



Photo: The Guardian

# Private Sector Development

**National Priority  
Program (NPP)**

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**2018-2023**

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## Abbreviations

AAEDC	Afghanistan Airfield Economic Development Commission
ACCI	Afghan Chamber of Commerce and Industries
ACD	Afghan Customs Department
ACDR	Afghanistan Commercial Dispute Resolution Centre
ANTP	Afghanistan National Trade Policy
AISA	Afghanistan Investment Support Agency
ANPDF	Afghanistan National Peace and Development Framework
APTTA	Afghanistan Pakistan Trade and Transit Agreement
ARAZI	Afghanistan Independent Land Authority
ARDS	Afghan Development and Reconstruction Services
ASYCUDA	Automated System for Customs Data
AWCI	Afghanistan Women Chamber of Commerce & Industries
CLDP	Commercial Legal Development Program
CPA	Central PPP Authority
CPCPD	Consumer Protection and Competition Policy Department of MoIC
DAB	Da Afghanistan Bank
EPAA	Export Promotion Authority of Afghanistan
FACT	Federation of Afghan Craftsmen and Traders
GDP	Gross Domestic Product
GoIRA	Government of the Islamic Republic of Afghanistan
HEC	High Economic Council
ICC	International Chamber of Commerce
IMF	International Monetary Fund
IPA	Industrial Parks Authority
LML	Land Management Law
MAIL	Ministry of Agriculture, Irrigation and Livestock
MFI	Micro-finance Institutions
MoIC	Ministry of Industry and Commerce
MoEc	Ministry of the Economy
MoF	Ministry of Finance
NES	National Export Strategy
NPP	National Priority Program
PRISEC	Executive Committee on Private Sector Development
PPP	Public Private Partnership
PPU	MOF's Procurement Policy Unit
PSD	Private Sector Development
RECCA	Regional Economic Cooperation Conference on Afghanistan
SDGs	Sustainable Development Goals
SEZ	Special Economic Zones
TVET	Technical and Vocational Education and Training
WTO	World Trade Organization

## 1. Introduction:

Despite all the challenges, the National Unity Government has prioritized economic reforms. The government has taken measures to institutionalize reforms and focus its efforts on the promising sectors. It has provided a prominent role to the private sector to participate in all key public policy debates impacting businesses and investment. Concrete steps have been taken to improve the business enabling environment. For example, the government acted on the private sector's recommendations to develop and approve an Electricity Law, an Open Access Fiber Optics Policy, a Public Private Partnership Law, secure membership at the WTO, develop a National Trade Policy, approve a National Export Strategy and pursue an alternative transit route through Central Asia.

Furthermore, the government has also taken systematic efforts to improve Afghanistan's performance in the World Bank Doing Business Indicators. In 2018, the government successfully submitted reforms to five of the ten Doing Business Indicators, the most reforms in a single year by any Afghan administration since 2002. Responding to the private sector priority for reform, the government established one-stop-shops for business licensing, construction permits and export to reduce time and cost to businesses. To improve access to serviced industrial land, the government passed an Industrial Parks Policy. The government took steps to reform the regulatory framework for mining. To improve access to regional markets, the government in partnership with the private sector launched a network of air cargo corridors to key current and potential markets for Afghan products.

However, many challenges remain. The rate of economic growth is now below the rate of population growth leading to declining per capita income and increased poverty. Unemployment is high with this trend having the potential to continue in the near future as 400,000+ new workers are joining the labor force each year. Moreover, deficient infrastructure continues to remain a key barrier for the private sector and dependence on foreign assistance to finance development is high.

Afghanistan needs job-rich growth and higher domestic revenue to provide employment opportunities for Afghan youth, reduce poverty and decrease dependence on foreign assistance. Meeting these goals will ultimately depend on the Afghan government's ability to attract investment and develop a vibrant private sector. The Afghanistan National Peace and Development Framework (ANPDF), the key economic development policy of the government, explicitly recognizes the critical role that the private sector plays in Afghanistan's development and growth.

The National Priority Program for Private Sector Development 2018-2023 (NPP PSD) is the key mechanism through which the Afghan government coordinates the desired reform actions in support of the private sector development, investment climate reform and economic growth. It formulates the key elements of the National Unity Government's (NUG) commitment to respond to private sector concerns and constraints.

The NPP PSD is made up of two parts:

- **Part A: The Strategic Framework** follows the strategic guidance for private sector development set out in the ANPDF. It is structured around four strategic priorities where action is needed if Afghanistan is to achieve the growth, reduce poverty, deliver prosperity and stability and meet the Sustainable Development Goals (SDGs). For each of the four strategic priorities, the document provides the key actions needed to achieve them. The Private Sector Reform Priorities (also known as the 11 Reform Priorities), reforms prioritized by the private sector and presented by the ACCI and Harakat at the London Conference to the Afghan Government and its international partners, together with the World Bank Doing Business Indicators make the core of this section. Other key policies informing the basis of this NPP include but are not limited to: the National Trade Policy (NTP), the National Export Strategy (NES), the Agribusiness Charter (ABC), the WTO Post-Accession Strategy, the government's work with the OECD "Boosting Private Sector Development (SMEs) and Supporting Entrepreneurship Policies," the UN's Sustainable Development Goals (SDG). Given the amount of work that has been done in these areas, one of the key purposes of this document is to provide an overall umbrella framework and to coordinate the implementation of existing

policies and plans. The relevant Policy, Institutional and Regulatory (PIR) reform actions are kept in this NPP while other reforms involving physical projects such as construction of railway, etc. will be referred to the relevant development council or any other official body in the government mandated to address those reforms. PRISEC (and this NPP) will monitor the implementation progress and report regularly to the private sector representatives through this PPD platforms.

- The private sector plays a central role throughout this NPP. The Afghan Government will deepen and increase even more the effectiveness of its public-private dialog efforts in an even more systematic way with the Private Sector Development Executive Committee (PRISEC) leading the technical process.
- **Part B: The Implementation Plan** consolidates the priority activities identified in each section of the Strategic Framework, key performance indicators, roles and responsibilities of specific government ministries and agencies, timeline of activities and budget estimates. The Implementation Plan is a living document and the reform action items in it shall be a “rolling plan” with a quarterly reporting mechanism. Implementation and accountability are the two most important elements in the Implementation Plan. The Afghan government through the Ministry of Finance has already started working with Afghanistan’s international partners to reach a firm agreement on the involvement of donor countries and international organizations to ensure alignment of the government’s business reform agenda with the development spending by Afghanistan’s international partners.

While this is the primary National Priority Program for Private Sector Development (NPP PSD), a number of other NPPs cover elements of PSD as a crosscutting issue:

- The **Mining Sector Roadmap** envisions how the government will approach and set policies for the development of large mines and the extractive industries. Building on the roadmap, this NPP will only address downstream value chain aspects, legal and regulatory matters and related trade issues.
- The **NPP on National Comprehensive Agricultural Development** covers the production of agricultural goods. However, agribusiness is covered by this document (NPP PSD) as it is central to the National Export Strategy, the National Trade Policy and the Agribusiness Charter.
- The **NPP on Women’s Economic Empowerment** aims to remove the barriers to economic inclusion that women face thereby ensuring that they have the same economic opportunities as men. Supporting this aim is a guiding principle for work undertaken as part of this NPP.
- The **NPP on National Infrastructure** looks to increase the supply of the key services such as electricity, roads and water that businesses need to operate effectively. This NPP includes related initiatives to improve the supply of serviced industrial land and policy, institutional and regulatory aspects of infrastructure-related reforms related to businesses (those not substantially covered by other Development Councils). However, “hard reforms” such as construction work and managing actual projects remains under the NPP Infrastructure.
- **NPP on the Justice Sector Reform** looks to improve the operations of the Afghan legal system. The NPP PSD also covers a part of this: it looks to improve the commercial legal framework and the operations of the commercial courts and arbitration system (both domestic and international arbitration).
- The **Human Capital Development Program** covers, amongst other things, the Technical and Vocational Education and Training system (TVET). The PSD NPP will cover only the legal and regulatory aspects of TVET related to the private sector and not directly addressed elsewhere.

## 2. Private Sector Development in Afghanistan:

Decades of conflict and low capacity in the government have inhibited the emergence of a vibrant private sector in Afghanistan. At the beginning of Afghanistan’s reconstruction process, most economic activities revolved around agriculture and services. Indigenous industrial capabilities were weak and many were dominated by the state-owned enterprises in the previous government. To spur growth and development, the



government introduced a new economic paradigm based on free-market principles which is now anchored in the constitution. Prudent macroeconomic policies and the large influx of aid – Afghanistan received billions of dollars between 2002 and 2014<sup>1</sup> – helped the economy to grow at a rate of high single digit. Notable private sector development successes during this period included the growth of existing industries such as agro-food industry and construction and the rise of new industries like telecommunication, media, banking, beverages, plastics and pharmaceuticals.

However, the dynamics of growth could not sustain a robust private sector development. Many private sector activities were directly or indirectly oriented towards benefiting from large contracts financed by aid and the integration with the international economy was inadequate. Not surprisingly, the impact of the transition process and the associated decline in aid led to a sharp fall in economic activities in recent years. Moreover, levels of violence rose, forcing the government and development partners to maintain high levels of security expenditure. The delay in forming a government in 2014 created a perception of political uncertainty, which adversely affected investors' confidence. Many companies, especially those that depended on large development and military spending, closed their businesses and/or moved abroad. The remaining businesses need to work harder to stay in business. New investment, both foreign and domestic, fell considerably. The impact of these developments was clear: sluggish economic growth.

