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Iraq: Transition Challenges after the Election (U)

14 January 2005

Iraqis will face political uncertainty and potential gridlock beginning after the national election as the Independent Electoral Commission of Iraq (IECI) works to certify the results and as the newly elected Transitional National Assembly (TNA)—with minimal guidelines—strives to transition to the Iraqi Transitional Government (ITG). The Transitional Administrative Law (TAL) specifies neither procedural rules for the TNA nor any deadline for the TNA's first task—choosing Iraq's President:

- The analysis below assumes a TNA in which the Shia receive more than 50 percent of the seats, the Kurds receive around 20 percent, and no one ethnic or religious group garners the two-thirds majority necessary to elect Iraq's Presidency Council.
- It also assumes that the TNA hews closely, especially at first, to the few rules laid out in the TAL for forming the ITG. [redacted]

- If any Assembly members-elect die or resign before certification, the IECI will determine their replacement; the IECI has not announced guidelines for such a decision. After certification, the TNA will need to enact a law dealing with member replacement, according to the TAL. [redacted]

After the IECI announces the TNA membership, the TNA will convene and begin the process of naming the executive authority and its own leadership. The TAL specifies that the oldest member of the Assembly chair the first meeting but is mostly silent on setting the Assembly's internal rules. TNA wrangling over how it operates could precipitate lengthy debates and significant delays. [redacted]

Dissolving the IG (U)

The TAL states that the IG will dissolve after the election upon formation of the ITG but provides little clarity on the precise moment when the ITG formally comes into existence. Iraqis may argue about the timing for the IG Prime Minister, Cabinet, and Interim National Council to lose authority during the transition process, which may take six weeks or longer:

- [redacted] if the IG is dissolved before all components of the ITG executive are up and running, Iraq could face confusion in its day-to-day administration of security, reconstruction, diplomatic relations, and participation in international organizations.
- At the same time, if the IG functions during this period as more than a "caretaker" and makes key decisions that bind the ITG, or if IG ministers

Getting to the First Assembly Session (U)

Immediately following the election, the Independent Electoral Commission of Iraq (IECI) will need to certify the results and adjudicate any challenges to them. The lack of a large contingent of international monitors combined with the prospect of low Sunni Arab participation suggests electoral challenges are likely. The IECI has not issued regulations for certifying the vote, and the TAL is silent on the procedures and timeline for the process:

- The IECI [redacted] will be able to announce the names of the 275 National Assembly members at a press conference approximately two weeks after the election. [redacted]

This report was prepared by the Office of Iraq Analysis. Comments and queries are welcome and may be directed to the Chief, [redacted] OIA, [redacted] (U)

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successfully lobby to stay in power in the ITG, the credibility of the new government could be damaged. [redacted]

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Article 28 of the TAL—which prohibits ITG members in the Assembly, Presidency Council, or Cabinet from holding other government positions—might seriously hamper the IG if it prompted resignations of newly elected Assembly members who are also IG ministers. [redacted]

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Forming the ITG (U)

The TAL mandates that the Assembly choose a Presidency Council—a President and two Deputy Presidents—by two-thirds majority “from a single slate.” The TAL specifies no deadline for this action, and gridlock could set in as disparate groups seek to build coalitions to reach the two-thirds majority:

- Once elected, the Presidency Council must then unanimously choose a Prime Minister within two weeks, and the Prime Minister has one month to name a Cabinet. The Presidency Council, Prime Minister, and Cabinet ministers are not required to be members of the TNA. The Presidency Council also will appoint nine members of a Federal Supreme Court and name one to serve as Presiding Judge.
- The TAL also charges the TNA with electing, from its members, a President and two Deputy Presidents of the Assembly. The TNA President will be the candidate receiving the most member votes, with the First and Second Deputy Presidents being elected by the second and third highest vote totals.

Potential for Delay and Gridlock (U)

Although the Shia are likely to win more than 50 percent of TNA seats, they will face difficulties agreeing among themselves in choosing the new executive authority, even if Sistani’s United Iraqi Alliance (UIA) wins the bulk of the seats:

- The UIA is a shaky coalition of independents and 16 parties, and the independents make up around 50 percent its list; it is not likely to remain a coherent bloc after the election. Some UIA parties joined multiple electoral lists and will gravitate to others with similar ideological views.
- If Prime Minister Allawi’s list performs well and rivals the UIA’s showing, the debate between secular and religious Shia members could become contentious.

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- In return for the Presidency of Iraq and concessions on federalism, Kurdish leaders probably would back most of the well-known Shia Prime Minister aspirants, including Allawi, Da'wa head Ibrahim Jafari, or senior SCIRI official Adil Abd al-Mahdi.

Shia leaders are aware that they will need to reach out to the Kurds and Sunnis to build a government, and they appear willing to make some concessions to gain cooperation. The Shia have stopped short of making any pre-election promises, however, and probably are waiting to gauge the extent of their victory:

- [redacted] Shia leaders recognize that the Sunnis could achieve the two-thirds majority needed in three predominantly Sunni provinces to block ratification of the draft constitution.

