**U.S. Department of State**

**2019 Investment Climate Statements: Afghanistan**

Executive Summary

Afghanistan has a poor, agrarian economy with a small manufacturing base, few value-added industries, and a partially dollarized economy.  More than 55 percent of the population lives below the poverty line. International financial and security support has been instrumental in growing the Afghan economy from a USD 2.4 billion GDP in 2001 to USD 20.1 billion in 2018.  In addition, various estimates place the value of the informal economy to be about USD 4.1 billion, based in part on illicit activities. Government expenses will continue to far exceed revenues, resulting in continued dependency on international donors for the foreseeable future, although the Government of National Unity (GNU) has been able to increase tax revenue by implementing reforms and improved tax collection procedures.

The drawdown of international forces from 2012-2014 significantly slowed economic growth as demand for transport, construction, telecommunications and other services fell.  Economic growth averaged only 2.3 percent annually from 2014-2017, with the same rate of growth estimated for 2018. Much higher growth rates are required to support a three percent annual population growth and roughly 400,000 new entrants into the labor market each year.  The IMF notes that a return to growth is conditioned on improvements in the security sector, strong reform, and investments in key economic sectors, such as mining and agriculture.

Agriculture remains Afghanistan’s most important source of employment:  60-80 percent of Afghanistan’s population works in this sector, although it accounts for less than a third of GDP due to insufficient irrigation, drought, lack of market access, and other structural impediments.  Most Afghan farmers are primarily subsistence farmers.

The World Bank’s Ease of Doing Business rating for Afghanistan increased in 2019 to #167 from #183 in 2018, driven by reforms in the ease of starting a business, getting credit, protecting minority investors, revenue collection, and a new insolvency law. The government has undertaken several important reforms to attract Afghan private-sector and foreign investment, including promotion of public-private partnerships and streamlining the business license registration process.  In 2017, the government consolidated business licensing procedures under the Afghanistan Central Business Registry (ACBR). The ACBR extended the validity of business licenses for three years and reduced the licensing fee. Afghanistan continues to have a small formal financial services sector and domestic credit remains tight.

Significant challenges to business in Afghanistan remain, due to the country’s still-developing legal environment, varying interpretations of tax law, inconsistent application of customs duties, persistent insecurity, and the impact of corruption on administration.  Afghanistan’s legal and regulatory frameworks and enforcement mechanisms remain irregularly implemented. The existence of three overlapping legal systems – Sharia (Islamic Law), Shura (traditional law and practice), and the formal system under the 2004 Constitution – can be confusing to investors and legal professionals.

While Afghanistan’s security challenges remain headline news, other challenges also significantly impact the business environment.  For example, corruption often hampers fair application of laws, regulatory bodies lack capacity, and financial data systems are limited.  Furthermore, although government officials express strong commitment to a market economy and foreign investment, Afghan and foreign business leaders report this attitude is not always reflected in practice.  Private sector leaders routinely note that some government officials levy unofficial taxes and inflict bureaucratic delays to extract rents.

*Table 1*

|  |  |  |  |
| --- | --- | --- | --- |
| **Measure** | **Year** | **Index/Rank** | **Website Address** |
| **TI Corruption Perceptions Index** | 2018 | 172 of 180 | <https://www.transparency.org/country/AFG>  |
| **World Bank’s Doing Business Report “Ease of Doing Business”** | 2019 | 167 of 190 | <http://www.doingbusiness.org/en/rankings>  |
| **Global Innovation Index** | 2018 | N/A | <https://www.globalinnovationindex.org/gii-2018-report>  |
| **U.S. FDI ($M USD, stock positions)** | 2017 | $19M | <https://ustr.gov/countries-regions/south-central-asia/afghanistan>  |
| **World Bank GNI per capita** | 2017 | $550 | <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=AF>  |

1. Openness To, and Restrictions Upon, Foreign Investment

**Policies Toward Foreign Direct Investment**

Under the Private Investment Law of 2005 (PIL), qualified domestic or foreign entities may invest in all sectors of the economy.  Article 16 of the PIL states that approved domestic and foreign companies with similar objectives are subject to the same rights under Afghan law and the same protections against discriminatory governmental actions.

