

# Afghanistan

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RISK & COMPLIANCE REPORT

DATE: March 2017

<b>Executive Summary - Afghanistan</b>	
<b>Sanctions:</b>	UN and EU Financial Sanctions in force
<b>FAFT list of AML Deficient Countries</b>	Yes
<b>Higher Risk Areas:</b>	<p>Non - Compliance with FATF 40 + 9 Recommendations</p> <p>US Dept of State Money Laundering Assessment</p> <p>Supporter of or Safe Haven for International Terrorism</p> <p>Not on EU White list equivalent jurisdictions</p> <p>Corruption Index (Transparency International &amp; W.G.I.)</p> <p>World Governance Indicators (Average Score)</p> <p>Failed States Index (Political Issues)(Average Score)</p> <p>International Narcotics Control Majors List</p>
<b>Medium Risk Areas:</b>	Weakness in Government Legislation to combat Money Laundering
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b></p> <p>opium, wheat, fruits, nuts; wool, mutton, sheepskins, lambskins</p> <p><b>Industries:</b></p> <p>small-scale production of bricks, textiles, soap, furniture, shoes, fertilizer, apparel, food-products, non-alcoholic beverages, mineral water, cement; handwoven carpets; natural gas, coal, copper</p> <p><b>Exports - commodities:</b></p> <p>opium, fruits and nuts, handwoven carpets, wool, cotton, hides and pelts, precious and semi-precious gems</p> <p><b>Exports - partners:</b></p> <p>Pakistan 33.1%, India 24.9%, Tajikistan 8.7%, US 5.8% (2012)</p> <p><b>Imports - commodities:</b></p> <p>machinery and other capital goods, food, textiles, petroleum products</p>	

**Imports - partners:**

Pakistan 25.8%, US 17.4%, Russia 8.4%, India 5.5%, China 5.4%, Kazakhstan 4.5%, Germany 4.3% (2012)

**Investment Restrictions:**

The Government of the Islamic Republic of Afghanistan taken concrete steps toward fostering a business-friendly environment for both domestic and foreign investment. Security threats limit investors' opportunities to develop businesses in some provinces, and certain sectors (such as mining and hydrocarbons) still lack a regulatory environment that fully supports investment.

The 2005 Private Investment Law (PIL), specifically prohibits discrimination against foreign investors. The PIL permits investments in nearly all sectors of the economy (exceptions are nuclear power, gambling establishments and production of narcotics and intoxicants)

The Afghan Constitution and the PIL prohibit foreign ownership of land, which compels most foreign firms to work with an Afghan partner.

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## Section 1 - Background

Ahmad Shah DURRANI unified the Pashtun tribes and founded Afghanistan in 1747. The country served as a buffer between the British and Russian Empires until it won independence from notional British control in 1919. A brief experiment in democracy ended in a 1973 coup and a 1978 communist counter-coup. The Soviet Union invaded in 1979 to support the tottering Afghan communist regime, touching off a long and destructive war. The USSR withdrew in 1989 under relentless pressure by internationally supported anti-communist mujahedin rebels. A series of subsequent civil wars saw Kabul finally fall in 1996 to the Taliban, a hardline Pakistani-sponsored movement that emerged in 1994 to end the country's civil war and anarchy. Following the 11 September 2001 terrorist attacks, a US, Allied, and anti-Taliban Northern Alliance military action toppled the Taliban for sheltering Osama BIN LADIN. The UN-sponsored Bonn Conference in 2001 established a process for political reconstruction that included the adoption of a new constitution, a presidential election in 2004, and National Assembly elections in 2005. In December 2004, Hamid KARZAI became the first democratically elected president of Afghanistan and the National Assembly was inaugurated the following December. KARZAI was re-elected in August 2009 for a second term. Despite gains toward building a stable central government, a resurgent Taliban and continuing provincial instability - particularly in the south and the east - remain serious challenges for the Afghan Government.



## Section 2 - Anti – Money Laundering / Terrorist Financing

### FATF status

Afghanistan is on the FATF List of Countries that have been identified as having strategic AML deficiencies

### Latest FATF Statement - 24 February 2017

Since June 2012, when Afghanistan made a high-level political commitment to work with the FATF and APG to address its strategic AML/CFT deficiencies, Afghanistan has substantially addressed its action plan at a technical level, including by: (1) introducing mechanisms for policy and operational level coordination on AML/CFT; (2) adequately criminalising money laundering and terrorist financing; (3) establishing adequate provisions for freezing and asset confiscation; (4) establishing a targeted financial sanctions framework; (5) establishing an adequate supervisory and oversight system; (6) improving the legal status and resources of the FIU; (7) and developing a cross-border currency declaration system. The FATF will conduct an on-site visit to confirm that the process of implementing the required reforms and actions is underway to address deficiencies previously identified by the FATF.

### Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Afghanistan was undertaken by the Financial Action Task Force (FATF) in 2011. According to that Evaluation, Afghanistan was deemed Compliant for 1 and Largely Compliant for 1 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for all 6 of the Core Recommendations.

### Key Findings from latest Mutual Evaluation Report (2011):

Afghanistan is one of the poorest countries in the world and, after decades of ongoing conflicts and strife, it is still at an early stage of developing its legal and institutional framework. The main challenges that the authorities face are the precarious security situation (including regular occurrence of insurgency attacks), vested interests and corruption, capacity constraints, a large illicit narcotics sector, a weak business environment, and low human capital.

Measures have nevertheless been taken to fight crime, including financial crime, and to lay the foundations for an AML/CFT regime. In particular, two legislative decrees were issued by the President in 2004 to fight against money laundering and terrorist financing. Although their constitutionality and, ultimately, the validity of the AML/CFT framework, have not been

definitively established, both decrees have been implemented, to a certain extent, by the authorities and the private sector.

However, current efforts are not commensurate to the high risk of money laundering and terrorist financing in the country. Illicit narcotic trade and corruption alone generate considerable amounts of illegal funds. Afghanistan is the world's largest opium producer and exporter and ranks amongst the most corrupt countries in the world. Smuggling and fraud are other major sources of illegal funds. In addition, terrorism and its financing remain a major concern both in terms of the security of Afghanistan and of the funding of terrorist individuals or organizations, and terrorist acts in the country and abroad. Despite the authorities' efforts, investigations into money laundering and terrorist financing have been few and none of them resulted in charges being brought before the courts.

Structural elements make the effective implementation of AML/CFT preventive measures challenging in some sectors. Both rudimentary financial relations (cash-based economy, low rate of financial intermediation, illiteracy, and weaknesses in documentation of identity), and a financial sector well connected to the outside world (at least through correspondent accounts and SWIFT) coexist in Afghanistan. Accordingly, while preventive measures are certainly difficult to implement, even in the medium term, in the rudimentary financial sector, they could be and could have been better implemented in the banking sector. For example, it would appear that the lack of implementation and supervision of preventive measures, such as identification of customers and fit and proper testing did play a role in the making of a major financial fraud in the main commercial bank.

## US Department of State Money Laundering assessment (INCSR)

**Afghanistan is categorised by the US State Department as a Country/Jurisdictions of Primary Concern in respect of Money Laundering and Financial Crimes.**

### OVERVIEW

Terrorist and insurgent financing, money laundering, bulk cash smuggling, abuse of informal value transfer systems, and other illicit activities financing criminal activity continue to threaten Afghanistan's security and development. Afghanistan remains the world's largest opium producer and exporter. Corruption remains a major obstacle to the nation's progress. The National Unity Government (GNU) has enacted laws and regulations to combat financial crimes, but faces a significant challenge in implementing and enforcing the law.

### VULNERABILITIES AND EXPECTED TYPOLOGIES

The narcotics industry, corruption, and fraud are major sources of illicit revenue. Afghanistan has a small banking sector but large enforcement and regulatory challenges, even though most of its banks strive to adhere to international standards. Traditional payment systems, particularly hawala networks, provide a significant range of financial and non-financial business services in local, regional, and international markets. Some Afghan

business consortiums that control both hawaladars and banks allow criminal elements to manipulate domestic and international financial networks to administer and launder illicit funds.

## **KEY AML LAWS AND REGULATIONS**

In 2014, Afghanistan enacted a comprehensive AML law, which was amended in March 2015 via presidential decree. Significant provisions include an adequate legal basis to criminalize money laundering; KYC and STR provisions; establishment of an operationally independent FIU; and the authority to confiscate funds or property derived from criminal activity, to dispose of such property, and to hold the proceeds of criminal profits in an asset recovery/sharing fund. In June 2015, Afghanistan issued Fit and Proper Regulations to ensure financial institutions are well managed and persons who own or control them are competent and meet certain criteria. In May 2015, Afghanistan issued Cash Courier Regulations establishing a cross-border currency reporting requirement. Amendments to that regulation that came into force in March 2016 ensure that seizure or restraint of funds is authorized where there is a suspicion of money laundering.

Although Afghanistan's Law on Extradition of the Accused, Convicted Individuals, and Legal Cooperation allows for extradition based upon multilateral arrangements such as the 1988 UN Drug Convention, Article 28 of the Afghan Constitution requires reciprocal agreements between Afghanistan and the requesting country. The United States does not have an extradition treaty with Afghanistan and cannot reciprocate under the multilateral treaties.

## **AML DEFICIENCIES**

Afghanistan should ensure market manipulation and counterfeiting are predicates for money laundering. It should increase supervision of financial institutions and DNFBPs to ensure their compliance with AML regulations. Afghanistan should also increase the number of MSB/hawala inspections, enact a comprehensive registration regime, and expand implementation of the MSB/hawala licensing program. Afghanistan should create an outreach program to notify and educate hawaladars about licensing, transaction reporting requirements, and STRs. Regulators and enforcement officers need adequate resources to supervise the financial sector and investigate financial crimes.

