



Afghanistan

Population ¹	37,172,386
Area (km ²) ¹	652,860
GDP per capita (USD) ¹	520.90
TPES (Mtoe) ²	N/A
Energy intensity (toe/10 ³ 2010 USD) ²	N/A
CO ₂ emissions - energy (MtCO ₂) ³	N/A

There is no data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2020

Sources:

1. The World Bank 2018
2. ©IEA, World energy balances, 2020, www.iea.org/data-and-statistics, webstore.iea.org/key-world-energy-statistics-2019
3. ©IEA 2020, CO₂ emissions from fuel combustion, www.iea.org/data-and-statistics, webstore.iea.org/key-world-energy-statistics-2019

Afghanistan's overall risk level against the assessed areas is **low**.

The three risks assessed in EIRA, namely, *breach of State obligations*, *unpredictable policy and regulatory change*, and *discrimination between foreign and domestic investors* are on the same level as last year.

Afghanistan's performance is good on one indicator, and it is moderate on three indicators. It has the same score as last year on *rule of law* (65), and *management of decision-making processes* (56). On *foresight of policy and regulatory change*, its score has improved by a point and is now 56. It has again scored 47 on *regulatory environment and investment conditions*.

On a more detailed level, Afghanistan's overall sub-indicator performance is moderate. *Management and settlement of investor-State disputes* continues to be the highest-scoring sub-indicator at 80. Its score on *communication of vision and policies* has improved by a point and stands at 74. On *restrictions on FDI* (60), *institutional governance* (56), *transparency* (56), and *respect for property rights* (50) there are no changes to the scores compared to 2019. Its performance on *robustness of policy goals and commitments* (38) is also the same as last year. *Regulatory effectiveness* continues to be the lowest-scoring sub-indicator at 33.

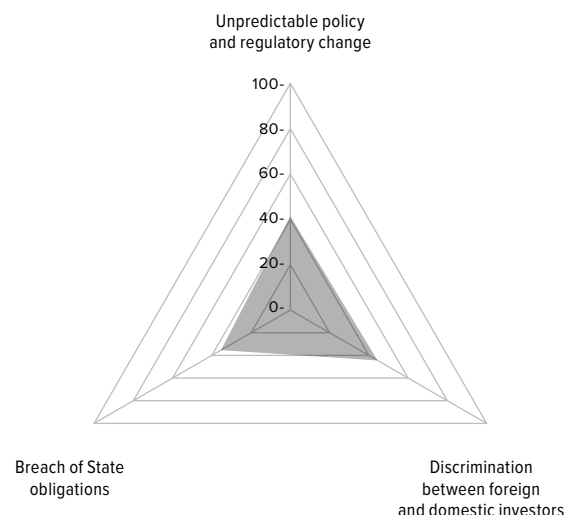
While Afghanistan has the relevant policies and measures in place, there is potential for improvement. Attention should be given to strengthening the country's regulatory effectiveness.

YEAR-ON-YEAR COMPARISON

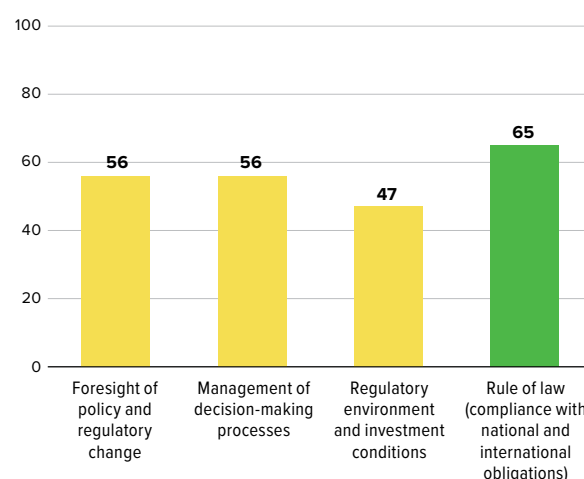
RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	44	41	41
Discrimination between foreign and domestic investors	47	44	44
Breach of State obligations	35	35	35