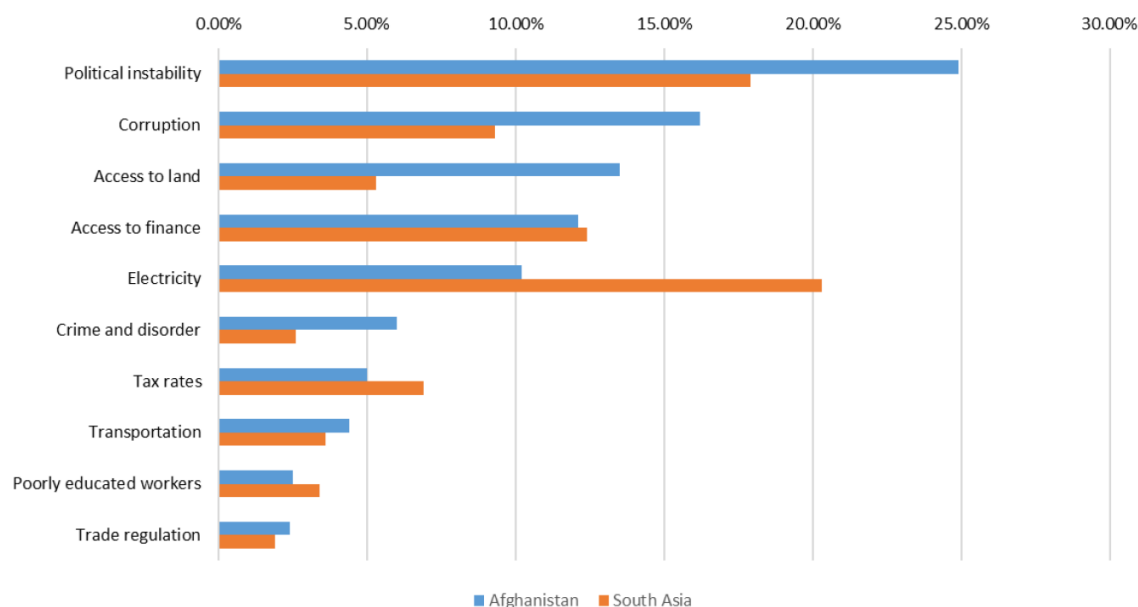
Informal businesses in the private sector outnumber the formally registered businesses in Afghanistan. Perhaps largely due to this reason, the private sector makes a small part of the overall GDP, with a similar situation in the share of tax generated and employment created. Small and medium (SME) plays a central role in developing the private sector in Afghanistan. Private sector development, including formalizing the informal sector, is one of an utmost priority in the government's strategy towards achieving greater self-reliance and private sector-led economic growth and job creation.

To support private sector growth, we must address the factors that constrain private sector growth: first and foremost, the high levels of violence, instability and crime that drive up the cost of doing business and negatively affect business activities (figure 1). This is particularly problematic for formal businesses which are more visible, and especially for SMEs that do not have sufficient resources to invest in adequate security. Aside from the direct impacts, violence and crime also affect private sector development indirectly by raising the cost of trade. Moreover, at present the situation also deters much needed foreign investment, especially in industries that have high capital and knowledge requirements such as mining and new services.

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<sup>1</sup> Afghanistan: A Synthesis Paper of Lessons from Ten Years of Aid by the World Bank Group

**Figure 1: Top obstacles experienced by firms in Afghanistan**



Source: World Bank Enterprise Survey, 2014

The coming years will likely remain challenging for private businesses. While the security situation can greatly benefit from the efforts by the government to achieve peace and reconciliation, the parliamentary and presidential elections in 2018 and 2019, respectively, will likely instill a greater sense of uncertainty among the private business community. In light of these challenges, developing Afghanistan's private sector may seem a daunting task. However, there are many high-level commitments on which private sector development efforts could build and rely on:

- The agriculture and mining sector show significant potential for development. The NUG has prioritized the development of agriculture and mining, and a comprehensive program for agriculture development is being implemented. It is estimated that by 2024 the agriculture sector alone would contribute \$3.5 billion to GDP compared to \$1.4 billion in 2012. To leverage development in the agriculture sector, the NUG is working on a dedicated strategy to promote agribusiness which will help to remove barriers to investment along agriculture and agribusiness value chains. Mining sector development has experienced a few setbacks in recent years as the government had to address several governance challenges that posed a threat to the development of the sector. Meanwhile, the Ministry of Mines and Petroleum has developed a new roadmap and strategy for the extractives sector which details the comprehensive range of reforms to modernize the Ministry and to ensure an open and accountable mining sector. Plans include increasing transparency in the contracting process, prioritizing activities to focus on mineral sub-sectors that can be developed despite Afghanistan's current infrastructure constraints, improving the legal framework of the extractive sector and reconfiguring the MoMP to focus on its core functions. This strategy will put mining sector development on a robust path and open manifold opportunities for the private sector to engage.
- Fighting corruption and strengthening the rule of law is at a major part of the government's strategy to foster peace and development in Afghanistan. A key element of this is the Anti-Corruption Strategy, which was announced in October 2017. Building on the recent successes in business registration and tax administration, the government will be focusing on streamlining processes and procedures across its line ministries, reducing discretionary powers through increasing transparency and forcefully modernizing administrative procedures through automation and digitization. The experiences of many countries show that streamlining and simplifying business administration can significantly improve service delivery to the private sector and reduce

opportunities for corruption. The government is moving towards digitalizing and streamlining even more business administration areas to further improve the quality of service delivery to the private sector by reducing time and cost and opportunities for corruption.

- Several reforms are currently underway to reform land governance, increase electricity generated by domestic sources and reduce connection cost, expand road/railway connectivity (in order to lower costs, increasing reliability and give more alternative routes to the private sector), improve domestic production of products and expand markets for those competitive products, strengthen the financial sector and enhance financial inclusion. The government recently approved an Industrial Parks Policy and has designed a demand-driven credit guarantee program to provide lower cost and longer term financing to priority sectors. The Central Bank of Afghanistan is developing a Financial Inclusion Strategy that will address many challenges that the business community are facing with. These reforms will require time to translate into tangible impacts for the private sector but the government remains strongly committed to prioritizing aspects of these reforms relevant to businesses.

The most recent enterprise survey (2014) indicates that access to critical production inputs such as land, finance and electricity continue to pose significant constraints. Accordingly, the NUG is committed to develop and implement relevant policy measures to tackle the challenges as below:

- Registered property rights over land are important to support investment, productivity and growth. Property owners with secure ownership are more likely to invest in private enterprises and transfer land to more efficient users. The ability to access authoritative information on land ownership reduces the transaction cost in financial markets, making it easier to use property as collateral. Currently, only around 30 percent of urban properties and 10 percent of rural properties have been registered by official institution. Challenges in land acquisition and land management are complex and encompass issues such as deficiencies in the legal framework, weaknesses in capacity to identify, map and register land as well as difficulties in resolve dispute in and outside of courts. Access to serviced land (including industrial parks) is a key priority for the private sector: access to land is identified as one of the top three obstacles identified by firms in the 2014 Enterprise Survey.
- Access to finance is very low and costly. Only an estimated 10 percent of adults (and only 3.8 percent of adult women) have bank accounts; lending to the private sector represents only 3.5 percent of GDP. Just two-thirds of formal enterprises report having access to a bank account; and only around 2 percent of firms use bank loans to finance investments. Bank lending is mostly on a short-term basis (i.e., 1 year). This means many key sectors such as production and export urgently need long-term financing (3-5 years) in order to expand operations and conduct longer term business planning.
- About two-thirds of the Afghan population has no access to the electricity grid. And while electrification rates have improved over the past decade – particularly in urban areas – barriers to electricity access remain high. It is costly to obtain a new connection, and even once connected, energy supply is unreliable. Afghan businesses on average suffered power outages for 524.40 hours per year. The shortage of electricity and poor quality of supply (i.e., voltage fluctuations and frequent outages) negatively impacts the whole economy, especially the manufacturing and services industries.

### 3. Strategic Priorities:

The shared vision of the NUG for Afghanistan rests on a model of socially responsible market economy in which a capable and thriving private sector leads the economic growth process, creates job opportunities, contributes to poverty reduction and gradually reduces reliance on foreign aid. The Afghan Government's key priority is a private sector-led economic growth that meets domestic demand and exports to foreign markets.

The overarching objective of the 2018-2023 PSD NPP is to encourage private sector investment through restoring private sector confidence in Afghanistan's public administration, creating an enabling environment



for investment, facilitating private sector production and supporting trade. In developing this NPP, the Afghan Government is seeking to respond to private sector concerns in a practical and sustainable manner along the following principles:

1. Ensure that existing businesses, especially SMEs and micro businesses, are better equipped to manage the risks and uncertainties presented by Afghanistan's country context. This will involve moving more forcefully on business enabling environment ("doing business") reforms (including for SMEs and micro businesses), establishing instruments for risk-sharing, and, jointly with the business community, identifying opportunities for improving security around business activities.
2. Present and facilitate opportunities for new investment — for instance, in public private partnerships. This will involve engaging in greater outreach and improving the institutional and human capacity of line ministries and agencies to better serve and deliver essential services to the business community and resolve issues in a coordinated and structured fashion.
3. Ensure the removal of barriers to the participation of women in the economy and ensure that all services are accessible to businesses led and organized by women. All actions under this NPP should therefore be sensitive to gender concerns.
4. Prioritization within the next five years must be ruthless and realistic given the capacity and resource constraints. As a priority for the next 18 months, activities need to focus on retaining and growing domestic businesses. To avoid overstretching capacity, business facilitation to new large-scale investment should focus on PPPs in ongoing infrastructure initiatives. Finally, the government should ensure that funding is available for the highest priority initiatives, eliminate overlap between programs and carefully track progress of these programs.

The NPP PSD has translated these vision, objective and principles into the following strategic framework:

1. Strategic Priority 1: Restoring Confidence and Creating an Enabling Environment for Businesses
2. Strategic Priority 2: Increasing Access to Key Inputs for Business
3. Strategic Priority 3: Sharing Risks and Crowding in Investment
4. Strategic Priority 4: Facilitating and Securing Trade and Transit

For each strategic priority, the NPP PSD identifies key short-term (first 18 months) actions and medium-term (within 5 years) actions (effective from the approval date of this NPP).