The Ministry of Commerce and Industries (MOCI) has taken on the role of promoting business growth, investment, and trade.  The High Commission on Investment (HCI) is responsible for investment policy making. The HCI includes the Ministers of Agriculture, Finance, Foreign Affairs, Mines and Petroleum, and the Governor of the Central Bank (Da Afghanistan Bank). The Minister of Commerce and Industries chairs the HCI.  The High Economic Council (HEC), which is chaired by the President and includes both the HCI members and representatives from academia and the private sector, also plays a role in investment policy development.

The HEC, HCI, MOCI, and the Afghan Chamber of Commerce and Industries are tasked with maintaining a dialogue and resolving business disputes with the government.

On July 29, 2016, Afghanistan was formally admitted to the WTO, which could bring about a number of benefits for Afghanistan after full implementation, including improving prospects for foreign direct investment.

**Limits on Foreign Control and 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.

While there is no requirement for foreigners to secure Afghan partners, the Afghan Constitution and the PIL prohibit foreign ownership of land.  In practice most foreign firms find it necessary to work with an Afghan partner. Foreign land ownership is not permitted, however, foreigners may lease land for up to 50 years.

Although the HCI has 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.

Article 5 of the PIL prohibits investment in nuclear energy and gambling establishments.

Investment in certain sectors, such as production and sales of weapons and explosives, non-banking financial activities, insurance, natural resources, and infrastructure (defined as 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 USD 3,000,000 requires HCI approval of the investment application.

**Other Investment Policy Reviews**

There have been no third-party investment policy reviews by the OECD, WTO, or UNCTAD in the past six years.

Afghanistan’s last major investment policy review was the Afghanistan National Development Strategy (ANDS), which was developed with the assistance of the United Nations Development Program (UNDP) and covered the period 2008-2013.  That strategy attempted to guide development investments in the focus areas of (1) agriculture and rural rehabilitation, (2) human capacity development, and (3) economic development and infrastructure, through high-priority programs chosen for contributions to job creation, broad geographic impact, and likelihood of attracting additional investment.

**Business Facilitation**

The Ministry of Commerce and Industry (MoCI) is responsible for business facilitation.  The HCI and HEC are responsible for investment and economic policy making.

Foreign or domestic companies investing in Afghanistan must obtain a corporate registration from the Afghanistan Central Business Registry (ACBR) and a Tax Identification Number issued by the Department of Revenue.

The websites for registration are:

* <http://www.acbr.gov.af/registration.html>
* <http://ard.mof.gov.af/en/page/information/service-standards/issue-of-taxpayer-identification-number>

Companies operating in the security, telecommunications, agriculture, and health sectors require additional licenses from relevant ministries.  Companies seeking licenses to provide consultancy, legal, or audit services must meet requirements for education or related experience for top officers.

To begin the process for initial issuance of licenses, renewals, and material changes to the license, foreign firms must submit a letter of interest to the Afghan Center of Business Registers.  From there, the Ministry of Commerce and Industry (MoCI) will process the request, and notify the foreign firm how to proceed in obtaining the license.

While registering a business can take as little as two days, it often takes longer and may require a local attorney’s help.

Ease of doing business reforms in 2016 led MOCI to begin issuing licenses for three years, as opposed to one year, to attract investment.  Obtaining a business license is relatively simple, however, applications for renewal are contingent upon certification from the Ministry of Finance (MOF) that all tax obligations have been met.  Some companies have seen MOCI license renewals delayed while the MOF audits their tax status, despite MOF assurances that an ongoing tax audit should not impede license renewal.

**Outward Investment**

The government does not promote or incentivize outward investment.  Due to the security situation capital flight is a concern.

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.  The MOF has in some instances frozen the domestic bank accounts of companies over tax disputes, which has effectively served to prohibit transfers of capital.

2. Bilateral Investment Agreements and Taxation Treaties

In 2004, Afghanistan signed a Trade and Investment Framework Agreement (TIFA) with the United States.  Afghanistan does not have a bilateral investment treaty (BIT) with the United States. Afghanistan has BITs with Germany, Iran, and Turkey.