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	55	55	56
Management of decision-making processes	49	56	56
Regulatory environment and investment conditions	47	47	47
Rule of law	65	65	65

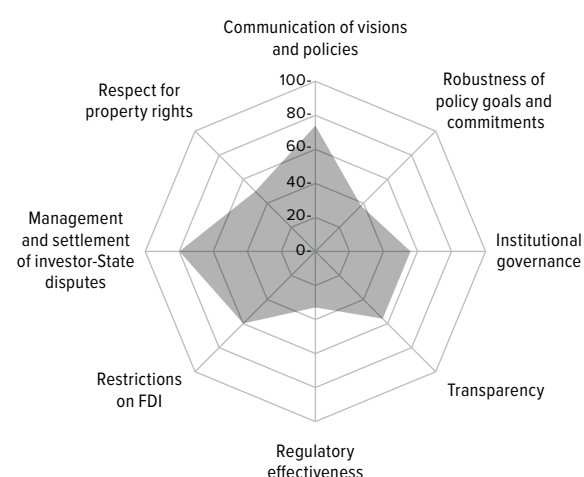
RISK LEVEL



INDICATOR PERFORMANCE



SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

In 2019, the Ministry of Mines and Petroleum (MoMP) published the Mining Sector Roadmap + Reform Strategy: Extractive Industries.

Afghanistan ratified the Paris Agreement in 2017 and submitted its first NDC.

STRENGTHS

Afghanistan is making progress towards its energy goals. Electricity access remains low, but it has steadily increased over the last years. In the third quarter of 2019, electricity production increased by 20.98% compared to the same period in 2018. Work has commenced on significant hydro and solar power projects. On 6 February 2020, the President of Afghanistan officially inaugurated work on the Afghan stretch of the CASA-1000 electricity transmission project which will transfer 300 MW of power from Tajikistan and Kyrgyzstan to Afghanistan and Pakistan. Additionally, there are plans to construct a 40 MW solar photovoltaic park in Herat. In 2019, the Government focused on developing the country's mining potential. The new Mining Sector Roadmap contains a comprehensive set of reforms to modernise the sector's governance and ensure accountability in mining operations.

The MoMP monitors the implementation of extractive sector policy targets. It has published the annual progress report on its activities, and the quarterly revenue reports for 2019. Last year's report on implementing the plan to fight corruption is also available on the MoMP's website. The National Statistics and Information Authority has updated its website with quarterly reports for 2019 on the country's economic indicators.

AREAS FOR IMPROVEMENT

The Government should prepare an integrated national energy policy that sets the path towards strengthening the country's energy security, reducing import dependency, and increasing access to a reliable power supply. Currently, there are few priority areas, such as renewable power generation, which have quantifiable targets. However, the renewable energy targets will expire in 2020, and there will be a gap in this area as well. An integrated policy, which has measurable targets and implementation programmes, will help bring synergies among different energy forms and priorities. It will also assist in better budget allocation, project preparation and coordination.

The Government should update the existing policy documents to define the modalities, timeframe, and other steps of the policy monitoring and evaluation process. An effective feedback mechanism for investors will also increase data availability and allow the Government to assess if policy measures are producing the intended results. Finally, the Afghanistan Energy Information Center should regularly update the energy and power system data on its website so that it can become a useful tool for policymakers, investors, and the public.

Management of decision-making processes

QUICK FACTS

As per Presidential Decree No. 36 of 2020, the Afghan Energy Authority is the lead decision-maker for the energy sector. The hydrocarbon sector is under the responsibility of the MoMP.

The Afghanistan Central Business Registry (ACBR) is the country's investment approval authority.

STRENGTHS

To improve productivity and transparency in energy and water affairs, in February 2020, the Ministry of Energy and Water was divided into separate entities for regulating each of these sectors. The MoMP is also undergoing intensive restructuring. The eventual aim is for the MoMP to retain and strengthen its policy-making role while relinquishing its regulatory and operational functions. In 2018 and 2019, the High Economic Council adopted a Subnational Governance Policy and revised the National Anti-Corruption Strategy. The establishment of the Afghanistan Independent Land Authority (ARAZI) is a commendable step towards improving the ease of doing business in the country.