## **ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS**

Afghanistan's law enforcement and institution regulation are hampered by corruption. Limited resources, lack of technical expertise, and poor infrastructure also deter effective regulatory oversight. No clear division exists between the hawala system and the formal financial sector. Hawaladars use bank accounts and wire transfer services to settle with other hawaladars abroad and within Afghanistan. Hawaladars generally fail to file STRs as legally required. Insurance companies and securities dealers are also required to file STRs, but the government does not enforce this requirement. Precious metals and stones dealers, lawyers, accountants, and real estate agents are not supervised as financial businesses in Afghanistan.

Afghanistan's FIU, the Financial Transactions and Reports Analysis Center of Afghanistan (FinTRACA), has limited capacity to identify bad actors and build cases against them.

FinTRACA often faces administrative hurdles within the Attorney General's Office (AGO) regarding prosecution. The AGO is authorized to prosecute money laundering and seize illicit assets, but its new management team, seated in the second half of 2016, has yet to effectively grapple with weak prosecutorial capacity to pursue money laundering cases and asset seizures. Furthermore, the Afghan government has yet to establish a recovery mechanism for the value of assets seized, and therefore no entity, including the police and courts, has responsibility for post-conviction asset recovery. Early positive indications show that FinTRACA's new leadership is dynamic and anxious to pursue the organization's objectives.

Kabul International Airport lacks effective currency controls for all passengers. Beyond the formal border crossings, the Afghanistan-Pakistan frontier is notoriously porous, enabling smugglers to cross with relative ease.

Law enforcement officers, prosecutors, and judges need training on effective, lawful asset seizure, and the GNU should implement procedures for money laundering seizures. It should continue to increase seizure and confiscation procedures in cases involving narcotics and drug trafficking. Afghanistan also should strengthen inspection controls and enforcement of the currency declaration regime at airports.

#### **Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):**

According to the US State Department, Afghanistan does not conform with regard to the following government legislation: -

**Arrangements for Asset Sharing** - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

**Ability to freeze assets without delay** - The government has an independent national system and mechanism for freezing terrorist assets in a timely manner (including but not limited to bank accounts, other financial assets, airplanes, autos, residences, and/or other property belonging to terrorists or terrorist organizations)

### **EU White list of Equivalent Jurisdictions**

Afghanistan is not currently on the EU White list of Equivalent Jurisdictions

### **World Governance indicators**

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

### **Failed States Index**

[To view Failed States Index Ctrl + Click here](#)

### **Offshore Financial Centre**

Afghanistan is not considered an Offshore Financial Centre

### US State Dept Narcotics Report 2017 (introduction):

Illicit narcotics production and trafficking flourish in Afghanistan, particularly in areas where state institutions are weak. The United Nations Office of Drugs and Crime (UNODC) and the Afghan Ministry of Counter Narcotics (MCN) estimate 201,000 hectares (ha) of opium poppy were cultivated in 2016, potentially yielding 4,800 metric tons (MT) of raw opium. Compared to 2015, this is an increase of 10 percent in area and 43 percent in potential opium production.

Poppy cultivation remained at near historically high levels compared with the past several decades. Afghan opium is typically refined into morphine or heroin in Afghanistan or neighboring countries for export.

A symbiotic relationship exists between the insurgency and narcotics trafficking. Traffickers provide weapons, funding, and material support to the insurgency in exchange for protection. Some insurgent commanders traffic drugs to finance operations. However, trafficking is not limited to insurgent-controlled areas, and the narcotics trade undermines governance and rule of law throughout Afghanistan.

Afghanistan suffers from widespread illegal drug use. The U.S.-supported 2015 Afghanistan National Drug Use Survey profiling urban, rural, and national drug use conservatively estimated that roughly 11 percent of the population tested positive for one or more drugs, including 5.3 percent of the urban population and 13 percent of the rural population. Drug use among women and children is among the highest documented worldwide and 30.6 percent of households tested positive for some form of illicit drug. These statistics portend a massive health crisis, something Afghans are gradually acknowledging.

Senior Afghan government officials state that the government recognizes the deleterious impact of illegal drugs and is addressing the problem, citing the late 2015 adoption of the National Drug Action Plan (NDAP) as proof. Despite public displays of support for this comprehensive national counternarcotics strategy, the Afghan government has been slow to implement the ambitious plan. The Afghan government will require financial and technical assistance from the international community for the foreseeable future to achieve the NDAP's objectives.

#### B. Conclusion

The illicit cultivation, production, trade, and use of narcotics undermine public health and good governance in Afghanistan, while fueling corruption, providing funds for insurgents, and eroding security. Opium cultivation is prevalent where physical and economic infrastructure is least developed and where the Afghan government lacks control due to deteriorating security conditions. Afghanistan will not succeed in combating the narcotics trade until Afghans view narcotics as a domestic problem. That comprehension is slowly building, but will remain incomplete until the Government of Afghanistan demonstrates the political will to challenge vested political and economic interests more fully.

The Afghan government must do more to promote alternatives to poppy cultivation for farmers, laborers, and rural communities. While alternative development is an important element of a comprehensive poppy reduction strategy, it must be accompanied by efforts to enforce Afghan laws against illicit poppy cultivation and to arrest traffickers. Besides mainstreaming counternarcotics efforts into other existing national strategies and programs, Afghanistan must combat corruption actively at all levels of government to regain public trust in its counternarcotics campaigns and ensure that provincial governors and other subnational officials genuinely cooperate on national counternarcotics plans and policies.

Improvements in security and governance, as well as continued long-term concentrated efforts to increase agricultural and other alternative development initiatives, will remain keys to combatting the illicit drug economy and the insurgency in Afghanistan. The Government of Afghanistan's commitment to addressing the serious problems associated with the cultivation, production, trade, and use of illicit narcotics will continue to be tested in the years ahead.

#### **US State Dept Trafficking in Persons Report 2014 (introduction):**

Afghanistan is classified a Tier 2 country - A country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

Afghanistan is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Internal trafficking is more prevalent than transnational trafficking. The majority of Afghan victims are children subjected to human trafficking in carpet-making and brick kiln factories, domestic servitude, and in commercial sexual exploitation, begging, transnational drug smuggling, and assistant truck driving within Afghanistan, as well as in the Middle East, Europe, and South Asia. Most Afghan victims exploited in Iran are boys under age 18 who are compelled to work in forced labor in the construction and agricultural sectors upon their arrival. The majority of Afghan victims in Pakistan are women and girls who are trafficked for the purpose of commercial sexual exploitation, including by forced marriages. Some Afghan families knowingly sell their children into prostitution, including for bacha baazi—where wealthy or influential men, including government officials and security forces, use young boys for social and sexual entertainment. Other families send their children to obtain employment through labor brokers, but the children end up in forced labor. Opium-farming families sometimes sell their children to settle debts with opium traffickers. According to the government and the UN, insurgent groups use children as young as nine years old as suicide bombers. Boys from Badakhshan, Takhar, Baghlan, Kunduz, and Balkh provinces in the north region of Afghanistan, as well as those travelling unaccompanied, were reportedly at the highest risk of trafficking. Exploiters often used drugs to control their victims. Sometimes entire Afghan families, including children, are trapped in debt bondage in the brick-making industry in eastern Afghanistan. Traffickers recruit Afghan villagers to Afghan cities and then sometimes subject them to forced labor or forced prostitution after their arrival.

Increasing numbers of men, women, and children in Afghanistan pay intermediaries to assist them in finding employment primarily in Iran, Pakistan, India, Europe, or North America; some of these intermediaries force Afghan citizens into labor or prostitution after their arrival. Afghan women and girls are subjected to prostitution and domestic servitude primarily in Pakistan, Iran, and India. Afghan boys and men are subjected to forced labor and debt bondage in the agriculture and construction sectors primarily in Iran, Pakistan, Greece, Turkey, and the Gulf states. Some Afghan boys are found in sex trafficking in Greece after being smuggled into the country with high fees. There were reports of women and girls from the Philippines, Pakistan, Iran, Tajikistan, Africa, and China subjected to sex trafficking in Afghanistan. Under the pretense of high-paying employment opportunities, labor recruiting agencies lure foreign workers to Afghanistan, including from Sri Lanka, Nepal, India, Iran, Pakistan, and Tajikistan; the recruiters subject these migrants to forced labor after arrival.

The Government of Afghanistan does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The Afghan government's response to the extensive human trafficking in its country and of its citizens was deficient. While victims of trafficking were routinely prosecuted and convicted as criminals for moral crimes, the government failed to hold the vast majority of traffickers criminally accountable for their crimes. Government complicity remained a serious problem and political will to combat the crime was low. The majority of the government's action plan to address trafficking was not completed. There were areas of small improvements, however. During the reporting period, the government issued a decree directing law enforcement agencies to cease prosecuting trafficking victims. It also took some limited steps to implement its anti-trafficking action plan, including through making executive branch efforts to ratify the 2000 UN TIP Protocol. Despite extensive international support of the government's anti-trafficking programming, the level of understanding of human trafficking among Afghan government officials remained very low.

### US State Dept Terrorism Report 2015

Afghanistan is currently identified by the US Secretary of State as a Safe Haven for International Terrorism

**Overview:** With the conclusion of the International Security Assistance Force (ISAF) mission on December 31, 2014, Afghan National Defense and Security Forces (ANDSF) assumed full responsibility for the security and defense of Afghanistan. The United States remained committed to sustained political, diplomatic, and economic engagement in Afghanistan and retained the capacity to conduct counterterrorism operations in Afghanistan; however, the majority of these operations were carried out in conjunction with, or solely by, Afghan units. The United States also continued to support the professionalization and modernization of the ANDSF. The military component of U.S. assistance to the ANDSF transitioned to NATO's non-combat Resolute Support Mission (RSM) and U.S. Forces Afghanistan (USFOR-A) on January 1, 2015. RSM focused on building the capabilities of the Afghan forces at the regional (Corps) level and above through its train, advise, and assist mission and USFOR-A retained U.S. counterterrorism functions, as outlined in the Security and Defense Cooperation Agreement between the Governments of Afghanistan and the United States, also known as the Bilateral Security Agreement (BSA).