Afghanistan has signed multiple trade, economic, and investment agreements/memoranda of understanding with other countries.  The most significant is the Afghanistan Pakistan Transit Trade Agreement (APTTA), signed in 2010.

The United States, European Union, Canada, India, and Japan have granted Afghan exports preferential import tariffs under their Generalized Systems of Preference.  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).  The Afghan government has stated its intent to formally join the Transport Corridor Europe Caucasus Asia organization (TRACECA).

Afghanistan does not have a bilateral taxation treaty with the United States. The Embassy believes many U.S. firms and U.S.-related entities are working with the Afghan government to resolve persistent differences over dividend taxes, vendor withholding tax obligations, taxation of U.S. government assistance, and other tax and contract disputes.

3. Legal Regime

**Transparency of the Regulatory System**

Afghanistan’s Law on Publication and Enforcement of Legislation requires that official declarations, laws, decrees, and other legislative documents be published in the Official Gazette.  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 public comment.  Foreign firms in Afghanistan follow accounting procedures consistent with international norms. The government uses ministerial orders to enforce regulatory compliance. For example, ministries have in the past taken action to freeze accounts or limit travel for companies until they comply with regulations.

**International Regulatory Considerations**

Afghanistan became a WTO member in 2016.  The government is working to build its capacity to meet the notification requirements of the WTO.

**Legal System and Judicial Independence**

The legal system of Afghanistan consists of Islamic, statutory, and customary (Shura) rules.  The supreme law of the land is the Constitution. The judiciary system is composed of the Supreme Court, the Courts of Appeal, and the Primary Courts.  There are trial and appellate courts that specialize on commercial disputes. Since 2002, NGOs have been working to strengthen the rule of law in Afghanistan by identifying peaceful means for dispute resolutions and developing partnerships between state and community actors in the hopes of improving access to justice.

Despite these efforts, many legal disputes are still resolved outside the formal justice system by community based tribal leaders.  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 and 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.

According to credible contacts, civil cases in the commercial court system can sometimes take more than 18 months for parties to obtain resolutions.  Cases are frequently resolved more quickly through an informal system or, in some cases, pursuant to negotiations facilitated by formal justice system actors or private lawyers.

Because access to the formal legal system is limited 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.  According to the 2018 Asia Foundation Survey of the Afghan People, shuras were used to resolve 45 percent of all disputes and represent the predominant form of dispute resolution employed by Afghans (up from 43 percent in 2017).

Investors should be aware that the 2018 Human Rights Report noted that arbitrary arrests occur in most provinces, and that authorities frequently detain citizens without respecting essential procedural protections.  Local law enforcement officials reportedly detain persons illegally on charges not specified under local criminal law. While the law gives defendants the right to object to his or her pretrial detention and receive a court hearing on the matter, authorities generally do not observe this requirement.

**Laws and Regulations on Foreign Direct Investment**

Under the 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 except nuclear power, gambling, and production of narcotics and intoxicants. There are also limitations 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.

Foreign investors have complained of irregularities in the court system, arbitration, and tax disputes.  As a result of the various legal and regulatory challenges, companies operating in Afghanistan may want to seek local legal counsel to help navigate licensing and permitting requirements and conforming to tax regulations.

**Competition and Anti-Trust Laws**

Afghanistan does not have anti-trust laws.  The Afghan government enacted a law to protect sound competition in markets and prevent unfair competition in 2010.

**Expropriation and Compensation**

The PIL allows for expropriation of investments or assets by the government on a non-discriminatory basis 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.

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 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.

The Ministry of Finance may freeze assets to collect taxes.

**Dispute Settlement**

*ICSID Convention and New York Convention*

In 2005, Afghanistan became a signatory to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (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, (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) Afghan courts must enforce any resulting award or agreement.

Afghanistan has been a member state to the International Centre for Settlement of Investment Disputes (ICSID convention) since 1966.

*Investor-State Dispute Settlement*

Afghanistan does not have a Bilateral Investment Treaty or Free Trade Agreement with the United States.  There are several disputes between the government and investors, typically about tax assessments and license requirements.

