

THE ENABLING ENVIRONMENT CONFERENCE

Effective Private Sector Contribution to Development in Afghanistan

Conference Statement and Road Map

Kabul, Afghanistan – 5th June 2007

1. **The Conference on the Enabling Environment for Effective Private Sector Contribution to Development in Afghanistan** took place in Kabul on the 4th and 5th of June, 2007. It focused on creating the conditions necessary to significantly increase the contribution of the private sector – defined as both for-profit business and not-for-profit civil society – to social, economic, and cultural development in Afghanistan’s urban and rural areas.
2. **The Conference has taken place** within the framework of the Afghan National Development Strategy. It has been guided by the Government’s commitment to encourage and promote private sector activity, as has been expressed in the Constitution of the Islamic Republic of Afghanistan and the Afghanistan Compact.
3. **The Conference recognises** that the fundamental elements of an enabling environment for an effective private sector contribution will be characterised by political stability; confidence in the future; mutual trust, understanding, dialogue and collaboration among stakeholders; the rule of law; protection of the rights of citizens; a diversity of stable, democratic institutions; and a streamlined legal, fiscal, regulatory and administrative framework governing all spheres of private initiative, which is predictably, consistently and impartially applied.
4. **The Conference has been informed** by an extensive, year-long consultation process that has drawn upon the research, expertise and perspectives of Government and the private sector in Afghanistan and abroad.
5. **The Conference found instructive** the exposure to examples of positive experiences in creating an enabling environment in other relevant countries, Malaysia in particular, which the Conference acknowledges as an example of a successful, pluralistic Muslim country guided by the ethics of Islam.
6. **The Conference acknowledges** that insecurity, the pervasive and negative influence of the opium economy, weaknesses within government institutions, and other challenges associated with Afghanistan’s unique post-conflict context are adding to the hardships of people and inhibiting progress towards the country’s social, economic and cultural development. The Conference, however, welcomes the fact that against these difficult and long-term challenges, the Government has already adopted reforms, has launched successful national programmes, and has mobilised some resources aimed at improving the livelihoods of its people. Thus, if these broader issues are beyond the scope of the Conference, they are very much in mind as they undoubtedly affect the creation of an enabling environment for an effective private sector contribution to development in Afghanistan.
7. **The Conference further recognises that:**
 - ◆ Afghanistan’s vision for development can only be realised when Government, business and civil society work together with a clear understanding of each other’s roles and responsibilities.

- ◆ Business can make a greater contribution to social, economic and cultural development in Afghanistan, through further investment, continued employment creation and training, and exercising social responsibility.
- ◆ Civil society, as represented by organisations committed to the public good and powered by voluntary energies, can make a greater contribution to social, economic and cultural development in Afghanistan by supporting people's participation in development processes as well as in civic life.
- ◆ The activities of the private sector, which include both for-profit business and not-for-profit civil society, can complement public efforts and thus, help achieve Afghanistan's development agenda, spur economic and social development, and strengthen good governance.

8. The Conference unanimously affirms that:

- ◆ Bold and immediate action is required from Government, business, civil society and the international community to move from a climate of uncertainty and short-term perspectives to one which inspires confidence in the long-term future of Afghanistan.
- ◆ In line with Afghanistan's vision as a modern Islamic state, development and growth must be built on ethics and values which respect the country's rich pluralistic heritage and promote a diverse, sustainable and engaged civil society.
- ◆ Both business and civil society need to be considerably more engaged in Afghanistan's development, to realise the country's human potential, to generate material resources, and to develop a vibrant and robust socio-economic base.

9. The Conference recommends that immediate action can be taken to:

- ◆ Enact and implement key laws and amendments to establish the basic legal and regulatory framework that will encourage private sector involvement in social and economic development in Afghanistan. The laws and regulations should: (i) be clearly specified and transparent; (ii) be further streamlined, involving the minimum necessary steps, bureaucratic processes and institutions; (iii) reduce discretionary decision-making; and (iv) be predictably, consistently, competently and impartially applied.
- ◆ Establish a framework to strengthen the governance and operations of civil society organisations to enhance their contributions to social and economic development in Afghanistan through, among other measures, the revision and clarification of laws governing civil society as well as the establishment of independent certification bodies for civil society organisations.
- ◆ Establish programmes (both private and public-led) to build capacity to alleviate the binding capacity constraints facing the private and public sectors.
- ◆ Involve the private sector in the provision of public services through PPPs and other modalities in areas such as power generation and distribution, water supply, transportation infrastructure, and social development.
- ◆ Implement measures to facilitate access to land by clarifying property rights, simplifying procedures for the transfer of titles, and allowing for longer-term leases.