In 2015, the ANDSF faced a challenging first year of fighting without the support of internationally-led combat operations. ANDSF operations centered on the provinces of Kunduz, Badakhshan, Zabul, Ghazni, and Helmand. Taliban insurgents amassed in larger numbers and attacked multiple district centers throughout the country, particularly in the provinces of Nangarhar, Helmand, and Kunduz. Several districts remained contested at year's end although all major population centers and critical infrastructure remained under government control. The Haqqani Network (HQN), a semi-autonomous faction of the Taliban, continued to plan and conduct high profile attacks and assassinations against U.S., Coalition, and Afghan interests, particularly in Kabul and other key government centers. While al-Qa'ida (AQ) has been severely degraded in the region, its regional affiliate, al-Qa'ida in the Indian Subcontinent (AQIS), continued to operate in Afghanistan. Notably, AQIS members were active at a large training camp in a remote area of Kandahar Province. On October 11, U.S. and Afghan forces conducted a coordinated joint operation that successfully destroyed the AQIS training camp and a related facility, and killed dozens of AQ-linked trainees.

President Ghani identified establishing a peace process as a top priority of his administration and pursued engagement with the Taliban. The Afghan government had its first direct meeting with the Taliban on July 7 in Murree, Pakistan; however, these talks were suspended shortly after the revelation in late July that Taliban leader Mullah Omar had died in 2013. On December 9, following meetings on the sidelines of the Heart of Asia summit, Afghanistan, China, Pakistan, and the United States committed to seeking the resumption of talks as soon as possible.

On January 26, 2015, the Islamic State of Iraq and the Levant (ISIL) publicly announced the establishment of an affiliate, ISIL-Khorasan (ISIL-K), in Afghanistan and Pakistan. Since its inception, ISIL-K has been mostly active in the eastern parts of Afghanistan. By the end of 2015, the group had established a foothold in the southern districts of Nangarhar Province, where ISIL-K fighters had reportedly shut down schools. In 2015, the ANDSF conducted several successful operations against ISIL-K bases in southern Nangarhar. Repeated heavy fighting between the Taliban and ISIL-K was reported in the province as well.

In early December 2015, local media reported that a new ISIL-K radio station, "Voice of the Caliphate," began operating out of Nangarhar Province, making evening broadcasts in the Pashto language via a mobile transmitter. The Afghan government shut down the radio station on December 23, taking action under the Afghan Law on Fighting Crimes Against Internal and External Threats. On December 26, however, local media reported that ISIL-K radio was back on the air after changing frequencies. At the close of the year, the Afghan government was considering a range of options to shut down the station's operations.

ISIL-K's Salafist ideology may resonate with fringe elements of terrorist groups in Afghanistan, but the majority of Afghanistan-based terrorists resisted fully aligning themselves with the group and the Taliban were overtly hostile to the ISIL affiliate. One exception was the Islamic Movement of Uzbekistan, which publicly announced termination of its long-time alliance with the Taliban to align with ISIL-K.

Based on Afghan media commentary, it appears that the Afghan people have developed a deep disdain for ISIL-K's extreme violence. Some Afghans have responded to ISIL-K atrocities through grassroots, civilian-organized militias that have emerged to combat ISIL-K. At times, these militias have partnered with Afghan security forces.

**2015 Terrorist Incidents:** In 2015, Afghanistan remained an area of active hostilities, and various groups used terrorist tactics to pursue their goals. Methods used included suicide bombers, vehicle-borne improvised explosive devices (VBIEDs), ambushes, kidnappings, beheadings, and targeted assassinations.

Anti-government groups across Afghanistan aimed to expand their territorial influence, disrupt civil governance, and create a public perception of instability, as ISAF combat operations ended and Afghan forces assumed full responsibility for the security of their country. Attacks diverged from the historic seasonal pattern of higher activity in the spring and summer as terrorist groups – the Taliban in particular – conducted attacks on the ANDSF throughout the fall and early winter of 2015, especially in the less weather-affected southern province of Helmand. Attackers continued to use large VBIEDs and complex attacks involving multiple attackers laden with suicide vests working in teams. These incidents increasingly targeted ANDSF, Afghan government buildings, and soft foreign civilian targets, as the overall number of potential foreign military targets decreased due to a drawdown in the international military presence. Terrorist activity expanded from areas in the south and east of Afghanistan to areas in the north; Helmand and Kunduz were the main focus of attacks at the end of 2015. Helmand, Kandahar, Nangarhar, Ghazni, Kunar, and Kunduz represented the most violent provinces for ANDSF and civilians.

The following list details only a small fraction of the hundreds of incidents that occurred during 2015:

- On March 19, the Taliban carried out a suicide attack targeting and killing the provincial chief of police (PCoP) of Uruzgan Province. The suicide bomber was wearing a burqa and detonated his vest as he approached the PCoP on the streets of Kabul.
- On June 9, in an insider attack, five Afghan policemen were shot and killed by fellow policemen in southern Kandahar Province. The incident took place at a security check point in Khakriz District. The provincial governor's spokesperson confirmed the insider attack.
- On June 22, a Taliban suicide bomber and six gunmen attacked the Parliament building in Kabul as lawmakers met to consider the appointment of a new defense minister. A Taliban fighter detonated a car loaded with explosives outside the Parliament gates, and six gunmen attempted to enter the building. One civilian was killed and approximately 30 civilians were wounded in the attack.
- On July 22, a suicide motorcyclist detonated his explosives in the middle of a market in the Alamar District of Faryab Province. Twenty people were killed in the attack, including an Afghan National Army soldier, and more than 30 people, including two ANDSF personnel, were injured.
- On August 7, terrorists launched three attacks in Kabul. In the first attack at 1:00 a.m., a massive VBIED in a truck driven by a suicide attacker detonated in the center of Kabul, killing 15 people and wounding more than 240 civilians. In the second attack, a Taliban suicide bomber killed 26 police cadets and wounded another 27 when he blew himself up outside the gates of a police academy. The bomber was dressed in police uniform and detonated his explosive vest after approaching a group of cadets

who were standing outside the academy. In a separate Taliban attack, one RSM service member and eight Afghan contractors were killed.

- On August 8, at least 22 members of a reportedly pro-government militia were killed in an explosion in northern Kunduz Province.
- On August 10, ISIL-K released a video of the executions of 10 village elders in Nangarhar Province. ISIL-K forced the men to sit on IEDs and detonated them.
- On September 28, in a complex coordinated attack, Taliban insurgents captured Kunduz City, Afghanistan's sixth largest city. Following several days of fighting, the ANDSF recaptured the city. As a result of the attacks, an estimated 50 individuals were killed and 600 were injured.
- On December 8, a Taliban assault near Kandahar Airfield resulted in the deaths of 36 civilians and 15 Afghan soldiers. Another 35 were injured, including 21 ANDSF personnel and 14 civilians. During the attack, Taliban fighters temporarily occupied a neighborhood bazaar, school, and an apartment complex.

**Legislation, Law Enforcement, and Border Security:** The Afghan Attorney General's Office (AGO) investigates and prosecutes violations of the laws on Crimes against the Internal and External Security of the State (1976 and 1987), the Law on Combat Against Terrorist Offenses (2008), and the Law of Firearms, Ammunition, and Explosives (2005). The AGO also investigates and prosecutes violations of laws that prohibit membership in terrorist or insurgent groups, as well as laws that forbid violent acts committed against the state, hostage-taking, murder, and the use of explosives against military forces and state infrastructure. The Law on the Structure and Jurisdiction of the Attorney General's Office, enacted in October 2013, codified the structure and funding of the existing Anti-Terrorism Protection Directorate (ATPD) in the AGO. The ATPD permits the investigation and prosecution of terrorist and national security cases in accordance with internationally accepted methods and evidentiary rules.

The Justice Center in Parwan (JCIP), adjacent to Bagram Air Field, continued to adjudicate cases of individuals detained by Afghan security forces and accused of terrorism and other national security threat crimes. In July, the Office of the National Security Council issued a directive ordering any person detained on one of seven specified criteria be sent to the JCIP for prosecution. Those seven criteria include suspects captured on the field of battle; individuals accused of terrorist crimes; influential and prominent members of the Taliban; and commanders of terrorist groups. In September, President Ghani issued by presidential decree Annex 1 to the Afghan Criminal Procedure Code that expanded the AGO's authority to investigate and prosecute terrorist crimes; prohibited persons sentenced for terrorist crimes from receiving a parole or pardon; and designated the JCIP as the country's counterterrorism court with nationwide jurisdiction. Its docket regularly includes cases against those implicated in terrorist attacks on U.S. military personnel and U.S. military and civilian installations in Afghanistan. Between January and October of 2015, the JCIP adjudicated 214 primary court cases (compared to 533 in 2014), and 451 appellate court cases (compared to 1,153 in 2014).

Because of its operational structure and the continuous support and assistance it received from the international community, the ANDSF demonstrated the capacity to conduct counterterrorism operations in 2015. The Afghan and U.S. governments investigated a variety

of criminal acts, including kidnappings and conspiracies to commit terrorist acts. Occasionally, U.S. law enforcement bodies assisted the Ministry of Interior, the National Directorate of Security, and other Afghan authorities to take action to disrupt and dismantle terrorist operations and prosecute terrorist suspects. The ANDSF continued to receive train, advise, and assist (TAA) support from the international community in 2015. The Department of State continued to deliver Antiterrorism Assistance (ATA) training to Afghan security forces in 2015, with a focus on building security force capacity to engage in effective tactical counterterrorism operations.