The Government is taking corrective actions to re-validate Afghanistan's EITI membership. In 2019, it launched the online Transparency Portal to give investors information on the licences issued by the MoMP. The portal lists the names of the licence holders, details on whether the licences are active, the type of minerals extracted, and the payments made in connection to the licences. The Ministry of Industry and Commerce is currently developing new regulations on Beneficial Ownership. The MoMP's website gives information on the beneficial ownership of minerals rights holders. In April 2019, the MoMP also held the National Mining Conference to inform investors and other stakeholders on the main features of the new Minerals Law and how the revised institutional structure will decrease the administrative burden of the MoMP.

AREAS FOR IMPROVEMENT

The Government should update the e-governance strategy, approved in 2012, to support digital business services. It can conduct business surveys to identify the services that are most used by investors and would benefit from digitalisation. Moreover, reducing the administrative burden involved in business registration and payment of taxes will help to facilitate investment and economic activity. To this end, the Government may consider changing the existing investment registration procedures, which require companies to physically submit all the registration documents at the ACBR's main office or a regional office.

Afghanistan has adopted a law on access to information, but its implementation needs more attention. The Government should ensure that the Anti-Corruption Commission has the financial resources and technical facilities it needs to fulfil its mandate.

Regulatory environment and investment conditions

QUICK FACTS

The Energy Services Regulation Department, under the Afghan Energy Authority, regulates the electricity market.

The Afghanistan Oil and Gas Regulatory Authority (AOGRA) regulates the upstream, midstream and downstream sectors.

The Law on Private Investment 2005 protects private investment in the country.

STRENGTHS

AOGRA is independent of the MoMP and operates under the supervision of a Chief Executive Officer and seven professional board members. The enabling law requires the board members to have expertise in law, finance, accounting, and all aspects of the hydrocarbon sector. It is expected that in future, AOGRA will become a one-stop shop for the hydrocarbon sub-sector and all the parallel government structures will merge into it. A concession-based licensing regime has replaced the contract-based system under which the MoMP negotiated the terms of mining contracts. Royalties will now be set through the law to reduce the MoMP's administrative burden. There is also an independent Mining Technical Committee now to assist with the review and evaluation of mining proposals.

The Government has introduced a flexible tax and duty regime which provides for 20% corporate tax, 0% duty on the import of machinery, 1% duty on the import of raw materials, and carry forward of losses. There is a discretionary tax holiday of up to three years for new and inward investments. The MoMP has announced 43 new tenders for natural resource projects. International companies have received invitations to bid for the 14 largest projects. The Ministry of Finance extended the tax penalty amnesty program through the end of the fiscal year 2019, but it reduced the benefit from 95% to 85%.

AREAS FOR IMPROVEMENT

The functions and powers of the policy-making, regulatory, executive, and service delivery institutions should be separated. While the Government is taking steps to reduce the MoMP's regulatory role, it is yet to establish an independent electricity regulator that will facilitate transparency in licensing, return on investments, and tariffs. An independent electricity regulator will allow the Afghan Energy Authority to focus on its role as a policymaker and not engage in project implementation or sector regulation. Additionally, the Government must take measures to operationalise the AOGRA fully.

The Law on Private Investment should be revised to streamline investment entry and exit procedures, strengthen investment protection and limit the Government's discretionary powers. For example, the Law currently empowers the Government to restrict investment in natural resources and energy infrastructure, but it does not provide criteria for imposing such a restriction.

Rule of law

QUICK FACTS

Afghanistan is a contracting party to the Energy Charter Treaty since 2013.

Afghanistan ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1968.

Afghanistan ratified the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 2004.

The Law on Private Investment protects private investment and assets from unlawful expropriation.

STRENGTHS

The Government is taking steps to formalise and encourage the prompt, fair, and neutral resolution of commercial and economic disputes through arbitration. The Power Services Regulation Act presents investors with multiple avenues to resolve disputes, such as mediation, arbitration, the Disputes Resolution Board of the Afghan Energy Authority, and the Financial Disputes Resolution Commission. There is a defined mechanism for enforcing foreign court orders. The Law on the Manner of Acquisition of Rights 2018 describes the procedure of how the General Directorate of Rights enforces court orders.