- ◆ Work to expand significantly the outreach of a broad range of financial services throughout the country.
- ◆ Build the structures, systems and capacity of mediation and arbitration tribunals to ensure the efficient, effective and impartial resolution of disputes.
- ◆ Instil an active practice of social responsibility and philanthropy which leads to the institutionalisation of private (business and individual) support for economic and social development through civil society.

10. **To ensure follow-up, the Conference strongly recommends:**

- ◆ The Government take immediate steps to discuss the recommendations from the Conference through appropriate mechanisms, and establish a small working group of key stakeholders, including the private sector (business and civil society) for this purpose. The Steering Committee remains available to assist in this regard.
- ◆ The media sustain their interest by highlighting the aims and conclusions of the Conference and by assisting to publicise Afghanistan's potential and the progress made towards creating an enabling environment.

11. **The Conference puts forward** its proposals and recommendations in the firm belief that their full and sustained implementation will lead to a substantially improved enabling environment for an effective private sector contribution to the social, economic and cultural development for all the people of Afghanistan.

Recommendation	Specific Action	Timeframe for Implementation				Responsibility
		Immediate	6 months	12 months	18 months	
Developing the legal framework for the business sector						
1 Enact and implement key laws and amendments to establish the basic legal and regulatory framework that will encourage private sector involvement in social and economic development in Afghanistan.	1.1 Enact the required laws (Corporations, Partnerships, Commercial Arbitration, Commercial Mediation, Contracts, Agency, Standards, Copyrights, Trademarks, Patents) to complete and update the basic legal and regulatory framework governing private sector activity in social and economic development. Government, business and the international community to make a stronger effort in lobbying Parliament regarding the urgency of enacting laws.				✓	Cabinet, Da Afghanistan Bank (DAB) and National Assembly
	1.2 Invest in capacity building for Parliament so that MPs are better informed and supported in their role and understanding of the rationale, use and content of proposed laws.		✓			Parliament and donors
	1.3 Establish the principle and formalise and standardise processes to consult with the private sector (business and civil society) in a meaningful and timely manner during the process of drafting policies and laws.	✓				Cabinet, DAB and National Assembly
	1.4 Establish the principle that no law can be implemented unless it has been gazetted, published in the newspapers, and made available electronically and in hard copies at no cost. Explore the option of using the Afghanistan National Development Strategy (ANDS) website as an interim solution for publishing laws after their enactment. Publish the tariff structures on the Ministry of Finance website.	✓				Ministry of Justice, Ministry of Finance, ANDS
2 Build the structures, systems and capacity of mediation and arbitration tribunals to ensure the efficient, effective and impartial resolution of disputes.	2.1 Endorse the authority of mediation and arbitration tribunals to resolve private-private and private-public disputes, including land issues.				✓	Ministry of Justice
	2.2 Ensure the competency and transparency of tribunals by establishing standards and building the capacity of arbitrators, mediators and lawyers.				✓	Ministry of Justice

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Increasing access to finance						
3 Strengthen the financial sector to increase access to credit and financial services, paying special attention to alleviating capacity constraints.	3.1 Lay out a concrete strategy with time-bound actions to significantly expand the outreach and range of financial products and services, especially targeting small and medium enterprises.		✓			DAB, Afghanistan Bankers' Association, Microfinance Investment
	3.2 Enact an appropriate legal framework including passage of four financial laws: Secured Transactions, Mortgage, Leasing and Negotiable Instruments.			✓		DAB, Ministry of Justice
	3.3 Build capacity in the financial sector by establishing an independent banking and business training institute as a joint commercial bank - DAB initiative.		✓			DAB together with Afghanistan Bankers' Association
	3.4 Establish a credit information bureau to facilitate commercial and consumer lending.			✓		DAB, Afghanistan Bankers' Association
	3.5 Establish a financial tribunal to provide swift legal decisions on financial disputes.			✓		DAB, Ministry of Justice
	3.6 Implement an adequate insurance law.				✓	Ministry of Finance in consultation with DAB and Financial Institutions
	3.7 Establish an office in DAB in conjunction with Ministry of Interior to provide security for cash in transit between banks and bank branches in Kabul.				✓	DAB in cooperation with Ministry of Interior
	3.8 Increase the offering of financial services in rural areas through the further development of effective and sustainable delivery mechanisms.				✓	Ministry of Agriculture, DAB, MISFA
	3.9 Implement the agreed upon privatisation strategies in Bank Millie and Pashtany Bank, including the placement of professional management and board to restructure the banks free of government interference.		✓			Ministry of Finance/DAB