Afghanistan continued to process traveler arrivals and departures at major points of entry using the Personal Identification Secure Comparison and Evaluation System (PISCES). In 2015, the PISCES program was expanded to new Points of Entry to meet Afghanistan's border security requirements. Moreover, Afghan Border Police (ABP) officers completed more in-depth training on developing and maintaining a national screening list and efforts were under way at year's end to leverage PISCES reporting capabilities for use in counterterrorism and criminal investigations.

Despite advances in capability, the ANDSF continued to face significant challenges in successfully securing the country's porous land borders, particularly those with Pakistan and Iran. The ABP, part of the policing wing of the ANDSF, numbers more than 23,000 officers and has the lead on border security. Its numbers and weaponry are insufficient to successfully execute its mission, particularly in the border areas where border police face difficult terrain, resupply, and coordination issues with the Afghan National Army, and heavily armed anti-government groups that attack them in force.

The Afghan government faces several significant obstacles to more effective law enforcement and border security. After decades of war and poor or fragmented governance in many rural areas, the ANDSF is working with international actors to build capacity. While Afghanistan has made progress since 2001, complex organizational structures, weak inter-ministerial coordination, rampant corruption, lack of territorial control (particularly in the border regions with Pakistan), and de facto safe havens for terrorist groups operating on its soil remained ongoing challenges.

**Countering the Financing of Terrorism:** Since April 2006, Afghanistan has been a member of the Asia/Pacific Group (APG) on Money Laundering, a Financial Action Task Force (FATF)-style regional body. Its financial intelligence unit, the Financial Transactions and Reports Analysis Center of Afghanistan (FinTRACA), is a member of the Egmont Group. In June 2014, the FATF strongly warned Afghanistan to comply with the government's June 2012 commitment to implement an action plan agreed upon with FATF to address identified deficiencies by October 2014, or run the risk of being placed on the list of "high-risk and non-cooperative jurisdictions." The FATF action plan outlined a number of areas that the government needed to address to bring Afghanistan into compliance with international standards, including enactment of amended anti-money laundering/countering the financing of terrorism (AML/CFT) legislation. In 2014, the Afghan government took initial steps to address deficiencies in its AML/CFT regime, including publishing its since-enacted AML and CFT statutes. In March 2015, Afghanistan amended its AML and CFT laws to become more compliant with the FATF recommendations. Since June, Afghanistan has taken further steps towards improving its AML/CFT regime, which included issuing an appropriate regulation for the financial sector and cross-border declaration regulations for the physical transportation of cash and of negotiable instruments. However, questions persist regarding UNSCR

implementation and the FATF has determined that certain strategic deficiencies remain and recommended that Afghanistan address its remaining deficiencies and continue the process of implementing its action plan.

Afghan officials indicated that because AQ, the Taliban, and terrorist organizations related to the Central Asian Republics transfer their assets from person to person or through informal banking systems, it is very difficult to track, freeze, and confiscate their assets. When transactions have come to the Afghan government's attention, either via FinTRACA or reports from the Afghan security agencies, the government has reportedly acted promptly not only to freeze but also to confiscate those assets.

Money Service Providers (MSP) in Afghanistan are required to register with and provide currency transaction reports to FinTRACA. These reports include monthly data on volumes and numbers of transactions, detailing whether transactions are inbound or outbound, foreign or domestic, and in local or foreign currency. Oversight is weak but improving, with the period between 2014 and April 2015 seeing an increase in the number of on-site inspections of money service providers; a total of 149 MSPs were fined approximately \$51,724 for non-compliance during that time period. Capacity issues at the FIU due to personnel shortages and lack of training continued to hamper full oversight of this sector.

The amended CFT law considers non-profit organizations as legal entities and requires them to file suspicious transaction reports. The Afghan government distributed UN sanctions lists to financial institutions via secure e-mail.

**Countering Violent Extremism:** The Afghan government does not have a comprehensive formal national countering violent extremism (CVE) strategy, but has begun the process to develop one. The Office of the National Security Council has designated a team to take the lead in coordinating the government's CVE engagement. Various ministries and offices have CVE issues incorporated in their portfolios. The government continued to support activities designed to prevent radicalization, including through curricula development, messaging through registered mosques, and support of the Moderation Center of Afghanistan.

Through engagement with religious communities, Afghan government officials promoted religious moderation, encouraged tolerance, and condemned violence. There are approximately 120,000 mosques in Afghanistan, of which 3,700 are registered with the Ministry of Hajj and Religious Affairs (MoHRA) and the Ministry of Education. Registration is not compulsory, and unregistered mosques, many of which have associated madrassas, operated independently of government oversight. Some religious leaders at unregistered mosques and madrassas promoted violent extremism. The National Ulema Council is a quasi-governmental body of religious scholars established by former President Karzai in 2002. Since taking office in September 2014, President Ghani has engaged actively on CVE efforts, requesting that the Ulema Council condemn insurgent attacks and issue a call for peace in mosques throughout the country.

In the second half of 2015, the Presidential Palace boosted efforts to coordinate messaging on security and other issues, including strategic messaging to weaken the appeal of violent extremism. During that period, the Presidential Palace was in the process of conducting a strategic review under the auspices of a strategic communications advisor to enhance the Afghan government's strategic communications efforts. Under the plan, the Government Media and Information Center (GMIC) would be used as the hub for proactive governmental messaging and communication within the Office of the Presidential

Spokesperson. Government spokespersons regularly participated in coordination meetings at GMIC and exchanged views on how to defuse the negative rhetoric promoted by terrorist groups.

In media appearances, Afghan political leaders often emphasized the important role of the Ulema Council (religious leaders) in preaching peace and denouncing terrorist attacks perpetrated by the Taliban, ISIL, HQN, and others. The Council issued media statements to condemn violence by anti-government groups on only a few occasions.

In 2015, mainstream Afghan media continued to play the lead role in reflecting the public anger at and condemnation of terrorist attacks. Media played a major role in countering extremist messaging, which remains critical for the marginalization of these anti-government elements in the minds of the public. During the fall and subsequent recapture of Kunduz City in September, Afghanistan's two leading TV stations (Tolo News and 1TV) covered extrajudicial killings of civilians and other human rights abuses by the Taliban, including reporting that university students had been raped. The Taliban subsequently threatened to target Tolo News and 1TV after the public outcry against the atrocities. The Afghan government, however, at times criticized Afghan media as serving the interests of the Taliban and other terrorist and opposition groups by broadcasting their claims and statements. On the other hand, some of these media outlets and journalists were threatened by the Taliban for their pro-government coverage. Media outlets, such as Tolo, devoted considerable resources to public service messages calling for national unity, respect for human rights, and other themes related to countering violent extremism.

Afghan religious leaders, civil society members, and government officials attended conferences at the Hedayah Center (an international center headquartered in Abu Dhabi focused on countering violent extremism), the February 2015 White House Summit on Countering Violent Extremism, regional CVE summits, and UNGA side events where they participated in discussions about approaches to countering violent extremism. Afghan religious leaders received training on tolerance programming in the United Arab Emirates and scholars from other countries visited Afghanistan to speak on issues of tolerance and peace.

The High Peace Council oversees the Afghanistan Peace and Reintegration Program (APRP) program, which pays for and provides the institutional mechanism to implement the Afghan government's peace activities including the reintegration of former militants at the local level, provincial-level peace outreach, and Ulema engagement on countering violent extremism. The APRP maintained a field presence in 33 provinces. Individual fighters who join the program make the commitment to renounce violence and sever all ties with AQ, and to abide by the Constitution of Afghanistan. Since its inception in 2010, the APRP has successfully reintegrated more than 10,700 former combatants across Afghanistan.

**International and Regional Cooperation:** Afghanistan consistently emphasized the need to strengthen joint cooperation to fight terrorism and violent extremism in a variety of bilateral and multilateral fora. Notable among such meetings were the Heart of Asia/Istanbul Process, the UN Regional Center for Preventative Diplomacy for Central Asia (UNRCCA), and the Shanghai Cooperation Organization (SCO). Afghanistan shares the lead on the Counterterrorism Confidence Building Measures (CT-CBM) of the Istanbul Process, working closely with Turkey and the UAE. Under the CT-CBM framework, Afghanistan participated in a regional technical group meeting in Ankara, Turkey, to discuss CT-CBM implementation. In December, Afghanistan participated in a Heart of Asia Conference in Islamabad, Pakistan,

and hosted the 31st Tripartite (United States, Afghanistan, and Pakistan) Counter-IED Working Group meeting in Kabul. In collaboration with Tajikistan and the UN Counter-Terrorism Implementation Task Force, Afghanistan organized a workshop entitled “Sharing of Experiences on Implementing the UN Global Counter-Terrorism Strategy in Central Asia for Heart of Asia Countries” in May 2015. In August-September, the ABP participated in a “Border Security and Management for Countering Terrorism” Regional Workshop in Tajikistan.

### Financial

In 1999 the [United Nations](#) required all member states to freeze the assets, prevent the entry into or the transit through their territories, and prevent the direct or indirect supply, sale and transfer of arms and military equipment with regard to any individual or entity associated with Al-Qaida, Usama bin Laden and/or the Taliban as designated by the relevant Sanctions Committee.

In 2011 the Security Council split the sanctions regime into two groups - an Al-Qaida regime and a country-specific Afghanistan regime.