*International Commercial Arbitration and Foreign Courts*

Since 2005, Afghan law has expressly recognized alternative dispute resolution provisions.  In 2014, the Afghanistan Centre for Dispute Resolution (ACDR), whose decisions are non-binding, was established with support from USAID and the Department of Commerce Commercial Law Development Program (CLDP).  The ACDR offers mediation, expert witness services, and award calculation services in a limited number of cases referred by the commercial courts and plans to expand its services to include arbitration.

**Bankruptcy Regulations**

Provisions in the Banking Law provide special procedures for bank insolvency.  The Afghan government enacted a new insolvency law in 2018 to provide a uniform and fair procedure for the payment of debts to creditors.  The text of the law can be found at <https://www.ahg.af/wp-content/uploads/2015/04/Draft-Insolvency-Law-English.pdf>.

4. Industrial Policies

**Investment Incentives**

The Public Procurement Law, revised in 2016, retains the preference for national sources and domestic products that was codified in the Public Procurement Law of 2005.  In public statements since ratification, President Ghani has continued to emphasize the importance of giving preference to domestic products in order to create jobs. Foreign firms can receive the benefit of a domestic firm by partnering with a domestic firm.

**Foreign Trade Zones/Free Ports/Trade Facilitation**

The Afghan Airfield Economic Development Commission (AAEDC), established in 2015, has taken the lead on drafting a new Special Economic Zone (SEZ) law, which was released for public comment in early 2019.  If passed, the law will provide the legal foundation for all types of export processing zones.

**Performance and Data Localization Requirements**

The Afghan government does not require the use of domestic content in goods or technology related to data storage.  There are no requirements for foreign IT providers to turn over source code and/or provide access for surveillance purposes.

5. Protection of Property Rights

**Real Property**

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 often without expertise in land matters.  According to the World Bank, less than 20 percent of land in Afghanistan is formally titled. An estimated 80 percent of land is held and transferred informally, without legally recognized deeds, titles, or a simple means to prove ownership.

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 2018 “Doing Business Report” that it takes an average of 155 days to register property, and entails extensive legal fees.  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 parties falsely claiming title to land that they do not own undermines investor confidence. Mortgages and liens are at an early stage of development.  Foreign investors seeking to work with Afghan citizens to purchase property should conduct thorough due diligence to identify reliable partners.

**Intellectual Property Rights**

Prior to 2012, Afghanistan did not have fully operational intellectual property rights (IPR) offices at the Ministry of Information and Culture (MOIC), which focuses on copyrights, or at the Ministry of Industry and Commerce (MOCI), which focuses on all other intellectual property areas.  Since 2012, laws on copyrights, patents, trademarks, and geographical indications have been adopted.

To fully comply with the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), laws related to other IPR substantive areas (e.g., industrial designs, trade secrets, and layout designs) are in the process of adoption.  Afghanistan’s IPR regime provides investors with access to the judicial system and, in certain areas such as copyrights, to administrative appeals.

Afghanistan has limited experience regarding IPR and needs significant capacity building to effectively enforce and administer IPR laws.  Afghanistan is not included in the United States Trade Representative’s (USTR) Special 301 Report or the Notorious Markets List. Afghanistan has been a member of the World Intellectual Property Organization (WIPO) since 2005.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO’s country profiles at <https://www.wipo.int/portal/en/index.html>.

***Resources for Rights Holders***

Contact at U.S. Embassy Kabul: Economic Section, Embassy of the United States of America
Kabul, Afghanistan. +93 (0) 700-108-001. Email KabulEcon@State.gov

American Chamber of Commerce in Afghanistan: [www.amcham.af](http://www.amcham-af.org/)
Email: info@amcham.af A list of local lawyers is at [**https://af.usembassy.gov/u-s-citizen-services/attorneys/**](https://af.usembassy.gov/u-s-citizen-services/attorneys/)

6. Financial Sector

**Capital Markets and Portfolio Investment**

Afghanistan is in principle welcoming toward foreign portfolio investment, but financial institutions and markets are at an early stage of development.  Afghanistan does not have a stock market. There are no limitations of foreign investors obtaining credit. The banking sector generally only provides short term loans.