The Government of Afghanistan is making efforts to strengthen the legal framework on land administration. In 2019, it approved a five-year Strategic Institutional Development Programme for Land Administration to support the Land Management Law. It also recently merged the Ministry of Urban Development and ARAZI to establish the Ministry of Urban Development and Land. The purpose of creating this new entity is to streamline and improve land administration. The Ministry of Industry and Commerce is currently drafting new anti-dumping and anti-subsidy laws to demonstrate the Government's commitment to the WTO principles.

AREAS FOR IMPROVEMENT

The Government may consider establishing an investment ombudsman for resolving conflicts between investors and public authorities. It can seek guidance from the Energy Charter Model Instrument on Management of Investment Disputes that aims to assist States in handling investment disputes while keeping in mind their own particular needs and circumstances.

The Land Acquisition Act 2017 grants private investors protection from expropriation, but its scope is limited to immovable property. The Government may consider strengthening guarantees against the expropriation of intangible property in the domestic laws. This approach will give clarity and security to investors on the legal protection afforded to their immovable property and IP rights.

IMPLEMENTATION STATUS



Afghanistan

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
Indicator 1		
2018	Set evidence-based measurable targets for the energy sector.	Pending
	Adopt a national action plan to implement the energy targets.	Pending
	Publish the performance evaluation reports of the Ministry of Energy and Water and the Ministry of Mines and Petroleum.	Pending
2020	Update the renewable energy targets expiring in 2020.	Improvement suggested in 2020. Status will be updated in 2021.
	Regularly update the energy and power system data on the Afghanistan Energy Information Center's website.	Improvement suggested in 2020. Status will be updated in 2021.
Indicator 2		
2018	Set up a one-stop shop for all business-related services related to the energy sector.	Work ongoing. The Ministry of Mines and Petroleum is currently merging all the related parallel government structures to establish a one-stop shop for the hydrocarbon industry.
	Publish official translations of laws and regulations in foreign languages.	Pending
	Adopt legal provisions guaranteeing public consultation on draft legislation, policies, and regulations.	Work ongoing and partially implemented. The Law on Access to Information was enacted in 2018, and a new Oversight Commission on Access to Information was appointed under this law.
2019	Reinforce Afghanistan's international commitments under global transparency initiatives.	Work ongoing. The Government has started taking corrective actions to revalidate Afghanistan's membership to the EITI.
2020	Update the e-governance strategy (2012) to encourage the digitalisation of business services.	Improvement suggested in 2020. Status will be updated in 2021.
	Operationalise the Anti-Corruption Commission and equip it with an adequate budget and technical facilities.	Improvement suggested in 2020. Status will be updated in 2021.
Indicator 3		
2018	Establish an independent electricity regulator that will facilitate transparency in licensing, return on investments, and tariffs.	Work ongoing. Presidential Decree No. 36 of 9 February 2020 dissolves the Ministry of Energy and Water. The energy sector will now be regulated by the Afghan Energy Authority and the water sector will be regulated by the Water Affairs National Regulatory Authority. These two authorities will function as independent budgetary units.
	Develop a clear criteria for the Government's right to restrict investment in natural resources and energy infrastructure.	Pending
2020	Make the Afghanistan Oil and Gas Regulatory Authority fully operational.	Improvement suggested in 2020. Status will be updated in 2021.
Indicator 4		
2018	Establish a foreign investment ombudsman authority to settle conflicts arising in the course of energy projects.	Pending
	Set a legally binding process to determine the compensation for expropriation and a payment timeframe.	Fully implemented. The updated Law on Expropriation 2017 (effective in late 2018) establishes a compensation valuation committee and clarifies the rules for determining the amount of compensation.
2020	Update the domestic laws to increase the scope of protection granted to intangible rights of foreign investors against expropriation.	Improvement suggested in 2020. Status will be updated in 2021.