raw materials, spare parts and electricity.

Afghanistan has natural gas reserves particularly in the north. Exploitation of the gas fields has been reduced to a minimum by the ongoing war. It is also believed that the country possesses sizeable oil and coal resources.

Agriculture has traditionally been the main focus of economic activity. Because of the war production has decreased dramatically. Nevertheless, Afghanistan exports agricultural products (grapes and apples) to Pakistan. In turn, Afghanistan relies on wheat imports to cover its production deficit. Apart from the sizeable amount of food-aid delivered by the World Food Program and others, Pakistan is the main source for wheat imports to Afghanistan. In contrast to the decline in legal agricultural production, opium production has increased sharply over the past years. Afghanistan today rivals Myanmar (Burma) as the largest poppy producer in the world.

The amount of livestock has decreased dramatically. The international assistance community estimates a loss of up to 50% since the start of the war.

There is no reliable data on foreign currency reserves and foreign debt. Lending and foreign debt servicing have been suspended. There is no banking system. Currency rates are fixed in the bazaar. The Bank of Afghanistan which operated as the central bank is almost defunct. Bank accounts in foreign countries still exist, but authority over these accounts is often unclear.

One of the main sources of economic activity and income generation is smuggling to Pakistan (electronic goods, vehicles, wood, scrap material). According to World Bank estimates, the value of smuggled goods through Torkham gate (border area between Jalalabad/Peshawar) alone is higher than all official trade between Pakistan and Afghanistan.

Unemployment is estimated at 60% and there is little prospect of a decline in this figure. There is no welfare system in Afghanistan. People have to depend on the family network and remittances from abroad. There is no social infrastructure to provide health insurance, pensions or unemployment benefits. Social services like medical support are scarce and ineffective. Afghanistan has one of the lowest life-expectancy rates in the world. Many Afghans survive by selling their properties or depend upon the assistance programs of the UN and NGOs. In turn, humanitarian assistance to Afghanistan has been constrained by security and financial considerations.

Wages are generally low. An average government employee in Kabul receives about 5 US monthly. Salaries often remain unpaid for months.

The provision of schools and universities is insufficient. The illiteracy rate in Afghanistan is believed to be well over 60%. There is no system for vocational training.

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