### 3. Strategic Priority 1: Restoring Confidence and Creating an Enabling Environment for Businesses:

An environment conducive to business is paramount to enable businesses to invest, grow, create jobs and generate revenue. A critical part of this NPP is to recognize the risks and uncertainties businesses in Afghanistan face and to address them heads-on with a three-pronged approach:

- Identifying opportunities for cooperation on security matters in local business communities;
- Forcefully implementing doing business reforms across all relevant dimensions;
- Addressing constraints in priority value chains.

This is indeed to address the fact that, in Afghanistan, the business environment is not only challenged by weaknesses in laws, regulations and administration but also by the prevailing security environment and perceptions over political instability and uncertainty. International studies—and Afghanistan's own history—has shown that political uncertainty typically heightens in the year leading up to elections, resulting into lower investment.

### 3.1 Cooperation on Security and Crime Prevention:

Crime, kidnapping, corruption and insecurity have a major impact on the viability of Afghan businesses. They have also become a major barrier to formalization with businesses choosing to stay small and informal in order to maintain a lower profile and avoid the attention of corrupt officials and criminal gangs. Key trade routes have become increasingly unsafe with robbery and extortion increasing. While insecurity may be part of Afghanistan's reality in the years to come, effective partnerships between law enforcement and local businesses could embrace safety as a shared responsibility. Law enforcement and members of the local business communities must develop positive working relationships to build enduring solutions and increase trust between the police and the business community. Partnership solutions need to be creative, developed jointly and be adaptable to the local security context. To better address concerns of businesses related to corruption by government officials, and as part of the National Strategy for Combating Corruption, an Ombudsman will be appointed to defend citizens (including businesses) with legitimate claims against state entities that infringe on their rights.

#### Key Actions

##### Within 18 months

- Focus the mandate of the recently established Private Sector Safety Committee led by Office of the Second Vice President to include representatives from the private sector, the security sector ministries to identify opportunities and develop solutions to better protect local businesses, including improving protection by the police in industrial parks and streamline/simplify the procedure for issuance of guns to businesspeople for personal protection
- Appoint an ombudsman (as per the National Strategy for Combating Corruption) to address grievances arising from corruption cases related to businesses

### 3.2 Implementing an Investment Climate Reform Roadmap:

Improving Afghanistan's business enabling environment has been one of the cornerstones of the NUG's reform agenda. Since coming to office in late 2014, several reform initiatives have been implemented to address the priorities for private sector reform agreed to at the London Conference in 2014. Important strides have been made. For example, the government has been implementing a series of administrative reforms to the taxation system aimed at reducing the cost of compliance for businesses. The investment licensing and trade licensing agencies were consolidated and a One-Stop-Shop (OSS) was established under the Afghanistan Central Business Registry and Intellectual Property Rights (ACBR IPRS) in Kabul to reduce the regulatory burden on business.

The Business Licensing OSS abolished the requirement for acquiring a Business Registration Certificate, significantly lowered the cost of starting a business, extended business license validity from one to three years and brought together representatives of sectoral ministries all under one roof. The OSS in Kabul is currently working on the process of electronically connecting 21 provincial offices to the central database to ease starting a business at sub-national level. Other major reforms included passing an Electricity Law, Procurement Law, adopting an Open Access Policy for Fiber Optics and approving PPP regulatory reforms. Similarly, Export Promotion Agency of Afghanistan (EPAA) and the Customs department of the Ministry of Finance recently inaugurated an OSS for cargo exports at the Kabul airport to expedite export processes. Similarly, new Insolvency and Company laws have been approved by Presidential decree.

Despite these achievements, the government is willing to undertake more reforms, especially on areas of priority. To achieve this goal, the government is taking a systematic and prioritized approach to taking action. In order to improve implementation and coordination of efforts, the government established a high-level Private Sector Development Executive Committee – PRISEC – which acts as a de facto High Development

Council (HDC) for the NPP PSD and brings together the government, development partners and the private sector to oversee the implementation of agreed reforms aimed at supporting private sector reform priorities.

Moreover, the NPP PSD contains a time-bound (18 months, 5 years) and budgeted Investment Climate Reform Roadmap, which consists of the Private Sector Reform Priorities (11 Reform Priorities) presented by the private sector to the government and its international partners at the London Conference (2014), the reforms identified for improving Afghanistan's ranking in the Doing Business Report and other relevant efforts and commitments by the government (i.e., collaboration with the OECD on the SME support, SDG, NES, WTO commitments such as implementation of the TFA and modernization and accreditation of the SPS, TBT labs and procedures, establishment of a food safety authority and development of conformity assessment mechanism, etc.). The principal purpose of this NPP is to remove important barriers to a private sector-led development where the private sector can genuinely serve as the engine of growth. Small and micro businesses are also taken into account to the extent practical.

The government recognizes that Afghanistan remains among the lowest ranked countries in the world in the Doing Business report (183 out of 190) and the lowest in the South Asia region. The government has already started a systematic effort to improve Afghanistan's ranking in the Doing Business Report. The first fruit of the reforms is expected to be reflected in Doing Business Report 2019 scheduled to be released in October of 2018. Moreover, a new Doing Business Reform Memorandum identifies short- and long-term opportunities for reforms. It contains specific reform recommendations for ten Doing Business Indicators, which are the following: (1) starting a business, (2) dealing with construction permit, (3) getting electricity, (4) registering property, (5) getting credit, (6) enforcing contracts, (7) resolving insolvency, (8) protecting minority investors, (9) paying taxes, and (10) trading across borders.

The table below summarizes the reforms identified in the Doing Business Reform Memorandum (except on getting credit and trading across borders, discussed in their respective sections in this document).

#### **Key Actions:**

##### Within 18 months

##### **Starting a business**

- Implement the reduction in business start-up fees and expand it to all types of businesses
- Rationalize the cost of municipality licensing that is higher than ACBR's in collaboration with key stakeholders
- Fully implement the licensing registration procedure approved in 2018
- Provide Breshna with the access to the ACBR central database to verify industrial/commercial firms that apply for preferential electricity tariff rate (currently 6.25/kW)
- Launch the ongoing effort to expand the ACBR business licensing to provinces
- Develop an action plan to streamline all sectoral licenses and rationalize their costs (including all known and hidden costs by line ministries)

##### Within 5 years

##### **Starting a business**

- Increase transparency of information at the ACBR, to sustain the quality and reliability of ACBR as the repository of business data
- Implement a full online business registration platform
- In consultation with the private sector, conduct an assessment to determine to what extent sensitive business information (ownership, beneficiary shares, investments, size, address, etc.) should be publicly available on ACBR website to better respond the security concerns of businesses in this regard
- Allow prospective (new) applicants to reserve online two business names for a period of 24 hours to reduce the time it takes to register a new business at ACBR
- Add a firm classification clause in the relevant regulations so that "SME" and "micro business" are clearly defined for the purpose of appropriate treatment in allocation of incentives, taxes, etc.

### **Dealing with construction permits**

- Create a working committee consisting of Arazi, Makhzan and Kabul Municipality (lead) to facilitate and expedite efforts on verification of land ownership for commercial buildings and the transfer of deeds from Makhzan to Arazi
- Clarify and publish the process of construction permit application including the fee schedule for commercial buildings
- Review the internal processes at Kabul Municipality to identify opportunities to streamline and introduce an expedited procedure to obtain building permits for low risk commercial and industrial buildings

### **Getting electricity**

- Put into use a tracking system for electricity connection applications and complaints
- Implement the recently streamlined procedure for electricity connections for commercial buildings and increase the transparency of connection requirements, connection costs and electricity tariffs
- Given Breshna sufficient access to the ACBR central database to verify firms applying for the preferential electricity tariff rates (6.25 AFN/kW) so that commercial/industrial firms can swiftly get a connection line
- Harmonize the electricity tariff rates for SMEs (6.75 AFN/kW) and micro businesses (currently 12.5 AFN/kW)

### **Registering property**

- Expedite the approval and implementation of IDPL project supported by the World Bank, including the transfer of property deeds from Makhzan to Arazi
- Improve transparency of the land administration system by making information on service standards, transfer transactions and land disputes publicly available online and at the Primary courts, Municipal land offices and ARAZI
- Create a specific and independent mechanism to track and deal with complaints related to property registration and cadastre

### **Dealing with construction permits**

- Update and clarify the legal and regulatory framework for construction permitting
- Consider revising and implementing a risk-based approach to construction permit application process and inspections
- Establish quality control and safety mechanisms before a new building can be occupied
- Update Kabul's master plan and zoning regulations
- Establish a single window for online application and approval of construction permits
- Set up a professional accreditation program for engineers, architects and planners
- To roll out improvements to other major cities (Kandahar, Jalalabad, Mazar, Herat)

### **Getting electricity**

- Conduct a study on drivers of costs of obtaining a new connection to identify potential remedies.
- Initiate the measurement of the system average interruption duration index (SAIDI) and the system average interruption frequency index (SAIFI)
- Implement an automated system to monitor outages and restore services
- Develop Geographic Information System (GIS) for the electricity distribution network
- Continue implementing and improving the role of the National Energy Regulatory Authority to better monitor utility reliability (SAIDI and SAIFI)
- Allow for online submission of the application, automatic scheduling of the inspection, and consider turning the electricity distribution company into a one-stop-shop for electricity connections

### **Registering property**

- Computerize/digitize land records, maps and property titles
- Integrate the databases and systems for land registration and cadastre
- Improve transparency by making information on land ownership, maps and boundaries publicly available
- Improve tenure security and implement specialized dispute resolution mechanisms

- Implement the new Land Management Law and adopt implementing regulations to make property registration an administrative out-of-court registration process. Transfer competence to ARAZI

### **Protecting minority investors**

- Ensure the new Companies Act enters into force
- Conduct PPD in Kabul and provinces and a thorough communication campaign is undertaken to inform the private sector of the changes