EU regulations in force

- [16.05.2013 Council Implementing Regulation \(EU\) No 451/2013](#) Amended Annex 1 to Regulation 753/2011
- [21.03.2013 Council Implementing Regulation \(EU\) No 261/2013](#) Amended Annex 1 to Regulation 753/ 2011
- [02.08.2012 Council Implementing Regulation \(EU\) No 705/2012](#) Amended Annex I to Regulation 753/201
- [17.07.2012 Council Implementing Regulation \(EU\) No 643/2012](#) Amended Annex I to Regulation 753/2011
- [20.10.2011 Council Implementing Regulation \(EU\) No 1049/2011](#) Amended Annex I to Regulation 753/2011
- [29.09.2011 Council Implementing Regulation \(EU\) No 968/2011](#) Amended Annex I to Regulation 753/2011
- [01.08.2011 Council Regulation \(EU\) No 753/2011](#) Reflected UNSCR 1988 (2011) split of previous UN Al-Qaida and Taliban sanctions regime into an Al-Qaida regime and a country-specific Afghanistan regime. Afghanistan regime targets previously listed under the Al-Qaida and Taliban Regulation 881/2002 moved to Annex I of Regulation 753/2011

## Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	15
World Governance Indicator – Control of Corruption	5

## Corruption and Government Transparency - Report by US State Department

Reports indicate corruption is endemic throughout society. Systemic corruption at border crossings hampers licit market economy development. Afghan officials collect bribes in exchange for undervaluing, under-weighting, or not scanning shipments, which facilitates smuggling of illegal goods and the illicit trade of legal goods, while also weakening Afghan revenue collection and regulatory institutions.

The practice of criminalizing commercial complaints is commonly used to settle business disputes or extort money from wealthy international investors. The government does not implement criminal penalties for official corruption effectively, and officials are reported frequently to engage in corrupt practices with impunity. There are reports of low-profile corruption cases successfully tried at the provincial level. The government made several commitments to combat corruption, including President Karzai's 2012 decree, but little progress had been made towards implementation.

During the past year, reports indicated a rise in incidents of "land grabbing" by both private and public actors. The most common type occurred when businesses illegally obtained property deeds from corrupt officials and sold the deeds to unsuspecting "homeowners," who would then get caught in criminal prosecutions. Other reports indicated that government officials grabbed land without compensation to swap the land for contracts or political favors. Occasionally, provincial governments illegally confiscated land without due process or compensation to build public facilities.

## Section 3 - Economy

Afghanistan's economy is recovering from decades of conflict. The economy has improved significantly since the fall of the Taliban regime in 2001 largely because of the infusion of international assistance, the recovery of the agricultural sector, and service sector growth. Despite the progress of the past few years, Afghanistan is extremely poor, landlocked, and highly dependent on foreign aid. Much of the population continues to suffer from shortages of housing, clean water, electricity, medical care, and jobs. Criminality, insecurity, weak governance, lack of infrastructure, and the Afghan Government's difficulty in extending rule of law to all parts of the country pose challenges to future economic growth. Afghanistan's living standards are among the lowest in the world. The international community remains committed to Afghanistan's development, pledging over \$67 billion at nine donors' conferences between 2003-10. In July 2012, the donors at the Tokyo conference pledged an additional \$16 billion in civilian aid through 2015. Despite this help, the Government of Afghanistan will need to overcome a number of challenges, including low revenue collection, anemic job creation, high levels of corruption, weak government capacity, and poor public infrastructure. Afghanistan's growth rate slowed markedly in 2013.

### **Agriculture - products:**

opium, wheat, fruits, nuts; wool, mutton, sheepskins, lambskins

### **Industries:**

small-scale production of bricks, textiles, soap, furniture, shoes, fertilizer, apparel, food-products, non-alcoholic beverages, mineral water, cement; handwoven carpets; natural gas, coal, copper

### **Exports - commodities:**

opium, fruits and nuts, handwoven carpets, wool, cotton, hides and pelts, precious and semi-precious gems

### **Exports - partners:**

Pakistan 33.1%, India 24.9%, Tajikistan 8.7%, US 5.8% (2012)

### **Imports - commodities:**

machinery and other capital goods, food, textiles, petroleum products

### **Imports - partners:**

Pakistan 25.8%, US 17.4%, Russia 8.4%, India 5.5%, China 5.4%, Kazakhstan 4.5%, Germany 4.3% (2012)

## **Banking**

Finance is Afghanistan's second largest service-based industry (behind telecommunications) and contributes to private investment and economic growth. The sector has grown rapidly since the end of Taliban rule. Today, 17 commercial banks operate in Afghanistan, with total assets of \$4.1 billion (compared to assets of less than \$300 million in 2004). However, despite the boom in banking, most Afghans remain —unbanked, with only 5 percent of Afghans currently holding bank deposits. Moreover, many Afghans continue to rely on money service providers (or hawalas) to access finance and transfer money, due to the unfamiliarity with a functioning banking system and limited access to banks in rural areas. Banking remains highly centralized, with 75% of total loans made in Kabul Province. Bank lending is also undermined by a deficient legal and regulatory infrastructure that impedes the enforcement of property rights and development of collateral. The difficulty of accessing credit through banks and other formal financial institutions makes existing firms dependent on family funds and retained earnings, limits opportunities for entrepreneurialism, and reinforces dependence on the informal credit market.

Access to credit has been identified as one of the largest obstacles to investment in Afghanistan and credit to the private sector, according to 2008 data, stands at only around 9% of GDP (low relative to other developing countries). Afghanistan ranks 128<sup>th</sup> out of 183 countries for obtaining credit in the World Bank's 2011 "Doing Business Report." In response to this situation, investment funds, leasing, micro-financing, and SME-financing companies have begun to enter the market.

Afghanistan has a small public debt market. The Central Bank issues Capital Notes (akin to U.S. Treasury Bills) with maturities of one and six months. Interest rates on both maturities have stabilized at around 6 percent. Licensed commercial banks, money service providers, and foreign exchange dealers are eligible to participate in the primary auction of these securities and the Central Bank is currently working on a plan to encourage development of a secondary market for Capital Notes.

Afghanistan's Central Bank, the Da Afghanistan Bank (DAB), has taken important steps to improve banking regulation and supervision in recent years. However, serious challenges remain, including lack of capacity, limited operational transparency, a weak legal framework, and further need for improvements in supervision. The Central Bank is now conducting both on- and off-site supervision of all 17 commercial banks. Most bank loans have traditionally been structured as lines of credit rather than term loans, which tends to obscure the true level of non-performing loans. Under the guidance of the DAB, banks are converting lines of credit to term loans.

## Executive Summary

The Afghan economy experienced steady economic growth averaging 10 percent between 2005 and 2012. That growth has been driven largely by the international presence, including spending by the International Security Assistance Force (ISAF) and international aid agencies. As international troops withdraw and international aid declines, growth is expected to drop to 3-5 percent per year in the short- to medium-term. This growth will not be sufficient to cover anticipated government budget deficits. As such, the Afghan government will have to focus on improving domestic revenue generation. We anticipate they will place increasing focus on private-sector-led development. The success of this approach will depend on their ability to convince reluctant investors of the business opportunities in the country.

The Government of Afghanistan (GOA) recognizes the development of a vibrant private sector is crucial to the reconstruction of an economy ravaged by decades of conflict and mismanagement. The government has stated a commitment in principle to fostering private-sector-led economic development and increasing domestic and foreign investment, as reflected in the Afghanistan National Development Strategy (ANDS). However, its efforts to build an enabling environment for a competitive private sector; to expand the scope of private investment by developing natural resources and infrastructure; and to promote investment from domestic sources, the Afghan diaspora, and foreign investors have been limited by weak capacity and political will to undertake necessary reforms.

As part of its World Trade Organization (WTO) accession process, the Government of Afghanistan is modifying existing legislation and drafting new laws and regulations to bring its trade policy framework into accordance with WTO standards. At present, Afghanistan's legal and regulatory frameworks and enforcement mechanisms remain nascent. Much of the framework necessary for encouraging and protecting private investment is not in place, and the existence of three overlapping systems Sharia (Islamic Law), Shura (traditional law and practice), and the formal legal system instituted under the 2004 Constitution can be confusing to both investors and legal professionals. Moreover, corruption affects the consistency of the application of the laws.

Although most senior Afghan government officials express strong commitment to a market economy and foreign investment, many businesses maintain that this attitude is not always reflected in practice. Many government officials, some of whom demand bribes, levy unofficial taxes and inflict bureaucratic delays, are out of step with official government policy. Commercial regulatory bodies are often understaffed and hampered by weak capacity. Financial data systems are limited.

Security threats limit investors' opportunities to develop businesses in some provinces. Certain sectors (such as mining and hydrocarbons) still lack a regulatory environment that fully supports investment. Domestic and foreign investors rank pervasive corruption high on the list of impediments.

The following chart summarizes well-regarded indexes and rankings.

### TABLE 1

Measure	Year	Rank or value	Website Address
TI Corruption Perceptions index	2013	177 (tied for last) of 177	<a href="http://cpi.transparency.org/cpi2013/results/">http://cpi.transparency.org/cpi2013/results/</a>
Heritage Foundation's Economic Freedom index	2013	Not ranked	<a href="http://www.heritage.org/index/ranking">http://www.heritage.org/index/ranking</a>
World Bank's Doing Business Report "Ease of Doing Business"	2013	164 of 189	<a href="http://doingbusiness.org/rankings">http://doingbusiness.org/rankings</a>
Global Innovation Index	2013	Not ranked	<a href="http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener">http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener</a>
World Bank GNI per capita	2012	US \$680	<a href="http://data.worldbank.org/indicator/NY.GNP.PCAP.CD">http://data.worldbank.org/indicator/NY.GNP.PCAP.CD</a>

**TABLE 1B - Scorecards:** The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated commitment to reform, produced scorecards for countries with a 2012 per capita gross national income (GNI) of \$4,085 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: <http://www.mcc.gov/pages/selection/scorecards>, including a scorecard for Afghanistan – <http://www.mcc.gov/documents/scorecards/score-fy14-english-af-afghanistan.pdf>. Details on each of the MCC's indicators and a guide to reading the scorecards are available here: <http://www.mcc.gov/documents/reports/reference-2013001142401-fy14-guide-to-the-indicators.pdf>.