Afghanistan joined the IMF on July 14, 1955.  As confirmed in the May 2018 IMF Country Report, Afghanistan maintains an exchange system that is free of multiple currency practices and restrictions on the making of payments and transfers for current international transactions.

**Money and Banking System**

The penetration of banking services is described in the below tables based on Q3 2018 data from the Afghan Central Bank (Da Afghanistan Bank, DAB):

|  |  |
| --- | --- |
| **Provided Banking Facilities** | **No.** |
| Full Service Branches | 414 |
| Limited Service Branches | 212 |
| Automated Teller Machines | 332 |
| Others   | 92 |
| Point of Sale    | 182 |
| **Total** | **1,232** |

|  |  |
| --- | --- |
| **Debit and Credit Cards** | **No.** |
| Debit Card                                                                                                              | 455,376 |
| Credit Card | 2,016 |
| **Total** | **457,392** |

Most Afghans remain outside the formal banking sector.  Afghans continue to rely on an informal trust-based process referred to as Hawala to access finance and transfer money, due in part to religious acceptance, unfamiliarity with a formal banking system, and limited access to banks in rural areas.  Three of the four major mobile network operators – Etisalat, AWCC, and Roshan – offer mobile money services. The Afghan government will launch a mobile money salary payment system for 5,000 employees in the Ministry of Labor in mid-2019.

Finance is Afghanistan’s second-largest service industry behind telecommunications and is potentially an important driver of private investment and economic growth.  There are 14 commercial banks operating in Afghanistan.

There are three state banks: Bank-e Millie Afghan (Afghan National Bank), Pashtany Bank, and New Kabul Bank (formerly the privately owned Kabul Bank).  There are also branch offices of foreign banks, including Alfalah Bank (Pakistan), Habib Bank of Pakistan, and National Bank of Pakistan.

As of September 2018, the total assets of the banking sector was USD 4.16 billion.  Banking remains highly centralized, with a considerable majority of total loans made in Kabul.  Bank lending is undermined by the legal and regulatory infrastructure that impedes the enforcement of property rights and development of collateral.

As of December 2018, the banking sector gross Non-Performing Loans (NPL) ratio was 11.3 percent, while the net ratio stands at 5.9 percent.

Formal credit to the private sector stands at less than 10 percent of GDP, significantly lower than other countries in the region.  Afghanistan ranks 105 out of 190 economies for ease of obtaining credit in the World Bank’s Doing Business 2019. Afghan entrepreneurs complain interest rates for commercial loans from local banks are high, averaging around 15.5 percent.  In response to this situation, investment funds, leasing, micro-financing, and SME-financing companies have entered the market. USAID is working with the Afghan banking sector to promote improved access to finance and the expansion of financial inclusion.

Afghanistan has lost many correspondent banking relationships in the past few years due to risk aversion and lack of profitability.  The full extent of impact has yet to be quantified, but the unmeasured effects have been a loss in the ease of basic international transactions.

The Afghan Central Bank (Da Afghanistan Bank, DAB) has made improvements in monitoring and supervising the banking sector, following the 2010 Kabul Bank crisis.  President Ghani also took steps to hold those responsible accountable. The Afghan Government has a plan to recover assets from perpetrators of the large-scale bank fraud, though progress on its implementation remains slow.

Foreigners can open bank accounts with Afghanistan banks if they have valid visas, work permits, and in the case of a legal entity, a valid business license.  Afghan banks do not open bank accounts for non-resident customers.

**Foreign Exchange and Remittances**

*Foreign Exchange 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.

Major transactions in Afghanistan, such as the sale of autos or property, are frequently conducted in dollars or in the currency of neighboring countries.  Afghanistan does not maintain a dual-exchange-rate policy, currency controls, capital controls, or any other restrictions on the free flow of funds abroad. Afghanistan uses a managed floating exchange rate regime under which the rate is determined by market forces.  It is illegal to transport more than USD 20,000 or its equivalent in other currencies out of Afghanistan via land or air. Amounts over USD 10,000 but less than USD 20,000 must be declared. Enforcement is reported to be inconsistent.