### **Paying taxes**

- Improve transparency of the tax administration system
- Adopt and implement amendments to the Tax Administration Law and the Income Tax Law, and engage with private stakeholders on the new provisions
- Expand the coverage of the fast-track filing system
- Introduce by 2019 a pilot e-filing of tax payment for SME and micro businesses to improve tax compliance and expand the e-filing of taxes for all businesses by 2020
- Determine a clear and reasonable duration for the issuance of tax clearance letters for business license renewals
- Delink Tax Clearance Certificates from the tax audit process
- Create and implement a mechanism at customs that enable traders to take products to exhibition abroad can bring those items back to the country after the exhibitions without paying undue customs duties
- Activate and improve a tax complaint tribunal where private sector can register their disputes and complaints
- Support the business community to improve participation in taxation matters by promoting international best practices and activating ICC Taxation Policy Commission

### **Enforcing contracts**

- Publish commercial court judgments online
- Establish the arbitration board
- Strengthen the Commercial Dispute Resolution

### **Paying taxes**

- Enhance tax administration capabilities and modernize ARD's operations
- Enhance measures to encourage voluntary compliance
- Improve the tax objections process.
- Continue automation efforts to introduce e-filing and e-payment for all types of tax transactions
- Make audits more efficient and implement a robust risk-management system
- Conduct PPD on tax, including utilizing "Tax Charter" prepared by the ICC to conduct dialog on rights and responsibilities of taxpayers and the government
- Legally define "formal business" and "informal business" for the purpose of paying taxes, incentives and startup tax exemption for a 3-year or 5-year period to be discussed among relevant stakeholders
- Amend the Income Tax Law to provide a one-time 3-year tax exemption for new startups, especially small and micro businesses to promote formalization and broadening the tax base
- Amend Article 60 of the Income Tax Law to simplify paying taxes, adopt a simplified and differentiated rate for small and micro businesses in order reduce cost of compliance expand the tax base

### **Enforcing contracts**

- Revise the rules of civil procedure to establish time standards and regulate adjournments
- Review the case management system and launch a

Center (ACDR) so that it can provide arbitration services

- To improve FDI attraction, support implementation of a program to facilitate international arbitration services using well-established practices and arbitration service providers such as the ICSID/ICC, the program should contain the following elements: the enforcement of arbitration awards, development of International Arbitral Award Enforcement Procedure, conducting awareness activities for businesses and judges, providing workshops and trainings for arbitrators and judges for Kabul and two other key commercial hubs, translate key documents related to arbitration and dispute resolution rules
- Amend the Commercial Arbitration Law to clarify the source of issuance of arbitration license and announce a procedure for accreditation of arbitrators, recognizing that awards arising from arbitrations will be upheld by the Courts in Afghanistan as agreed to in the New York Convention to which Afghanistan is a signatory
- Accept and formalize a practical mechanism for the recognition of domestic and international arbitration awards
- Amend Article 5 of the Principles of Commercial Law (Qanoon-e Osule Tojarati) be amended such that businesses still have the choice to settle disputes through commercial courts even if it is written in their contracts to resolve their disputes through alternative dispute resolution mechanism.
- Change the allowed duration for ghaebi (runaway persons) to be reduced from 60 days to 10 days

#### **Resolving insolvency**

- Ensure the new Insolvency Act enters into force and a thorough communication campaign is undertaken to inform the private sector of the changes
- Increase training for judges to deal with insolvency case

pilot electronic automated case management system in the Kabul commercial courts

- Refine the existing performance evaluation system for judges
- Strengthen commercial courts' capacity to hear and decide commercial cases efficiently through continuous training for judges and court officials
- Review the Commercial Arbitration Law to clarify the requirements of arbitration practitioners and methods of enforcement
- Consider a pilot program for accreditation of judges for commercial courts and developing Terms of References for them with clear roles and responsibilities

#### **Resolving insolvency**

- Promote and facilitate out-of-court workouts

### **3.3 Addressing Constraints in Priority Value Chains to Meet Domestic Demands and Boost Exports:**

In the past, the private sector — through the chambers of commerce and trade associations — had the opportunities to raise their concerns on ad-hoc basis, which was neither systematic nor effective. As part of broader Public-Private Dialog (PPD), the government has taken concrete steps to establish a permanent



platform for private sector development where the private sector representatives present their pressing needs and concerns and monitor the progress of government's reform commitments. The PPD will be led, facilitated and supported by the PRISEC Secretariat, which will develop a PPD framework in consultation with the private sector to ensure that all business sectors are represented fairly and meaningfully.

The government has undertaken significant analytical work together with the stakeholders to move Afghanistan up the sector value chains and to promote domestic substitutes for imports. In addition to the PPD, the NPP PSD has aligned the following key reform policies and actions (segregated by 18 months and five years): the National Export Strategy (NES), Afghanistan National Trade Policy (ANTP), Comprehensive Agriculture Development NPP (CAD NPP), Agribusiness Charter (ABC), "Boosting Private Sector Development and Entrepreneurship Policies" by the OECD and the Sustainable Development Goals (SDG).

In line with the Sustainable Development Goals #9 (promoting inclusive and sustainable industrialization) and SDG #12 (ensuring sustainable consumption and production patterns), the Ministry of Economy is working to develop "Moving towards a More Productive Afghanistan." Where feasible and within the government's strategic objectives, this effort aims to promote – at a level of technical analysis and macroeconomic coordination – the production of targeted major import items with a focus on increasing domestic production for domestic consumption and enhancing exports of targeted items (fully in line with and complementary to the National Trade Policy, the National Export Strategy, Agribusiness Charter, etc.). The primary goal of this concept is to reduce certain costs of production in order to improve value addition, promote competition in producing certain goods in which Afghanistan has a competitive and comparative advantage inside Afghanistan and increase the productivity with an ultimate eye on improving the balance of trade.

The "Towards More Productive Afghanistan" can be added to the scope of this NPP after completing the officially required review and approval process in the government and ensuring that in it there shall be no duplication of efforts with the other already approved policies and programs or any major contradiction with the government's stated strategic development objectives.

The government has a strong commitment to identify the most promising sectors for priority support. Most recently, the National Export Strategy identified six priority sectors: (1) dried fruits & nuts, (2) fresh fruits & vegetables; (3) saffron; (4) marble & granite; (5) carpets; (6) precious stones and jewelry. In addition to specific support to exporting sectors, the government will support Afghan producers and traders targeting the domestic market. Such support requires both horizontal policy measures and specific assistance at the sector or firm level. Key measures in this regard include assistance to sectors and producers aiming at the domestic market, the protection and strengthening of IPR and the protection of domestic businesses against unfair import competition. Moreover, the Agribusiness Charter proposes a detailed action plan (2018-2023) to unleash the potential of selected value chains in agribusiness (e.g. grape, apricot, walnut, almond, onion, potato, dairy and poultry) through four pillars: enabling policies and regulations; facilitating access to finance; creating and supporting innovative institutions and agri-spatial (agribusiness industrial parks) solutions and institutional strengthening. These policies and actions are complementary to each other and address specific needs the broader supply and value chains.

Many of the business reforms by the Afghan government are in line with the aims of the international initiatives such as the United Nation's Sustainable Development Goals (Indicator #9: promoting inclusive and sustainable industrialization; Indicator #12: ensuring sustainable consumption and production patterns) and Afghanistan's commitments to World Trade Organization (including the WTO Post-accession Strategy 2016-2031).

## Key Actions

### Within 18 months

- Develop a timetable for sector specific consultation through PRISEC (as part of PPD strategy)
- Develop law on Anti-Dumping
- Develop law on Countervailing measures against non-actionable subsidies
- Establish and operationalize trade remedies office under International Trade Department of the Ministry of Industry and Commerce
- Mobilize funding for implementation of Agribusiness Charter and initiate implementation (in coordination with NES)
- Develop implementation strategy (including financing strategy) for NES priority sectors (building on the six action plans developed) and initiate implementation of top priority sectors – in coordination with Agribusiness Charter and Mining Sector Roadmap
- Conduct technical studies to assess and analyze factors that contribute to high cost of production and propose practical solutions for priority items (domestic production and exports).
- Develop (by ANSA) equivalence mechanism and essential standards in line with the WTO Technical Barriers to Trade (TBT) Agreement
- Conduct value chain analyses for the top 10 import and export items to identify industries that require specific skills and filling gaps in the value chain to make them more productive.
- Develop implementation plan of top priorities and initiate implementation of top priority sector (related to Trade Policy, Quality, etc)
- Establish a NES implementation monitoring and management mechanism
- **Urgently start work to develop a roadmap for modernizing quality /SPS/certification infrastructure and management** in collaboration with competent specialized technical organizations such as the ITC and the private sector.

### Within 5 years

- Pursue sector specific consultations and implement agreed sector specific policy reforms for all major sectors (as part of PPD strategy)
- Pursue implementation of Agribusiness Charter
- Implement the NES priority sector action plan
- **Urgently approve and implement a plan to modernize quality /SPS/certification infrastructure and management** in collaboration with competent specialized technical organizations such as the ITC and the private sector
- **Establish a streamlined National Food Safety Authority to regulate and support standardization of food safety**
- Harmonize all SPS measures with international standards, requirements, accreditation and best practices
- Establish nine new quarantine check posts and development of pre and post quarantine facilities
- Develop a national industrial policy for domestic production [for priority sectors]

#### 4. Strategic Priority 2: Increasing Access to Key Inputs for Business:

The Afghanistan Enterprise Survey (2014) indicates that access to critical production inputs is a major constraint to investment and business growth. This includes land, finance and electricity. Issues related to land management reforms and electricity supply and distribution are dealt with respectively in ARAZI Institutional Development Program for Land Administration and in the NPP's for National Infrastructure and Connectivity as well as Section 4.2 (Registering Property) of this document. This section will present plans to improve:

- Access to Financial Services
- Access to Serviced Industrial Land

##### 4.1 Increasing Access to Finance:

The importance of increased access to finance has been stressed repeatedly by businesses in Afghanistan and is one the Sustainable Development Goals indicators (SDG #9.3: affordable credit for small businesses). As of end-2016 the banking sector consists of 15 banks with total assets of US\$4 billion, customer deposits of US\$3.6 billion and a gross loan portfolio below US\$0.7 billion. The level of access to finance is particularly low in Afghanistan, with domestic credit to private sector representing 3.6 percent of GDP (16.5 percent in Pakistan and 19.2 percent in Tajikistan).