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Developing economic infrastructure: exploring public-private partnerships						
4 Involve the private sector to expedite power generation and distribution projects in urban centres as well as in rural areas.	4.1 Ensure the evolving legal framework to permit and encourage power generation and distribution by the private sector, including through the establishment of Public-Private Partnerships (PPPs).		✓			Ministry of Energy and Water
	4.2 Accelerate the execution of priority power generation initiatives: (a) Sheberghan natural gas generation project; (b) the high voltage transmission line from Tajikistan.	✓				Ministry of Energy and Water
	4.3 Improve distribution system, beginning with Kabul, including through outsourcing of billing and collections and by providing information to the private sector on opportunities to invest in electricity supply.		✓			Ministry of Energy and Water, DABM
	4.4 Corporatise DABM (national electricity company) with qualified management team selected through transparent process.		✓			Ministry of Energy and Water, DABM
	4.5 Launch pilot initiatives in non-grid small and medium-scale provision in smaller cities and in community-based rural power, including micro-hydro power.		✓			Ministry of Energy and Water
	4.6 Negotiate competitive terms for reliable power supply from Central Asia.		✓			Ministry of Energy and Water
Improving access to land						
5 Implement measures to facilitate access to land by clarifying property rights, simplifying procedures for the transfer of titles, and allowing for longer-term leases.	5.1 Draft legislation based on the recommendations of the land policy that comprises legal frameworks for land registration; land adjudication, including community-based systems; and the formalisation of informal land holdings, including legislation for adverse possession.			✓		Ministry of Justice, Ministry of Agriculture
	5.2 Implement improved simplified procedures for transfer of privately owned land.			✓		Ministry of Justice, Office of the President
	5.3 Clarify and simplify the procedures associated with the transfer of publicly-owned and privately-owned land.		✓			Ministry of Justice
	5.4 Permit foreign investors to obtain access to land through 90-year leases.		✓			Ministry of Justice
	5.5 Extend the duration of leases for government land and ensure that they are either wholly or partly transferrable.		✓			Ministry of Justice
	5.6 Develop a strategy for industrial parks, including the creation of an industrial park development department as an independent authority.			✓		Ministry of Commerce and Industry, AISA

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Streamlining regulations and procedures and improving enforcement						
6 Ensure that laws and regulations (i) are further streamlined, involving the minimum necessary steps, bureaucratic processes and institutions; (ii) reduce discretionary decision-making; and (iii) are predictably, consistently, competently and impartially applied.	6.1 Consolidate the registration of private sector entities and the issuance of tax identification numbers into a single platform, extending the service to smaller businesses.			✓		Ministry of Commerce and Industry
	6.2 Remove licensing requirements except for reasons of health, safety, environmental protection, land use and access to natural resources.		✓			Ministry of Commerce and Industry
	6.3 Establish and enforce “one-stop collection points” for tax payment and other government revenue collection in every district centre.		✓			Ministry of Finance
	6.4 Reform and revitalise the High Commission on Investment (HCI). Ensure that AISA is an effective secretariat; ensure that it meets regularly (starting in the next 14 days); focus it on policy issues; introduce increased private sector representation; improve member selection process to focus on competence and experience; extend access to SMEs throughout the country. Report results of HCI reform to the private sector.	✓				High Commission on Investment; AISA
	6.5 Apply customs regulations consistently across the country and commit to achieving an average time for importing and exporting goods in line with best practice in the region (reduced by at least half of current levels).			✓		Ministry of Finance
Developing the legal framework for civil society						
7 Establish a framework to strengthen the governance and operations of civil society organisations (CSOs) to enhance their contributions to social and economic development in Afghanistan.	7.1 Revise, clarify and update the legal framework governing civil society organisations, including the NGO Law and Social Organisations Law, to cover civil society more comprehensively, easing the establishment / registration of CSOs and ensuring adequate (not burdensome) oversight.			✓		Ministry of Economy, Ministry of Justice with Civil Society stakeholders
	7.2 Develop self-regulatory mechanisms with clearly defined quality standards or a “code of conduct” to ensure that civil society organisations are well managed, accountable and their activities are well conceived, effective and attuned to the needs of Afghans, with governance models drawn from international best practice.		✓			Civil Society with the endorsement of the Ministry of Economy
	7.3 Establish independent certification bodies for civil society organisations that are recognised by Government, the private sector, donor agencies and civil society while introducing the associated capacity building services required to achieve certification.			✓		Civil Society with the endorsement of the Ministry of Economy