*Remittance Policies*

Access to foreign exchange for investment is not restricted by any law or regulation.  There are large, yet informal, foreign exchange markets in major cities and provinces 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 Afghan Central Bank (Da Afghanistan Bank, DAB), and thousands of licensed, as well as unlicensed, 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.

Over the past several years, Afghanistan has made significant progress in improving Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) controls and is no longer subject to Financial Action Task Force (FATF) monitoring.  The FATF report can be found at <http://www.fatf-gafi.org/countries/a-c/afghanistan/documents/fatf-compliance-june-2017.html>.

**Sovereign Wealth Funds**

Afghanistan does not have a sovereign wealth fund.

7. State-Owned Enterprises

The Government of Afghanistan operates over 30 active state-owned enterprises (SOEs), almost all of which are wholly-owned.  About 11,000 people are employed in sectors including public security, construction, transport, telecommunications, agriculture, and extractives.  Net income for all the SOEs is around USD 13 million; few are profitable. All SOEs are overseen and regulated by the Ministry of Finance and directly operated by specific ministries depending on the nature of the operations.  The Law on State Owned Enterprises includes specific targets for research and development investment, social development measures, and employee profit sharing, but compliance is negligible.

The Afghan government is also a stakeholder in 13 state-owned corporations (SOCs), entities that have independent boards and are not operated or directly supervised by the government.  SOEs and SOCs make up a small share of overall economic activity, although a few SOCs have significant market share in their sectors, including Afghan Telecom (Aftel), Ariana Afghan Airlines, and the electrical utility DABS (Da Afghanistan Breshna Sherkat).

Afghanistan does not have a centralized ownership entity for SOEs; the Ministry of Finance is responsible for all SOE oversight.

8. Responsible Business Conduct

Afghan awareness of the term “Responsible Business Conduct” is nascent, but the government has encouraged large companies and foreign investors to invest in corporate social responsibility (CSR).  Large mining contracts include stipulations for environmental protection and community inclusion. A new Minerals Law enacted by decree in October 2018, and published in the Official Gazette in December 2018, requires 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.  The law also requires extractive sector companies to safeguard and maintain any archeological and cultural relics they come across during the extraction operations until the Afghan government removes them.

Afghanistan is an Extractive Industries Transparency Initiative (EITI) candidate country.  The 2018 Minerals Law requires the Ministry of Mines and Petroleum to comply with the financial reporting requirements and standards of EITI.

A number of the competing mobile network operators have well-developed CSR outreach programs that include health, education, job creation, environmental protection, and outreach to refugees.  For example, the largest telecom operator in Afghanistan, Roshan, whose majority owner is the Aga Khan Fund for Economic Development, has received recognition for its social responsibility mission.  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.

*OECD Guidelines for Multinational Enterprises*

Afghanistan is not a subscriber to the OECD Declaration and Decisions on International Investment and Multinational Enterprises.

9. Corruption

Afghan and foreign firms routinely cite corruption as an obstacle to doing business, whether in permitting and licensing, government procurement, meeting regulatory requirements, or taxation.  Various corruption watchdog reports regularly indicate corruption is endemic throughout society. For example, systemic corruption at border crossings hampers development of the licit market economy.  Afghan officials collect bribes in exchange for undervaluing, under-weighing, 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 to extort money from wealthy international investors.  The government does not implement criminal penalties for official corruption effectively, and officials are reported to frequently engage in corrupt practices with impunity.  There are reports of low-profile corruption cases successfully tried and of lower-level officials removed for corruption.

President Ghani has made anti-corruption efforts a high priority, and the government has seen some success in reform of procurements and customs.  In 2016, the government opened the Anti-Corruption Justice Center (ACJC) to investigate and try corruption cases. The ACJC has successfully convicted some government officials for corruption.  These high-level initiatives are positive steps though corruption remains a major issue. Disputes over land and land grabbing have risen over the last decade. Press reports indicate that government officials take land without compensation in exchange for contracts or political favors.  Occasionally, provincial governments confiscate land without due process or compensation to build public facilities.