Over the last few years, the government has been focusing on increasing access to finance for the private sector and households, while maintaining financial sector stability. For example, the government has focused on establishing key financial sector infrastructure: public credit registry, movable collateral registry and a modernized payment system. The government has also been supporting the development of microfinance through the Microfinance Investment Support Facility for Afghanistan (MISFA). Moving forward, further efforts are needed to increase access to finance and maintain financial sector stability.

Risk-sharing facilities (i.e. partial credit guarantees) can play a key role in encouraging banks to scale up lending to sector and clients they consider particularly risky, such as agriculture or small and medium enterprises (SMEs). Some risk-sharing facilities are already available in Afghanistan (Afghanistan Credit Guarantee Facility and USAID Development Credit Authority), but they should be scaled up to encourage commercial bank lending to agriculture value chains and SMEs. Such partial credit guarantees would need to be complemented by technical assistance to financial institutions to enhance their credit appraisal and recovery capacity.

Afghan commercial banks mostly rely on short-term resources (i.e. short-term deposits), which in turn, constrain their ability to extend medium to long term loans. In that context lines of credit to commercial banks (which would allow them to extend credit maturity) and a long-term investment financing facility should be considered.

The microfinance sector can be a source of financing for smaller businesses, which cannot access commercial banks. Efforts to support the development of the microfinance sector, through the Microfinance Investment Support Facility for Afghanistan (MISFA) should therefore be pursued.

Some entrepreneurs are unwilling to use conventional banking due to their religious beliefs. Chapter VII of the recent Banking Law provides a sound statutory basis for Islamic banking activities in Afghanistan. However, a recent assessment of the Banking Sector of Afghanistan by the IMF identified the need for amendments to this section of the Banking Law, and improved regulations, to clarify and validate some of the unique features of Islamic banking. There is also a need to incorporate Islamic accounting practices into the accounting standards of Afghanistan and the practices of Afghan institutions.

More broadly, the government is making efforts to increase financial inclusion in the country (i.e. access to formal financial services), through the development of a National Financing Inclusion Strategy. Currently, only an estimated 10% of adults (and only 3.8% of women) own a bank account. In addition to credit, households and firms need access to a wide range of financial services: such as savings, insurance and payment. In that context, the government is focusing on developing digital payments, which can greatly facilitate access to

financial services when financial “brick and mortar” infrastructure is limited across the country (with commercial banks and microfinance institutions activities concentrated in major urban centers).

In parallel, efforts to maintain financial sector stability need to be pursued. The banking sector is underdeveloped and fragile with Non-Performing Loans (NPLs) reaching 17% in mid-2017. The government of Afghanistan has taken steps to improve the operations of the three state owned banks (Bank-e-Millie Afghanistan, Pashtany Bank and New Kabul Bank) with the approval by the High Economic Council in 2017 of “Principles of State-Owned Bank Reform – Strategic Vision.” The government will focus on carefully balancing the development of the banking sector to increase access to credit while maintaining banking sector stability.

To significantly and sustainably increase access to credit, improvement in the overall business enabling environment, particularly through a reduction in uncertainty, is necessary.

## Key Actions

### Within 18 months

- Expedite approval and launch of the Credit Guarantee Program recently developed by the Central Bank in collaboration with the World Bank that provides long-term (3-5 years) loan for priority sectors, deposit insurance and risk-sharing/partial-guarantee in demand-driven areas to scale up existing partial credit guarantees solutions
- Increase “credit support” options available to banks by improving or developing Central Bank regulations relating to provisioning and collateral so that use of movable property as collateral is more widely accepted and utilized by lending institutions, cross-collateralization and the use of credit guaranty schemes in place of (or in augmentation of ) present immovable property collateral requirements
- Finalize Financial Inclusion Strategy with a focus on financial literacy for micro and small firms and begin implementation
- Develop and launch Public Credit Registry (PCR) Phase II in order to expand the number of adult population registered in the PCR to more than 5% of the population, increase depth of financial information for users which are the key objectives of the MoU recently signed between the Central Bank and Breshna on sharing electricity users into the PCR system
- Complete the ongoing efforts by the Central Bank to become the regulator of the microfinance sector, develop the essential microfinance legal and regulatory framework and promote microfinance lending to micro businesses
- Continue to support the development of the microfinance sector through MISFA, in areas of product development and delivery channels and

### Within 5 years

- Develop law and regulations on Islamic banking
- Develop a mechanism for educate Judiciary (Strengthen the power of the Supreme Court to actually invalidate “traditional” laws and practices of the commercial court officials)
- Incorporate Islamic accounting practices into Afghan accounting standards
- Implement action plan to develop the insurance sector
- Implement the State-Owned Bank reform strategy
- Implement the new Banking, Anti-Money Laundering and Counter Financing of Terrorism laws
- Continue to reinforce banking supervision and strengthen vulnerable and weak banks
- Allow private firms and individuals to access credit information on other borrowers and provide credit scores by reviewing the Credit Regulation.
- Amend the legal framework to strengthen out-of-courts enforcement procedures enabling creditors to repossess and dispose of the collateral without delay.
- Increase of the number of qualified and regulated auditors.
- End suspension [reach a final binding decision with the Supreme Court and other legal stakeholders] of Article 27 of the Mortgage Law that provides for a mortgagee’s power of sale.
- Conduct targeted training and awareness workshop periodically to increase the working knowledge of the stakeholders on the key provisions of newly approved laws on Accounting and Auditing Law with an aim to improve the legal environment required for investment in

complete the Central Bank's recent decision to become regulator of microfinance sector

accordance with international norms and in line with IFRS/IFAC

- Support the development of digital finance, with an initial focus on Government-to-Persons (G2P) Payments
- Expedite rolling out a practical e-financing mechanism that enables businesses to make direct payments to the government (i.e., taxes, fees) through their computers or mobile devices to increase efficiency and reduce time and cost of doing business
- Strengthen the Agriculture Development Fund to sustainably enhance access to finance for agribusinesses
- Encourage the use of the Public Credit Registry (PCR) by increasing awareness of stakeholders, users, consumers and data providers of the credit system
- Through PCR, start collecting credit data from stakeholders other than banks (e.g., microfinance institutions, utilities, cell phone providers, retailers, etc.) using best practices and within legal boundaries.
- Conduct a PPD with a focus on financing for carpet value chain [production and export]
- In the Credit Guarantee Scheme (by the Central Bank), develop financial products for priority sectors, including carpet (production and export), construction materials, mining (marble/granite) and trade financing for export

## 4.2 Supply of Serviced Industrial Land

Access to serviced industrial land (land with water, electricity, access road and security) remains a key barrier for the private sector. To address it, the government passed a new Industrial Parks Policy. The government is committed to key aspects of good practice on developing industrial parks. Industrial parks will be developed only after careful site selection which looks at demand for serviced land, whether proposed industries will be sustainable from a competitive perspective and the cost of bringing services (e.g. electricity, water and access road) to the site. Future industrial parks will be established either by the private sector or through PPPs where the government grants a concession to a developer to develop and operate an industrial park for a defined period.

The principal PPP models delivering effective private-sector participation in industrial park development, operation and management are joint ventures, concessions, leases, management agreements, and build-operate-transfer (BOT), Build-Own-Operate (BOO), and Build-Own-Operate-Transfer (BOOT) arrangements, as well as modified or partial Design, Build, Finance, Operate (DBFO) and Design, Build, Finance, Operate, Own, and Transfer (DBFOOT) arrangements. In a joint venture, the public sector usually contributes assets (e.g., land) to a corporate entity called a "special purpose vehicle" (SPV), which is for the development and operation of the industrial park, while the private sector contributes capital, operating cash and expertise.

In a concession, the private sector builds-out and operates government-owned assets for a time-bound period, typically in the range of 25-99 years, without acquiring full legal ownership over the assets. In a lease arrangement, the private sector pays for the use of public facilities (usually land with infrastructure connections) under specific terms of use. In a management agreement, the public sector pays the private party to operate assets, typically through a revenue-sharing formula (although sometimes through fees) governing the outsourcing contract. In some locations, e.g. less developed provincial sites, viability gap funding may be needed to meet any shortfall in the funding for PPPs (if demand is confirmed and if key infrastructure can be provided in a cost-effective manner). This will not be needed where there is strong interest from developers to secure land for industrial parks.

The Industrial Parks Development Department of the Afghan Investment Support Agency and the parks under its management were transferred to MoIC's Industrial Parks Directorate in 2016. The governance and economic arrangements for the industrial parks that are managed by MoIC's Industrial Parks Directorate have been clarified through the Industrial Park Policy that was recently approved by the government.

New industrial parks are capital intensive and will take many years to be constructed and become operational. MoIC will pursue establishment of new industrial parks where economically feasible. In the short term, the focus should be on identifying MoIC semi-operational or non-operational industrial parks with a strong demand from the private sector and where infrastructure can be provided in a cost-effective manner. A number of private industrial parks do not yet have adequate services such as sealed access roads and reliable electricity.<sup>2</sup> Urgent attention should be given to identifying the needs of these and similar parks as small infrastructure investments could lead to a rapid increase in the supply of industrial land in their respective areas. In addition, to meet the urgent need for industrial land, MoIC in collaboration with the MoF can identify State-Owned Enterprises (SOE) or State-Owned Companies (SOC) and propose conversion of such facilities, if abandoned, inactive or in a state of liquidation, but has the minimum infrastructure that can be quickly reconnected to services and rented out to the private sector. To facilitate this process, MoIC will map current government land holdings and private industrial parks onto the electricity, roads and water network to identify sites which can easily and affordably be connected to relevant services with promising government sites which are not already operating as industrial parks being offered as PPP opportunities to the private sector.