### 1. Openness To, and Restrictions Upon, Foreign Investment

The GOA has developed and is in the process of implementing the Afghanistan National Development Strategy (ANDS). The strategy prioritizes investments in security, agriculture and rural development, infrastructure and natural resources, education, health and nutrition, good governance, rule of law and human rights, economic governance and private-sector

development, and social protection. To advance the implementation of the ANDS, GOA focuses government activities in three main areas: 1) agriculture and rural rehabilitation, 2) human-capacity development, and 3) economic development and infrastructure through implementation of high priority programs chosen for their ability to contribute to significant job creation, broad geographic impact, and likelihood of attracting additional investment.

In the Private Investment Law of 2005 (PIL), investment is defined as currency and contributions in kind, including, without limitation, licenses, leases, machinery, equipment, and industrial and intellectual-property rights provided for the purpose of acquiring shares of stock or other ownership interests in a registered enterprise. The PIL permits investments in nearly all sectors of the economy with the exception of nuclear power, gambling establishments, and production of narcotics and intoxicants. There are also limitations in place on the total value of service transactions or assets with respect to motion pictures, road transport (passenger and freight), and on the total number of people that can be employed in security companies. Article 16 of the PIL stipulates that foreign investors are provided national treatment.

The High Commission on Investment (HCI) is responsible for investment policy making. The commission includes participation by the Ministers of Agriculture, Economy, Finance, Foreign Affairs, Mines and Industries, the Governor of the Central Bank (Da Afghanistan Bank), and the Chief Executive Officer of the quasi-governmental Afghan Investment Support Agency (AISA). It is chaired by the Minister of Commerce and Industries. The High Economic Council, which is chaired by the President and includes both the HCI ministers and representatives from academia and the private sector, also plays a role in investment policy development.

Investment in certain sectors, such as production and sales of weapons and explosives, non-banking financial activities, insurance, natural resources, and infrastructure (defined to include power, water, sewage, waste-treatment, airports, telecommunications, and health and education facilities) is subject to special consideration by the HCI, in consultation with relevant government ministries. The HCI may choose to apply specific requirements for investments in restricted sectors. Direct investment exceeding U.S. \$3 million requires HCI approval of the investment application.

Any potential Afghan investor is required to obtain a corporate registration from the Afghanistan Central Business Registry (ACBR), to register with AISA, and to obtain a Tax Identification Number (TIN). AISA approval can be denied to investors (whether domestic or foreign) if the investment license application is incomplete or contains inaccurate information, the investment is not made through a registered Afghan enterprise, or if the investment is proposed for a prohibited sector.

Although Afghanistan improved its "Starting a Business" ranking in the World Bank's 2013 "Doing Business" Report from 28/189 in 2013 to 24/189 in 2014, its overall "Ease of Business" ranking remains dismal (164/189). It is widely understood within Afghanistan's private sector, especially among international companies operating in Afghanistan, that while starting a business in Afghanistan might be relatively easy, renewing a business license is a tricky – and costly – exercise. AISA licenses must be renewed annually and applications for renewal are contingent upon certification from the Ministry of Finance (MOF) that all taxes due have been paid. Some companies have seen their AISA license renewals delayed while MOF audits their tax status, despite MOF assurances that an ongoing tax audit should not impede AISA license renewal. Credible private-sector contacts allege corruption and bribery related to the AISA renewal process have been on the rise. These allegations cite, in addition to

licensing issues, problems with unqualified management, development of an AISA-approved companies list and delays of business license renewals for companies not on the list, and allegations of unaudited use of licensing fees (US\$1030 per license) by the CEO.

Although the HCI has the authority to limit the share of foreign investment in some industries, specific economic sectors, and specific companies, that authority has never been exercised. In practice, investments may be 100 percent foreign-owned. The PIL authorizes the HCI, with the agreement of the relevant ministries, to provide, on a case-by-case basis, different terms from those generally applied to investments. For example, the Ministry of Finance is authorized to provide tax incentives, but such authority has never been exercised. Exceptionally large investments may be granted different terms, provided those investments result in significant economic growth and development in rural/disadvantaged regions and create significant economic/employment opportunities.

While there is no requirement for foreigners to secure Afghan partners, the Afghan Constitution and the PIL prohibit foreign ownership of land. So, most foreign firms find it necessary to work with an Afghan partner, and many businesses cite lack of land ownership as one of the greatest impediments to investment in Afghanistan. Foreigners may lease arable land for periods up to 50 years and non-arable land for longer. Some businesses have negotiated leases with an automatic renewal clause for terms of up to 99 years.

While not official policy, small groups of businessmen reported to have close familial or tribal ties with provincial leaders and government officials dominate the trading market in many areas. These individuals enjoy excessive advantages that result in a non-competitive environment in several fields, due to their wealth and insider access to land, credit and contacts, and their ability to manipulate prices. In addition, some industries, including money changing and carpet production, have well-organized guilds that protect existing firms and create barriers to entry.

## **2. Conversion and Transfer Policies**

Private investors have the right to transfer capital and profits out of Afghanistan, including for off-shore loan debt service. There are no restrictions on converting, remitting, or transferring funds associated with investment, such as dividends, return on capital, interest and principal on private foreign debt, lease payments, or royalties and management fees, into a freely usable currency at a legal market clearing rate. The PIL states that an investor may freely transfer investment dividends or proceeds from the sale of an approved enterprise abroad.

Afghanistan does not maintain a dual-exchange-rate policy, currency controls, capital controls, or any other restrictions on the free flow of funds abroad. In 2012, President Karzai issued an executive order making it illegal to transport more than AFS 1,000,000 (approximately USD 18,000) or the foreign currency equivalent out of Afghanistan via land or air; amounts over AFN 500,000 (approximately USD 9,000), but beneath AFN 1,000,000 must be declared. Enforcement of this law is haphazard, particularly for those traveling through the VIP lounge at Kabul International Airport, whose belongings receive little if any inspection from Afghan authorities to ensure that they are in compliance with reporting requirements.

Access to foreign exchange for investment is not restricted by any law or regulation. In practice, however, particularly in the provinces, many banks might not have the capacity to deal with foreign exchange. There are large, yet informal, foreign exchange markets in major cities and provinces such as Jalalabad, Kabul, Kandahar, Herat and Mazar-e Sharif, where

U.S. dollars, British pounds, and Euros are readily available. Entities wishing to buy and sell foreign exchange in Afghanistan must register with the central bank, Da Afghanistan Bank, but thousands of unlicensed money changers (“hawalas”) continue to practice their trade. Non-official money service providers often cite the lack of enforcement in the currency exchange sector, and the resulting competitive disadvantage to licensed exchangers, as a disincentive to becoming licensed.

Due in part to Afghanistan’s failure to pass Financial Action Task Force-compliant Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) laws in a timely manner, some international correspondent banks have begun to close USD accounts held for Afghan banks abroad, which may increase costs and processing times for inbound and outbound international funds transfers.

### **3. Expropriation and Compensation**

The PIL allows for expropriation of investments or assets by the government on a non-discriminatory basis and “only for the purposes of public interest.” The law stipulates that the government “shall provide prompt, adequate, and effective compensation in conformity with the principles of international law, equivalent to the fair market value.” In cases of investment in a foreign currency, the law requires compensation to be made in that currency. The government may also confiscate private property to settle bad commercial debts. According to the PIL, investors with an ownership share of more than 25 percent may challenge the expropriation. There have been no reports of government expropriation of foreign assets, “creeping” or otherwise.

### **4. Dispute Settlement**

Contract law in Afghanistan is set out in the Afghanistan Commercial Code 1955 and the Afghanistan Civil Code 1977. Under these codes, parties are generally free to: a) enter into an perform a contract on any commercial subject matter provided that subject matter or performance is not contrary to law, public policy, or sharia; and b) agree to have the law of a foreign state govern their contract.

Since 2005, Afghan law has expressly recognized alternative dispute resolution provisions. In 2005, Afghanistan became party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 (New York Convention). Under the New York Convention, Afghanistan has agreed to: a) recognize and enforce awards made in another contracted state, and b) apply the convention to commercial disputes. Under the PIL and the Commercial Arbitration Law of 2007 (Arbitration Law): a) parties can agree to have foreign law govern their contract and agree to have their disputes resolved through arbitration or other mechanisms inside or outside of Afghanistan, and b) the Afghan courts must enforce any resulting award or agreement.

In practice, however, where one contracting party ignores the agreed dispute-resolution provision and seeks to enforce contractual rights through the Afghan courts or law-enforcement agencies, foreign investors have generally been unable to invoke the dispute resolution as a bar to, or a stay on, the action through the Afghan courts or law enforcement agencies, resulting in some foreign investors being forced to settle the dispute on less than favorable terms.