*UN Anticorruption Convention, OECD Convention on Combating Bribery*

Afghanistan has signed and ratified the UN Anticorruption Convention. Afghanistan is not party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

**Resources to Report Corruption**

The Afghan Government body responsible for combating corruption is the High Office of Oversight & Anti-Corruption. Prosecutorial authority resides with the Attorney General’s Office.

Afghan Government Point of Contact: Dr. Yama Torabi. Head of Secretariat of High Council on Rule of Law and Anti-Corruption: (HCRoLAC). +93 799 271 6241. Email: **yama.torabi@gmail.com**

Watchdog Organization Contact: Sayed Ikram Afzali, Executive Director, Integrity Watch Afghanistan
Emal: **ikram.afzali@iwaweb.org**

10. Political and Security Environment

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.  Security is a primary concern for investors. Foreign firms operating in country report spending a significant percentage of revenues on security infrastructure and operating expenses.

11. Labor Policies and Practices

Afghanistan suffers a critical shortage of skilled labor.  Only 31 percent of the population over the age of 15 can read and write.  Decades of war, emigration, low education levels, and a lack of training facilities have resulted in a scarcity of skilled labor, qualified managers, and educated professionals.  The Central Statistical Organization reports the 2018 unemployment rate was 8.8 percent, although the youth unemployment rate is estimated to be as high as 40 percent.

A 2005 labor regulation allows for the employment of foreign workers but requires priority be given to equally qualified Afghan workers.  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 business visas and work permits.

The formal sector labor law contains some restrictions on termination of employment.  The law provides for the right of workers to join and form independent unions and to conduct legal strikes and bargain collectively, and the government generally respects these rights.  Broadly, labor-management relations are undeveloped. Freedom of association and the right to bargain collectively are generally respected, but most workers and employers are not aware of these rights.  This was particularly true of workers in rural areas or agriculture. In urban areas, the majority of workers participate in the informal sector as day laborers in construction, where there are neither unions nor collective bargaining.  The 2007 Labor Law guarantees basic workers’ rights, such as wages, overtime, leave, and other benefits, and bans forced labor and child labor. The 2017 Trafficking in Persons law punishes forced and child labor with a maximum 12-year sentence.

Comprehensive data on workplace accidents are unavailable, though there have been several reports of poor and dangerous working conditions.  Although the law prohibits children under 14 from working, UNESCO reported 7.5 percent of children under 14 work, primarily in agriculture, domestic work, carpet-making, and brick kilns.

12. OPIC and Other Investment Insurance Programs

Since 2003, OPIC has committed more than USD 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, which the Afghan government signed in 2004.

13. Foreign Direct Investment and Foreign Portfolio Investment Statistics

*Table 1: Key Macroeconomic Data, U.S. FDI in Host Country/Economy*

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Host Country Statistical Source** | **USG or International Statistical Source** | **USG or International Source of Data:BEA; IMF; Eurostat; UNCTAD, Other** |
| **Economic Data** | **Yearr** | **Amountt** | **Yearr** | **Amountt** |  |
| **Host Country Gross Domestic Product (GDP) ($M USD)** | 2017 | $20.82 B | 2017 | $19,540 | <https://data.worldbank.org/country/afghanistan>  |
| **Foreign Direct Investment** | **Host Country Statistical Source** | **USG or International Statistical Source** | **USG or International Source of Data:BEA; IMF; Eurostat; UNCTAD, Other** |
| **U.S. FDI in partner country ($M USD, stock positions)** | 2017 | N/A | 2017 | $19 | <https://ustr.gov/countries-regions/south-central-asia/afghanistan>  |
| **Host country’s FDI in the United States ($M USD, stock positions)** | 2017 | $0 | 2017 | $2 | <https://ustr.gov/countries-regions/south-central-asia/afghanistan>   |
| **Total inbound stock of FDI as % host GDP** | N/A | N/A | 2017 | 7.0% | [unctad.org/sections/dite\_dir/docs/wir2018/wir18\_fs\_af\_en.pdf](http://unctad.org/sections/dite_dir/docs/wir2018/wir18_fs_af_en.pdf) |

 *Table 3: Sources and Destination of FDI*

Data not available.

 *Table 4: Sources of Portfolio Investment*

Data not available.

14. Contact for More Information

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