A wide range of initiatives to increase the provision of industrial land has been proposed by various stakeholders (government, the private sector and development partners): industrial parks, special economic zones, free economic zones, free trade zones, export processing zones, dry ports, agro-parks, etc.

The various proposed "spatial solutions" mentioned above should be critically reviewed, with the analysis starting from the constraint/market failure that needs to be addressed – to ensure that the proposed solution adequately addresses the underlying constraint. This would also include an analysis of the most appropriate legal framework for industrial parks and special economic zones. Subsequently, a master plan should be developed which builds on MoIC's mapping of industrial land and which sets out how these initiatives relate geographically to each other and identifies developmental synergies.

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<sup>2</sup> For example, the privately built industrial park for marble processors, which is located outside of Kabul, has 22 processors working there and room for another 200. It does not receive sufficient electricity for the current factories to operate. The absence of an all-weather access road means that it closes in winter as trucks cannot drive to it from the main road. Rectifying these failings would mean many more businesses could operate in it.



## Key Actions

### Within 18 months

- Support implementation of the recently approved Industrial Park Policy to rapidly increase the supply of serviced industrial land to the private sector, prioritizing the needs of small and micro businesses into account and considering established international practices and initiate implementation
- Create a regulation for industrial parks to more effectively translate the implementation of the industrial parks policy into administrative action within the government administrative apparatus
- Establish a working committee comprising of MOIC, Arazi, PPP Directorate of MOF, Special Economic Zones, MEW, MPW, MUD, EPA and the private sector representatives to agree on roles and responsibilities (including SME, and micro) and clarify decision-making authority
- Create a business implementation plan for existing industrial parks (26 land plots in 18 provinces) to increase private sector participation in their management and improve demand-driven service delivery with financial support for at least two industrial parks.
- Identify defunct SOEs, government land and existing poorly serviced public and private industrial parks (with demonstrated demand and for which infrastructure can be provided in a cost-effective manner) which can be quickly converted into serviced industrial land

### Within 5 years

- Continue implementation of the Industrial Park Policy recently approved by the government
- Conduct a credible technical assessment by an independent team of experts (circa 2020) (1) whether creating an industrial parks corporation and regulatory authority as requested by the private sector representatives in the London Conference (2014) is the best practical solutions or other better alternatives exist to adopt and (2) to identify the need for special economic zones, free trade zones, export processing zones, industrial parks, agro-industrial parks, dry ports, etc with a special legal regime and reliable analysis on fiscal implications
- Based on the findings and recommendations of the independent assessment, analyze the most appropriate legal framework for industrial parks that address unaddressed issues such industrial parks corporation, special economic zones and independent regular covering the entire sector
- Take the recommendations to the Council of Ministers/Cabinet for decisions
- Continue upgrading of industrial parks (with demonstrated demand and for which infrastructure can be provided in a cost-effective manner)
- [Depending on conclusions of analysis], develop legislation, policies and procedures for managing SEZ
- [Depending on conclusions of analysis], pilot establishment of SEZ on a PPP basis

## 5. Strategic Priority 3: Sharing Risks and Crowding in Investment

With a population of over 30 million, Afghanistan presents significant opportunities for investors to produce goods and services in order to meet domestic demand and also export to select markets in the region. However, Afghanistan has not seen the investment in the production of basic industrial products and foodstuffs with the adoption of market economy in 2003. While there has been investment in light-manufacturing and medium scale production of some basic industrial products — e.g. the production of steel in electric arc furnaces using scrap metal feedstock and, increasingly, in agri-business and the production of basic foodstuff — there has not been any significant investment in the production of industrial goods such as steel, cement, construction materials, etc. despite of existing potential for production. Moreover, investment in capital intensive productions has been declining in recent years due to the perceived levels of risks.

However, Afghanistan urgently needs new investment in industrial production and increasing export. In order to attract new investment, the government will adopt a more proactive and pragmatic approach to identifying

viable business opportunities in priority sectors, reaching out to potential investors (especially domestic businesses and the diaspora), facilitating partnerships and, in as many cases as economically feasible, sharing certain risks of investment in promising projects.

The government has started taking concrete policies and actions at a practical level. As noted, some of the actions taken thus far include: developing a National Trade Policy to rationalize tariffs and improve the balance of trade, designing a Credit Guarantee Scheme to offer more affordable, long-term loans and partial credit guarantees for priority sectors (i.e., production, export) as well as approving and implementing a Public Private Partnership (PPP) Law. Public Private Partnerships is one way to reduce risks of investment and several major projects in energy production based on PPP models are ongoing. Finally, state-owned enterprises (SOEs) are producing below potential, which decreases their potential to produce competitively and degrades their prospects to be eventually divested as private, profitable businesses.

This Strategic Priority outlines activities on:

- Investment Promotion
- Providing opportunities for Public Private Partnerships
- Improving the Performance of State-Owned Enterprises and ensuring level playing field

### 5.1 Investment Promotion:

There are investment opportunities in fragile and conflict-affected economies and some investors are willing to step in. Such countries received a total of \$202 billion in FDI over the 10-year period (2006-2016). However, Afghanistan's foreign investment attraction has been below average. Research shows that protection from political risks related to government conduct is important for investors. When asked about the types of political risk investors care more about, it is not terrorism or war that top the chart, but rather, adverse regulatory changes, breach of contract, transfer and convertibility restrictions.

The Afghan government is taking steps to streamline and strengthen its approach to investment promotion. Previously, AISA was mainly responsible for investment promotion. Following its closure a few years ago, the investment promotion directorate physically moved to the MOCI. As a result, the government recognized that, going forward, there is an urgent need to clarify and streamline the government's approach towards investment promotion. Therefore, the High Economic Council very recently approved the establishment of a Supreme Board for Investment Support (SBIS).

The Supreme Board for Investment Support will be chaired by the Minister of Industry and Commerce and its members consist of over 13 relevant deputy ministers/agencies and a PRISEC co-chair. It will have a secretariat that will be based at the MOIC. Its key mandate is to set policies and guide actions to support investment and approve incentives for new investment. The line ministries will implement its policy decisions.

The Supreme Board for Investment Support in coordination and collaboration with the relevant stakeholders will guide reform actions to streamline investment processes, review the Private Investment Law with an aim to increase investor protection for both foreign and domestic investors by doing the following (listed in the key actions table below):

1. Clarify the investment entry regime. Currently the Private Investment Law (PIL) 2005, while establishing openness to investment in all sectors as a general principle in article 4, establishes a list of prohibited and restricted sectors in article 5. Article 5, gives the Commission discretion to alter these lists by adding prohibited or restricted sectors as it sees necessary for public interest. It also subjects openness to investment in certain sectors to sectoral laws and leaves them outside the ambit of this law. This structure creates extensive ambiguity and discretion that gives the wrong signal to investors. This entry regime needs to be revisited in order to establish a clear and predictable policy on investment entry.

2. Streamlining and enhancing the investment approval process. The PIL 2005 splits the process of investment approval between the Commission and the AISA with some ambiguity. It also refers to rules and regulations to be promulgated under the law to give effect to its provisions and which have not been promulgated. There is a need to map the processes of investment approval in key sectors and take action to streamline these processes and ensure their transparency and efficiency.
3. Streamlining the process of obtaining a visa for foreign workers. The PIL 2005 gives registered enterprises the right to employ foreign managerial and expert personnel in article 20. There is, however, evidence that securing the visa for foreign personnel pursuant to the article is burdensome and unpredictable. There is a need to map this process and identify barriers and streamline the process to eliminate unnecessarily burdensome requirements and ensure predictability of timeframes.
4. Implement a targeted investment attraction incentives framework. The PIL 2005 provides some loosely defined fiscal incentives to investors across the board and subject such incentives to compatibility under the Tax law. Taking stock of all existing investment incentives under the different laws and designing a coherent, unambiguous and targeted investment incentives framework will be a key part of an investment attraction strategy. The new Income Tax Law was approved by the Cabinet in late 2017 and is now pending Parliament approval. It includes, in Article 78, incentives for manufacturing companies. The focus should be on operationalizing the tax incentives already included in the law, i.e. defining the criteria for incentives to be established by the Cabinet.
5. Streamlining investment exit procedures. Investors currently face hurdles in winding down their operations and exiting the country. Ensuring an efficient winding down process for investors is fundamental to encouraging investment, both domestic and foreign. It is important to map the winding down process and understand the reasons for protraction in this regard. Based on this analysis, an efficient process of closing a business and repatriating asset where a foreign investor is concerned should be put in place.
6. Establishing a grievance redress mechanism for investors. Tracking investors' grievances and setting up a mechanism to escalate and resolve investors' issue that may lead to dispute or to exit is the first step towards attracting investment. This requires setting a mechanism for tracking investors' grievances and creating an institutional framework for escalation and resolution.