[redacted] Sistani's son Muhammed Riddha would be comfortable giving the Kurds substantial authorities under a federal system in exchange for supporting the constitution,

- Ammar al-Hakim, son of SCIRI leader Abd al-Aziz al-Hakim, acknowledged to the press that the Sunnis will need assurances that the new constitution would not advantage any specific sect. He has raised the idea of allocating a certain number of Assembly seats or leadership positions in the new government to Sunni Arabs.

Forming the Iraqi Transitional Government (U)

National election	30 Jan	(b)(3)
IECI certifies results	15 Feb (est.)	
TNA seated	late Feb (est.)	
ITG Presidency Council chosen (TAL gives no deadline)	mid Mar (est.)	
ITG Prime Minister chosen (must be within two weeks of Presidency Council selection)	mid Mar - early Apr (est.)	(b)(1) (b)(3)
ITG Cabinet named (must be within one month of Prime Minister selection)	mid Mar - early Apr (est.)	(b)(1) (b)(3)
Vote of confidence in ITG	mid Mar - early Apr (est.)	(b)(1)
IG dissolves	mid Mar - early Apr (est.)	(b)(3)

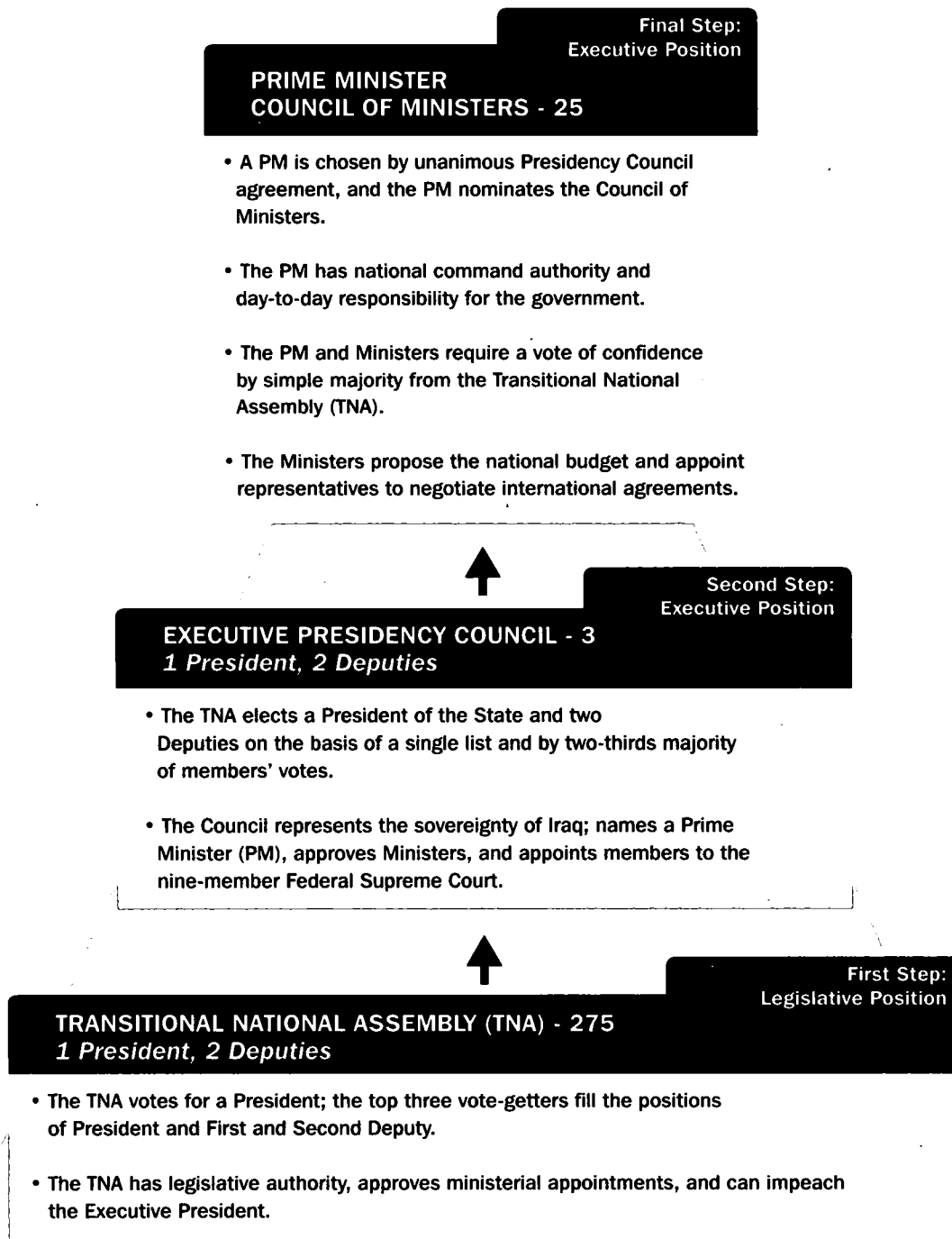
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Executive and Legislative Leadership Positions in the Iraqi Transitional Government (U)



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