The criminal code prescribes penalties for some contractual violations, which are dealt with by regular courts in major cities. Separate diwans, or benches, nominally exist to handle commercial disputes arising from commercial transactions, but in practice may not be operational in many locations. In commercial court cases, if either party to a case is not satisfied with the decision, the case can be appealed to the Appeals Court and then to the Commercial Tribunal of the Supreme Court. The law provides for an independent judiciary, but the judiciary continues to be underfunded, understaffed, inadequately trained, ineffective, and subject to threats, bias, political influence, and pervasive corruption. Bribery, corruption, and pressure from public officials, tribal leaders, families of accused persons, and individuals associated with the insurgency continued to impair judicial impartiality. Most courts administer justice unevenly, according to a mixture of codified law, sharia, and local custom. Some courts disregard applicable statutory law in favor of judges' personal interpretations of Islamic Law principles or local custom.

Civil cases are frequently resolved in the informal system or, in some cases, pursuant to negotiations facilitated by formal justice system actors or private lawyers. Because there is often limited access to the formal legal system in rural areas, local elders and shuras (consultative gatherings, usually of men selected by the community) are often the primary means of settling both criminal matters and civil disputes, and they are known to levy unsanctioned punishments. Some estimates suggested that 80 percent of all disputes are resolved by shuras/jirgas.

Investors should be aware that the 2013 Human Rights Report notes that arbitrary arrests occur in most provinces and that there have been a number of cases in which the Attorney General's office, with the complicity of some police officials, imposed or threatened to impose criminal penalties on persons who may only be indirectly connected to a contractual dispute between a foreign company and an Afghan person or entity. For example, in September 2012, authorities arrested two Philippine citizens because their foreign employer allegedly failed to pay for goods and services it had received from Afghan subcontractors. When government authorities could not locate any senior managers of the company, they initially detained 20 employees as collateral for the alleged debt, eventually releasing all but two. After being held without charge for more than a year with no opportunity to contest their detention, the remaining 2 Filipino men were brought before a judge in October 2013. They were released in November 2013, following intensive diplomatic engagement with Afghan officials.

Although incommunicado imprisonment remains a problem and prompt access to a lawyer is rare, the men did eventually have access to a lawyer. The 2013 Human Rights Report also notes that some detainees are subjected to torture and other mistreatment.

## **5. Performance Requirements and Investment Incentives**

Afghanistan has no formal regulations or laws governing performance requirements. There are no existing government-imposed conditions on investment, beyond the procedures required for establishing or acquiring a business.

There are no discriminatory export or import policies affecting foreign investors. In fact, faced with increased uncertainty and a slowdown in economic activity in the country, in July 2013, the Afghan cabinet approved a series of incentives intended to encourage private investment. The package included tax holidays of up to 10 years, subsidized land, public loans with five- to 10-year maturity, and automatic licenses to artisanal and small-scale

mining activities without a bidding process. The incentive package, however, has yet to be implemented.

Government procurement is covered by The Public Procurement Law of 2005. That law specifies that procuring entities are obliged to procure goods, works, or services produced/furnished domestically in accordance with bidding documents, provided that the price of domestic procurement was not higher than imported procurement by a percentage set between five and 10 percent. The procuring entity specifies the margin in its bidding documents. Furthermore, in comparing bids of bidders who did not have a resident representative in Afghanistan, or who were not subject to Afghan taxes, with the bids of those that had a resident representative or were subject to Afghan taxes, the bid prices of the former would be increased by a percentage set in the bidding procedures.

Businesses report that they find it very difficult and time consuming to obtain visas for tourist passport holders coming to Afghanistan for business reasons. There have been reports of Afghan government officials soliciting bribes for faster visa processing. Before it will issue a visa, the Government of Afghanistan insists the applicant provide proof that the company they represent is licensed in Afghanistan and that each of the non-Afghans working for the company has a work permit. In order for employees to obtain a work permit, they must have a valid Afghan visa. Individuals with a valid work permit should be able to obtain a six-month, multiple entry visa.

## **6. Right to Private Ownership and Establishment**

Under the PIL, foreign and domestic private entities have equal standing and may establish and own business enterprises, engage in all forms of remunerative activity, and freely acquire and dispose of interests in business enterprises.

## **7. Protection of Property Rights**

Property-rights protection is weak due to a lack of cadasters or a comprehensive land titling system, disputed land titles, incapacity of commercial courts, and widespread corruption. Land laws in Afghanistan are inconsistent, overlapping, incomplete, or silent with regard to details of effective land management. Judges and attorneys are generally without expertise in land matters. An estimated 80 percent of land is held and transferred informally, without legally recognized deeds, titles, or a simple means to prove ownership.

At present, the acquisition of a clear land title to purchase real estate or a registered leasehold interest is complicated and cumbersome. The World Bank estimated in its 2013 "Doing Business Report" that it takes an average of 250 days and entails legal fees of five percent of the property value to register property. Investment disputes are common in the areas of land titling and contracts. Many documents evidencing land ownership are not archived in any official registry. Frequently, multiple "owners" claim the same piece of land, each asserting rights from a different source. These disputes hinder the development of commercial and agricultural enterprises. Real estate agents are not reliable. Instances of "Land Mafia" falsely claiming title to land that they do not own undermines investor confidence. Foreign investors seeking to work with Afghan citizens to purchase property should conduct thorough due diligence to identify reliable partners.

The Intellectual Property Office at the Ministry of Commerce and Industries is responsible for issuing patents, trademarks, industrial designs, geographical indications, and genetic

resources. The Copyright Directorate at the Ministry of Information and Culture deals with copyright and related rights. The GOA is working to bring its legislation on patents, trademarks and copyrights into compliance with World Trade Organization (WTO) standards. Afghanistan will become a party to the WTO Trade Related Intellectual Property Rights (TRIPS) Agreement if/when it accedes to the WTO. Afghanistan joined the World Intellectual Property Organization (WIPO) in 2005.

Theoretically, intellectual property right-holders have recourse to judicial protection through Afghanistan's civil court system. Courts are empowered to take evidence from all parties, make factual findings, render final decisions and order payment of damages and court costs. Yet, there is no serious enforcement of intellectual property rights. Pirated DVDs and software are sold throughout the country. Counterfeit pharmaceuticals and building materials are also widespread. Since the adoption of the trademarks law, 25 court cases have been filed, five of which have been resolved.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

Embassy point of contact: Lori Michaelson [MichaelsonLJ@state.gov](mailto:MichaelsonLJ@state.gov) until late August 2014, and then Jeffrey Otto [OttoJL@state.gov](mailto:OttoJL@state.gov)

Local lawyers list: <http://kabul.usembassy.gov/lol.html>

## **8. Transparency of the Regulatory System**

Parliament must approve all legislation, but when Parliament is in recess, the president may issue decrees that have the force of law. In these cases, Parliament has the right to review and reject the decrees.

Afghanistan's Law on Publication and Enforcement of Legislation requires publication in the Official Gazette of official declarations, laws, decrees, and other legislative documents. In contracts, there is no legal requirement or practice for publication and comment for domestic laws, regulations, or other measures of application that will become legally enforceable. In general, the Afghan government shares draft legislation with interested parties for comment and some ministries publish draft legislation in national newspapers for comment by the general public.

## **9. Efficient Capital Markets and Portfolio Investment**

Most Afghans remain "unbanked." Only a small minority currently hold bank deposits. Afghans continue to rely on hawaladars to access finance and transfer money, due in part to unfamiliarity with a functioning banking system and limited access to banks in rural areas. Three of the four mobile network operators - Etisalat, AWCC, and Roshan - offer money mobile services, with MTN expected to roll out their mobile money products in 2015.

Still, finance is Afghanistan's second-largest service industry (behind telecommunications) and is potentially an important driver of private investment and economic growth. As of July 2012, 17 commercial banks were operating in Afghanistan, with total assets of approximately \$4.4 billion. There are three state banks: Bank-e Millie Afghan (Afghan National Bank), Pashtany Bank, and New Kabul Bank (formerly the privately owned Kabul Bank), and there are also branch offices of foreign banks, including Alfalah Bank (Pakistan), National Bank of Pakistan, Habib Bank of Pakistan, Punjab National Bank (India), and Arian Bank (Iran).

Banking remains highly centralized, with a considerable majority of total loans made in Kabul Province. Bank lending is undermined by a deficient legal and regulatory infrastructure that impedes the enforcement of property rights and development of collateral. The aggregate loan-to-deposit ratio for the banking sector is 22 percent, and most banks concentrate on short-term credit to well-known customers. The difficulty of accessing credit through banks and other formal financial institutions makes existing firms dependent on family funds and retained earnings, limits opportunities for entrepreneurialism, and reinforces dependence on the informal credit market.

The 2010 exposure of pervasive fraud at Kabul Bank revealed the underlying weaknesses in banking regulation and supervision. Despite receiving significant technical assistance, Da Afghanistan Bank (DAB -- the Afghan central bank) has been unable to match the pace of banking sector growth with requisite improvements in monitoring and supervision. These weaknesses have been compounded by a lack of political will in the Afghan government to enforce laws against well-connected wrongdoers in the financial sector. Formal credit to the private sector stands at less than 10 percent of GDP, significantly lower than other countries in the region. Afghanistan ranks 130 out of 189 economies for ease of obtaining credit in the World Bank's Doing Business 2014. Afghan entrepreneurs complain interest rates for commercial loans from local banks range from 15 to 20 percent. In response to this situation, investment funds, leasing, micro-financing and SME-financing companies have entered the market. Yet, despite strong donor support for many of their activities, these firms have been handicapped by difficulties in securing repayment. USAID is working with GOA and the banking sector to promote improved access to finance and the expansion of financial inclusion. IMF-mandated banking legislation to improve banking-sector oversight has stalled in Parliament, and passage of an IMF approved law is not likely until after the 2014 presidential elections.

## **10. Competition from State Owned Enterprises**

Not applicable.