## Key Actions

### Within 18 months

- Operationalize the tax incentives included in the new Income Tax Law (pending Parliament approval), i.e. defining the criteria for incentives to be established by the High Economic Council (including costing of tax exemptions)
- Revise the Private Investment Law 2005 to streamline and strengthen investment entry, investment protection, investment exit procedures and obtaining visa for foreign workers (use the ICC International Investment Guide as a source).
- Streamline and enhance the investment approval processes.
- Create and implement a targeted investment attraction incentive framework accompanied by an investment incentives directory published online.
- Establish and strengthen links between investment promotion desks of line ministries with the Ministry of Foreign Affairs, Commercial Attaches [MOIC] and the private sector chambers
- The MFA to review and significantly improve legal requirements for issuance of multiple entry and long-term visa [for businesses] that are used by other countries as basis for reciprocity in issuing longer term and multiple entry visas for investors and traders
- Streamline visa requirements for foreign business applicants and the government should actively use reciprocity
- Launch the ongoing e-consulate initiative to issue visa online for investors/traders
- Map the process of closing a business and integrate all the database systems and required procedures of the agencies that play a role in closing a business, including creation of an electronic capability between ACBR and PCR
- Create a mechanism within the government to coordinate and increase the availability of investment insurance solutions provided by MIGA, OPIC and others to domestic and international businesses, including the publication of a detailed list of all financial products (with contact information), investment insurance and financing instruments available to the private sector; conduct an awareness activity
- Develop a mechanism of coordination to allocate specific fund for Investment Insurance, to attract MEGA, OPEC and other national and international

### Within 5 years

- Develop and implement a binding Investment Promotion and Incentive Policy, in partnership with private sector chambers and using sources such as the ICC Guide on International Investment, ACCI and others.
- Strengthen MoIC Investment promotion capacity with strong investor facilitation and after-care services as well as strong targeted investment promotion capabilities
- Establish a fully functioning grievance redress mechanism to address the most severe grievances and prevent investor divestment.
- Approve the existing draft regulation that establishes an [phased] independent National Energy Regulatory Authority (NERA)
- Provide technical assistance to NERA to finalize and approve the following key documents: (1) tariff for purchasing power from the private sector after consultations with prospective investors, (2) net metering and (3) licensing.
- Design and build, in partnership with the private sector representatives, a National Convention and Exhibition Center in Kabul that enables foreign and domestic investors and buyers to see firsthand Afghan-made products (marble, carpet, high value agribusiness products) and develop business relationship with Afghan producers and traders
- Create provincial profile for investment promotion [by MAIL]
- In partnership with the private sector, create an investment guide and investment directory
- Similar to “Cod-e Jaza,” create a “business legal code” that brings together all the relevant business laws, regulations, policies in a single volume; harmonize the key commercial laws; publish the result in a dedicated website for easy access by businesses
- Approve and implement a SME Strategy and Implementation Plan in collaboration with the private sector and experienced technical organizations in this field such as the OECD – the SME Strategy must contain the following elements: (1) clearly define small and micro businesses (i.e., any business entity that pays taxes and has a TIN), (2) streamline, simplify and integrate with the one-stop-shop the delivery of

insurance companies

- Conduct an investment retention survey.
  - Establish a temporary mechanism, until the National Convention and Exhibition Center is ready, that enables foreign investors and buyers to safely visit Kabul, see firsthand Afghan-made products (marble, carpet, high value agribusiness products) and develop business relationship with Afghan businesses
  - Expedite current efforts to establish an independent energy regulatory authority and clarify the roles and responsibilities of the private sector & government through policy and regulation; Approve the Tashkeel for National Energy Regulatory Authority currently being reviewed by the Independent Civil Service Reform Commission;
  - Finalize the tariff for purchasing power from the private sector after consultations with prospective investors.
  - Urgently amend and approve the Mining Law to take the needs and concerns of the private sector into account (especially convertibility of exploration rights to mining licenses, improving transparency and governance); Approve a revised resource corridor strategy to implement scalable investments around (a) immediate oil & gas opportunities and (b) Hajigak iron ore and Aynak copper and officially communicate it to private sector stakeholders.
  - Expedite the ongoing effort to develop a Strategy for Development of Medium, Small and Micro Enterprises and Implementation Plan in collaboration with experienced technical organizations in this field such as the OECD [see what features this SME Strategy must contain in the 5-year timeline of this section]
  - Design and implement a [4-year] Entrepreneurship and Innovation pilot program [EIP] to facilitate, support and promote startups, entrepreneurship and innovation in the promising new sectors such as ICT, software development, electronic payment and digital banking, renewable energy, food processing and packaging, etc
  - Together with the private sector, the government will develop investment opportunities/projects, will raise awareness and market them among interested stakeholders
  - The government will facilitate a structured dialogue with the private sector, through PRISEC,
- business licensing for small and micro businesses, (3) provide a clear and simple tax plan and tax incentive package for micro and small businesses ensuring easy compliance to facilitate formalization of the informal businesses and expand the tax collection base, (4) update the e-governance strategy (2012) in order to promote digitalization of essential government services to businesses so that time and cost of compliance are significantly reduced for them (5) implement a practical e-payment mechanism so that small and micro businesses can electronically pay the government fees and taxes, and (6) establish and launch at least three [3] modern caravanserai-like commercial facilities that are similar to industrial parks but is smaller and specially designed for the specific needs of small and micro businesses and provide them with a clean and visible workplace to offer services, network and acquire new skills through training programs, etc., (7) build the capacity of the Central Statistics Office to collect and disseminate reliable SME statistics.
- Revise the laws on renting and leasing to address the key concerns of SME and micro businesses in these regards.
  - Update the e-governance policy in collaboration with experienced organizations such as the OECD to promote digitalization of delivery of government services to the private sector [referenced separately here again due to the importance of this issue to private sector development and economic growth].
  - Revising the Water Law to streamline ministerial responsibilities for irrigation water management within the government structure (especially between MAIL and MEW)
  - To save water [and counter the effects of the recent droughts] and increase production, develop a prioritized long term plan for promoting modern irrigation methods and improving traditional irrigation methods
  - Consolidate the current fragmented irrigation feasibility studies into a single national framework and create a program for a National Integrated Watershed Management for 6 agro-ecological zones
  - Provide scholarships for higher education in irrigation (Masters: 50, PhD: 25) and Fellowships for TVET (300)
  - Reform the TVET system with all training to be

for further trust building and information exchange purposes.

delivered by private firms or nonprofits (as they are more able to respond to changing market demands) and with the government to focus only on coordinating funding, setting standards, monitoring, training and confirming certification.

- Establish an independent Afghanistan National Qualification Authority (ANQA) to streamline and coordinate the overlapping TVET efforts; develop the most needed NOSS (National Occupational Skills Standards); ensure all NOSS are based on international standards; and develop pathways from the informal to the formal TVET sector; establish a digital National Labor Data Center to conduct a credible, national demand and supply baseline labor market survey; Standardize assessment and certification of people's prior skills
- Fund a pilot project to adopt a TVET Teaching Strategy and through PPP with an existing TVET premise offer demand-driven TVET graduates in Kabul using the newly developed TVET Teaching Strategy in order to increase the quality of TVET for two priority industries in need of skilled and semi-skilled labor
- Develop investment opportunities/projects in areas with high potential and will and market them among interested stakeholders, especially in the priority areas: mining, agribusiness, energy, telecom, transportation and aviation.
- The government will facilitate an ongoing and structured public-private sector through PRISEC for trust building and information exchange purposes.

## 5.2 Providing Opportunities for Public Private Partnerships

The government plans to leverage private investment, supplementing public and donor resources, to achieve its development priorities. To this effect, the government passed a Public Private Partnership (PPP) Law and, subsequently, launched a PPP a program, which is designed to attract private financing for infrastructure and other investment projects. In this context, the government created the Central Partnership Authority (CPA) in August 2016, a General Directorate within the Ministry of Finance (MoF), as the central coordinating actor for PPP.

Initial market sounding has demonstrated private sector interest in investment opportunities in Afghanistan, particularly by diaspora investors looking to return to Afghanistan and regional investors in the United Arab Emirates, Turkey, India, and Pakistan. However, sound appraisal of development-oriented investment projects is required to determine the most optimal, fiscally sustainable financing solution (either public or PPP). It is likely that initial PPP opportunities will require government and/or donor support, including viability-gap financing, subsidies, guarantees, and other instruments designed to reduce project risk, ensure the bankability and affordability of the projects, and increase attractiveness to the private sector.

The government's short-term focus is to assess and prepare a pipeline of feasible public investment and PPP projects for development priorities, through the Public Investment Management (PIM)-PPP Framework. It will



help maximize funds available for the country’s most pressing development needs. The focus will be on infrastructure projects (such as Independent Power Producers), as well as in strategic manufacturing sectors, such as cement.

In large scale manufacturing (such as cement, fertilizer, steel mill and refinery), PPPs could be implemented through a number of different modalities, three of which look feasible in the current environment:

1. A private public partnership between the government and the private sector (i.e. “traditional PPP”);
2. A public-public partnership between the Afghan government and a state-owned corporation (SOC) from a neighboring country; and
3. A consortium of the government, the private sector and an SOC from a neighboring country.

There are clear risks associated with the identification and pursuit of economic opportunities by governments. governments in both the developing and developed world have misjudged the economic potential of sectors and ended up wasting large sums on trying to develop sectors in areas where a country was never going to be competitive. While there are cases – most notably in East Asia – of government successfully identifying and developing an industry, there are many more examples of failure. In order to avoid this, the advice from proponents of this approach is that the government should target “mature industries in countries not too far advanced compared to their own”<sup>3</sup> in “a way that [is] consistent with the country’s latent comparative advantage as determined by endowment structure.”<sup>4</sup>

In order to design a package which provides sufficient incentives and mitigate risks sufficiently to secure private sector investment, risks will be identified in the design phase through, amongst other things, consultation with potential private sector investors. Strategies for mitigating these risks will be agreed along with a package of incentives. The aim should be to offer the minimum assistance necessary, to guard against the possibility of subsidizing actions by private companies that were going to take place anyway.

Where there is more than one private company interested in a particular package of incentives, it is important that the process of selecting a partner be handled transparently and the awarding of contracts is perceived as fair. Where there is only one potential partner, care needs to be taken to avoid the impression of someone being offered an overly generous, “sweetheart” deal.

## Key Actions

### Within 18 months

- Finalize and approve the PPP regulations and procedures
- Finalize, approve and roll out the PIM-PPP Framework to identify priority investment projects and identify projects with potential for private sector participation
- In the investment promotion and incentive package, dedicate a clause or chapter specifically to PPP
- Follow up to ensure/facilitate full and speedy implementation of the Open Access Policy for

### Within 5 years

- Implement PPP Program in infrastructure (with a focus on renewable energy) and large-scale manufacturing
- In the cases of announcing unsolicited proposals for bidding, identify practical ways in consultation with stakeholders to protect business ideas/intellectual properties of businesses that submit unsolicited proposals for potential PPP

<sup>3</sup>The Role of the State in the Dynamics of Structural Change, *Justin Yifu Lin Célestin Monga*, May 2010, p. 12. Elsewhere they stipulate that the level of per capita income targeted should be no more than 100% higher on a purchase power parity basis.