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Addressing human capacity constraints						
8 Establish programmes (both private and public-led) to build human capacity to alleviate the binding capacity constraints facing the private and public sectors.	8.1 Facilitate private sector involvement to offer short-cycle certificate-level education for school leavers to rapidly develop the skills of young people and adults that are crucial to economic development.	✓				Civil Society with Business
	8.2 Establish the modality for public-private partnerships in the provision of education from basic education through to tertiary levels, including provision of professional and vocational education.		✓			Ministry of Education
	8.3 Establish a coherent national policy framework to guide professional and vocational education, linked to the overall higher education strategy, that will ensure coordination, assign clear accountability and set world-class standards (including the process for licensing, certification and accreditation).			✓		Ministry of Economy, Ministry of Education, Ministry of Higher Education, Ministry of Labour, Business Community, Civil Society
	8.4 Consider quickly piloting specific market-based vocational and professional training initiatives through coalition of Government, industry groups and training institutions.		✓			Ministry of Economy, Ministry of Education, Ministry of Higher Education, Ministry of Labour, Business Community, Civil Society
	8.5 Create incentives (e.g., tax) for private sector to invest in education specific to skills training, mentoring and on-the-job training.			✓		Ministry of Economy, Ministry of Finance
	8.6 Invest urgently in vocational and professional education to meet current needs, while simultaneously making parallel investments in reform of basic and higher education systems that will yield longer term results.	✓				Ministry of Labour and Social Affairs, Ministry of Education, Ministry of Economy

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Accelerating social development through Public-Private Partnerships						
9 Establish the principles of private sector involvement in the provision of public services. Advance energetically to define specific approaches exploring – among other options – the establishment of Public-Private Partnerships.	9.1 Identify and implement three pilot projects to test new approaches in areas such as power, water supply, transportation infrastructure and social development.		✓			Ministry of Energy and Water, Ministry of Rural Reconstruction and Development, Ministry of Transport, Ministry of Labour and Social Affairs
	9.2 Catalogue best practices drawn from across ministries (especially of Ministry of Health) of genuine partnerships between public and private sectors.		✓			Ministry of Public Health, Ministry of Education, Ministry of Labour and Social Affairs
Encouraging corporate social responsibility						
10 Instil an active practice of social responsibility and philanthropy which leads to the institutionalisation of private (business and individual) support for economic and social development through civil society.	10.1 Create the necessary legal and fiscal incentives that actively encourage individual and corporate support for social and economic development.		✓			Ministry of Finance
	10.2 Improve the legal framework governing corporate social responsibility (CSR) and philanthropy including creating a Foundation law; revising NGO law to allow CSOs to generate (non-commercial) revenue to ensure self-sustainability; creating tax deductions for giving; and developing new mechanisms for private giving such as Zakat funds, a Diaspora fund and community foundations.			✓		Ministry of Finance, Ministry of Justice, Ministry of Economy
	10.3 Form a business donor's group to share best practices in corporate social responsibility and philanthropy to create more flexibility, risk-taking and imaginative practices in approaches to corporate giving, including lending good business practices to civil society.		✓			Business community
	10.4 Increase trust and credibility of the civil society sector by establishing a system to vet CSOs through standards that the businesses would work with, publicising CSO successes, and educating businesses to increase understanding of the concept of CSR.				✓	Ministry of Economy; Civil Society

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Monitoring follow-up and implementation							
11 Establish mechanisms to oversee the implementation of measures to create an enabling environment, initially focusing on the Conference's recommendations.	11.1	Create a Council for the Private Sector, reporting on progress against this roadmap to the President.	✓				Office of the President
	11.2	Develop a list of the private sector's most urgent priorities that would support an enabling environment, developed through a process of sub-national consultation and engagement with the private sector to be presented to the Government within three to six months.	✓				Business community
	11.3	Establish a system of stocktaking at six-month intervals to monitor implementation of the Conference Road Map, with public dissemination of results.		✓	✓	✓	Proposed Council for the Private Sector, Conference Steering Committee