## **11. Corporate Social Responsibility**

The Government of Afghanistan encourages large companies and foreign investors to invest in corporate social responsibility (CSR). Large mining contracts include stipulations for environmental protection and community inclusion. Afghanistan law prohibits mining that would result in the destruction of antiquities, unless the mining company has prior approval from the Ministry of Information and Culture. A draft mining law now before Parliament calls for mining contract holders to consult with communities that will be affected by mining projects and to implement a community development agreement that includes details of the firm's environmental and social impact assessment. USAID recently inaugurated Mining Investment and Development for Afghan Sustainability (MIDAS) project will provide guidance to communities living near mines through training and governance support to help them benefit from mining operations.

All four competing mobile network operators in the country have well-developed CSR outreach programs that include health, education, job creation, environmental protection and outreach to refugees. Some Afghan charities are also benefiting from CSR funds from companies outside of the country. The American Chamber of Commerce in Afghanistan has identified CSR as one of its core focus areas. In addition, some Afghan entrepreneurs, such as Ihsanullah Bayat, the Barakat Group, the Ghazanfar Group, Hotak Azizi and the Alokozay

Group, have foundations that provide assistance in the fields of health, education, and the eradication of poverty.

## **12. Political Violence**

The U.S. Department of State continues to warn Americans against travel to Afghanistan. U.S. citizens should review the Consular Information Sheet and Travel Warning for Afghanistan for the most up-to-date information on the security situation and possible threats.

Anti-government and political violence are common and public concerns regarding security constrain economic activity. As the international forces draw down in the coming year, security remains a primary concern for investors. Foreign firms operating in country report spending a significant percentage of their revenues on security infrastructure and operating expenses.

## **13. Corruption**

Reports indicate corruption is endemic throughout society. Systemic corruption at border crossings hampers licit market economy development. Afghan officials collect bribes in exchange for undervaluing, under-weighting, or not scanning shipments, which facilitates smuggling of illegal goods and the illicit trade of legal goods, while also weakening Afghan revenue collection and regulatory institutions.

The practice of criminalizing commercial complaints is commonly used to settle business disputes or extort money from wealthy international investors. The government does not implement criminal penalties for official corruption effectively, and officials are reported frequently to engage in corrupt practices with impunity. There are reports of low-profile corruption cases successfully tried at the provincial level. The government made several commitments to combat corruption, including President Karzai's 2012 decree, but little progress had been made towards implementation.

During the past year, reports indicated a rise in incidents of "land grabbing" by both private and public actors. The most common type occurred when businesses illegally obtained property deeds from corrupt officials and sold the deeds to unsuspecting "homeowners," who would then get caught in criminal prosecutions. Other reports indicated that government officials grabbed land without compensation to swap the land for contracts or political favors. Occasionally, provincial governments illegally confiscated land without due process or compensation to build public facilities.

## **14. Bilateral Investment Agreements**

Afghanistan has signed 31 bilateral trade and investment agreements/memoranda of understanding and a further 10 bilateral economic agreement/memoranda of understanding. Among these are the Afghanistan Pakistan Transit Trade Agreement (APTTA), which Afghanistan and Pakistan signed in October 2010 and investment-related agreements with China and Kazakhstan. Afghanistan signed a Trade and Investment Framework Agreement (TIFA) with the United States in 2004. Afghanistan does not have a BIT or a bilateral taxation treaty with the United States.

The European Union, the United States, India, Canada, and Japan have granted Afghan exports preferential treatment under their Generalized System of Preference schemes. Afghanistan is a member of the Economic Cooperation Organization (ECO), the South Asia

Free Trade Area (SAFTA), the South Asian Association for Regional Cooperation (SAARC), and of Central Asian Regional Economic Cooperation (CAREC).

## **15. OPIC and Other Investment Insurance Programs**

The Overseas Private Investment Corporation (OPIC) offers financing (from large structured finance to small business loans), political risk insurance, and support for private-equity investment funds. Since 2003, OPIC has committed more than \$295 million in financing and political risk insurance to support 38 projects in Afghanistan.

OPIC operates its programs in Afghanistan under the Investment Incentive Agreement (“IIA”) signed in 2004 with the Government of Afghanistan. Nonetheless, during this past taxation year, the GOA Ministry of Finance pursued a 20% withholding tax on interest paid to OPIC by several OPIC clients. Such taxation ignores the tax exemption explicitly provided to OPIC under the IIA.

On January 10, 2014, OPIC President and CEO Elizabeth Littlefield sent a formal letter to the Afghan Minister of Finance, notifying the GOA that its efforts to tax loan recipients’ on interest payments made to OPIC, which ignores the terms of the IIA, gave OPIC “no choice but to suspend consideration of and support for any new transactions in Afghanistan.”

Since the U.S. Embassy delivered the letter, the GOA has discussed this matter in a series of cabinet meetings, and on February 22, 2014, the GOA provided the Embassy with a diplomatic note indicating that loan recipients would not owe any taxes on their payments to OPIC for the 2013 tax year. The GOA diplomatic note also stated, however, that the Ministers of Commerce, Foreign Affairs and Finance have been mandated by the Cabinet to review and make recommendations on the issue of whether the IIA is in the national interest of Afghanistan, and whether it should be (a) left as is, (b) modified, or (c) terminated (which either party has a right to do within certain parameters). , Given the uncertainty over the future of IIA, the U.S. Embassy has been advised that OPIC would not support any new transactions until the matter was satisfactorily resolved. While the U.S. Embassy is cautiously optimistic the final outcome will be positive, given its understanding of the views of the relevant ministries, the Embassy cannot predict with certainty the outcome nor its timing. Should the GOA elect to terminate the IIA, the provisions of the agreement (including the tax exemption) apply to OPIC investment support provided to loan recipients during the time the agreement was in force for so long as such investment support remains outstanding.

## **16. Labor**

There is a critical shortage of skilled labor in Afghanistan. Less than 30 percent of the population over the age of 15 can read and write. Decades of war, a low level of education and a lack of training facilities have resulted in a serious scarcity of skilled technicians, qualified managers and educated professionals. U.S. companies that establish training programs for their employees should expect significant returns in enhanced productivity, but there is a risk of high turnover as skilled employees seek higher-paying opportunities.

Labor-management relations are undeveloped. While there are major and smaller trade union organizations in the country, there is little knowledge or practice of collective bargaining. A 2005 labor regulation allows for the employment of foreign workers, but requires priority be given to equally qualified Afghan workers. The 2007 Labor Law guarantees basic workers’ rights, such as wages, overtime, leave, and other benefits, and

bans forced labor and child labor. The law does not contain provisions for criminal penalties for violations, and the Ministry of Labor, Social Affairs, Martyred and Disabled (MoLSAMD) lacks the capacity to conduct widespread inspections or enforce current regulations. There is little awareness of the law's provisions in either the government or the private sector. After two years of drafting, the International Labor Organization (ILO) and MoLSAMD recently finalized a new law, which would introduce penalties for labor violations, guarantee rights to union membership and collective bargaining, and strengthen the right of inspectors. The law is currently in the Ministry of Justice for review.

Under the law on Foreigners Employment in Afghanistan, foreigners can be employed on the basis of a work permit issued by the Ministry of Labor and Social Affairs. Work permits are issued for one year and are renewable. Foreign citizens traveling to Afghanistan for employment are required to obtain resident and business visas.

### **17. Foreign Trade Zones/Free Ports**

Afghanistan has no duty-free import zones or ports.

### **18. Foreign Direct Investment and Foreign Portfolio Investment Statistics**

The Afghanistan Investment Support Agency (AISA) is responsible for facilitating registration, licensing and promotion of all investments in Afghanistan. It concentrates on pro-active measures to attract industrial investment from both within and outside Afghanistan, thus generating employment and economic growth.

## Section 5 - Government

### Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

### Legal system:

Mixed legal system of civil, customary, and Islamic law

### International organization participation:

ADB, CICA, CP, ECO, EITI (candidate country), FAO, G-77, IAEA, IBRD, ICAO, ICC (NGOs), ICRM, IDA, IDB, IFAD, IFC, IFRC, ILO, IMF, Interpol, IOC, IOM, IPU, ISO (correspondent), ITSO, ITU, MIGA, NAM, OIC, OPCW, OSCE (partner), SAARC, SACEP, SCO (observer), UN, UNCTAD, UNESCO, UNIDO, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

## Section 6 - Tax

### Exchange control

There are no exchange control restrictions in Afghanistan. Foreign exchange can be transferred in or out of Afghanistan without any restrictions.

### Treaty and non-treaty withholding tax rates

Currently, the Government of Afghanistan has no treaty signed for avoidance of double taxation with any other countries.

## Methodology and Sources

### Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

### Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
<a href="#">FATF List of Countries identified with strategic AML deficiencies</a>	Not Listed	AML Deficient but Committed	High Risk
<a href="#">Compliance with FATF 40 + 9 recommendations</a>	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
<a href="#">US Dept of State Money Laundering assessment (INCSR)</a>	Monitored	Concern	Primary Concern
<a href="#">INCSR - Weakness in Government Legislation</a>	<2	2-4	5-20
<a href="#">US Sec of State supporter of / Safe Haven for International Terrorism</a>	No	Safe Haven for Terrorism	State Supporter of Terrorism
<a href="#">EU White list equivalent jurisdictions</a>	Yes		No
International Sanctions <a href="#">UN Sanctions</a> / <a href="#">US Sanctions</a> / <a href="#">EU Sanctions</a>	None	Arab League / Other	UN , EU or US
<a href="#">Corruption Index (Transparency International)</a> <a href="#">Control of corruption (WGI)</a> <a href="#">Global Advice Network</a>	>69%	35 – 69%	<35%
<a href="#">World government Indicators (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Failed States Index (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Offshore Finance Centre</a>	No		Yes

### **Section 3 - Economy**

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

### **Section 4 - Foreign Investment**

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

### **Section 6 - Tax**

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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