<sup>4</sup> Ibid, p. 13

Fiber Optics to launch 4G, attracting new investment in the telecom sector further enabling the digitalization of more business administration and providing the SMEs with more reliable, affordable and high-quality digital connectivity

- Support the completion of the ongoing five PPP transactions as these pilot projects may require shepherding until reaching maturity
- Assess the potential for PPP in large scale manufacturing (such as cement, fertilizer, steel mill, refinery)

### 5.3 Improving the Performance of State Owned Enterprises

The government's past attempts to privatize or liquidate state owned enterprises (SOEs) have foundered on the political and social realities of Afghan society – in some areas, SOE jobs are the only formal ones available. As part of this effort, assessments were made of all SOEs including valuations and recommendations on a way forward for each SOEs<sup>5</sup>.

Since then, the sector has drifted, with only intermittent central oversight. Some have moved into other areas of endeavor, some have become “landlords” while others still operate in sectors in which they do not have a long-term future. This last category is one of the most difficult to deal with. Often these SOEs operate profitably using dated equipment. However, in the longer term, they will not be economically viable because the possible returns available from investing in replacement plant and equipment do not justifying doing so<sup>6</sup>.

The government is now looking to revitalize its SOEs (where there is a strategic case for the government to maintain partial or full ownership) and increase central oversight of them. This may, but does not have to, involve either privatization or liquidation. Other options such as corporatization or establishing a PPP will also be considered, with the preferred option for each SOE being informed by its economic viability, the social and political realities of Afghanistan and the strategic needs of the economy.

The first step will be to conduct a quick review of all SOEs using existing analysis. The purpose of the review will be to determine which SOEs are economically viable, establish criteria for determining which SOEs to reform first and apply these criteria to identify 1 or 2 SOEs to reform over the next 18 months.

Where a SOE is deemed economically viable, and it is selected as a priority for reform, a business development strategy will be drafted which will set out actions to improve its productivity and realize its developmental potential. In general, this will involve corporatization and the injection of private sector skills and may involve investment by the private sector through PPPs.

Where SOEs are found not to be economically viable the appropriate action for the government to take will depend on which category an SOE falls into:

- SOEs where production cannot be restarted and which have become “landlords” to the private sector – their operations will be regularized: rents will be set at commercial levels, proper accounts will be developed with profits repatriated to MoF, and transfer of ownership will take place to either the MOIC (as industrial parks) or ARAZI (as the custodian for government land).

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<sup>5</sup> This section focuses on State-Owned Enterprises, which are under the 1990 State-Owned Enterprises Law. SOEs are entirely owned by the state. Afghanistan counts 36 SOEs. Afghanistan also counts 16 State-Owned Corporations (SOCs) and 3 State-Owned Commercial Banks. SOCs have varying degrees of state ownership.

<sup>6</sup> They will – and should if they are profitable – continue to produce goods until the equipment becomes inoperable. At that point, unless the economic case has changed, the government should consider closing the plant refuse to invest in new equipment, and plan for an orderly transition.

- Moribund enterprises with no revenue – a plan for winding them up will be developed; this could be either through liquidation and the payment of voluntary redundancy or transfer to MOIC or ARAZI. The MOF Directorate General of State Owned Enterprises and Corporation, in coordination with the relevant line Ministry, would be responsible for managing down staff numbers and determining an appropriate future for the properties.
- SOEs which are currently profitable, but not economically viable – will have their assets and staff transition to alternative uses over the next ten years and staff numbers will be managed down through natural attrition and voluntary redundancy.

### Key Actions

#### Within 18 months

- Conduct a quick review of SOEs using existing data, including the ADB TA in 2016 and 2017 on the SOEs
- As a first step, improve the corporate governance of the SOEs through practical measures such as putting as many ACCA or CPA certified Afghan professionals in charge of financial accounting and management of the entities as possible
- Identify 1 or 2 strategically important SOEs (e.g. in extractives sector) to reform and undertake a detailed analysis (current situation and road map for reform)
- Strengthen MOF ownership/oversight function for SOEs, strengthen SOEs Supreme Councils and improve SOEs financial reporting to MOF (i.e. publication of audited financial statements)

#### Within 5 years

- Ensure that the draft Public Enterprise (SOEs) Law (2018) currently under consideration includes the best international standards and practices in regards to business planning and corporate governance of the SOEs
- Transfer land ownership of moribund SOEs to MOIC or ARAZI
- Implement reforms of strategically important SOEs (e.g. SOEs in extractive sector)
- Develop a ten-year plan for managing decline of profitable but economically non-viable SOEs
- Strengthen the following areas of the SOEs:
  - (a) Fact-based business planning that combines financial modeling/budgeting with realistic operational plans
  - (b) Valuation of assets offered as security
  - (c) Pricing based on the work of cost accountants

## 6. Strategic Priority 4: Securing and Facilitating Trade and Transit

Trade has the potential for accelerating growth in Afghanistan. However, at present, Afghanistan is underperforming its transit and trade potential. A recent study on Afghanistan's trade potential<sup>7</sup> suggests to focus the government intervention on two complementary areas: competitiveness and connectivity. Recent government strategies such as the Afghanistan's National Trade Policy (NTP), the Afghanistan's National Export Strategy (NES), the Agribusiness Charter (ABC) as well as other pillars of this NPP are addressing this constraint. To this end, it will be important to ensure coordinated implementation.

With regard to connectivity, the National Priority Program for Infrastructure and Connectivity tackles the infrastructure needs for Afghanistan's trade networks. This pillar of the NPP will focus on the "soft" aspects of connectivity, namely customs facilitation, trade policies and air freight as an alternative, more secure means of transportation.

<sup>7</sup> World Bank (2017). Trade as a Vehicle for Growth in Afghanistan: Challenges and Opportunities. Washington, DC.

## 6.1 Coordinating Implementation of Key Policies and Strategies for Trade Development:

Afghanistan has developed a comprehensive strategic framework for the next five years covering trade and transit including:

- Afghanistan's National Trade Policy (ANTP) 2018-2023;
- Afghanistan's National Export Strategy (NES) 2018-2023;
- A post accession strategy for its WTO commitments (2016-2031);
- The RECCA 2017 Annual Review

All the above documents fit well with each other and all of them fall under this NPP. There are significant common purpose between these different documents and, indeed, between them and other government initiatives such as the enabling environment reform being pursued under this NPP. As a result, there is a clear need to coordinate the implementation of them to avoid duplication of effort. In addition, while they all set a clear strategic direction and contain implementation plans, some of these are not yet sufficiently detailed to guide action. As a result, there is a need for the development of more detailed action plans – so it is clear what the next steps are in key areas and who is going to take them and critically which parts are funded and which parts are not.

### Key Actions

#### Within 18 months

- Develop a detailed action for the key trade strategies and clarify implementation mechanism
- Expedite the approval and implementation of a Trade Information Portal
- Urgently pass a Railway Law that provides for the government, through the Afghanistan Railway Authority, to (a) set railway policy, (b) regulate railway technical standards and safety, and (c) contract for construction, maintenance and operation of railways in Afghanistan
- Develop a TIR System implementation plan (including technical and financial support to the Ministry of Transport and Civil Aviation, the Customs and the TIR guaranteeing organization "ACCI")
- Develop [MFA and MOIC] a list of all agreements, treaties, MOUs and obligations and send it to the line ministries and private sector chambers for their consideration and further action
- Implement the TFA
- Consider joining Global Alliance for Trade Facilitation, a unique public-private partnership dedicated to international trade facilitation.
- Include the relevant business chambers to the TFA Committee and make the TFA Committee a member of PRISEC
- Continue trade-focused bilateral public private dialogues with key trading partners (a PPD with India takes place regularly with the US as an active

#### Within 5 years

- Implement the action plan for trade development
- Activate and promote the ATA Carnet, using the ICC's experience from around the world
- Create e-certificate of origin, in consultation with the relevant trade associations such as ACCI and ICC
- To the extent possible, the Afghan government should attempt to use well-established institutions and platforms such as TIR to meet its trade and transit needs
- Support full implementation of TIR based on best practices in order to ensure that Afghan private sector gets maximum benefits from the available trade and transit facilitation opportunities
- Develop political risk insurance schemes to protect the investments of Afghan exporters
- Establish an export credit scheme which would include provisions for funding ranging from production to the export process.
- Improve the performance of the private sector directorates at MOIC, MAIL, MEW
- Continue trade-focused bilateral public private dialogues with key trading partners; expand the PPD beyond current countries to include Germany, Italy and France (for the EU region), Saudi Arabia (for the Persian Gulf region), China and the United States to promote joint business ventures and expanding exports.

participant; similarly, a PPD recently took place with Uzbekistan and Kazakhstan with the technical assistance of ITC aimed at fostering interagency coordination of entities mandated to handle export/import related issues and addressing NTMs in neighboring countries including through the operationalizing bilateral trade and transit agreements signed or being negotiated and followup actions).

## 6.2 Improve and Implement Trade and Transit Agreements

Over the last decade, Afghanistan has signed a number of international and regional transit and trade agreements to expand options for trade and deepen the economic integration of Afghanistan with the region. The private sector has expressed its satisfaction with and support for agreements aiming to make connectivity more reliable and cost-effective but implementation has so far been slow and patchy. Moving forward, a more concerted effort is needed to better utilize the GATT Article 5 as a member of the WTO, make Lapis Lazuli and transit routes through Central Asia/Eurasia more mainstream and strive for the sustainability of air corridors in the medium- to long-term. The Afghanistan Pakistan Trade and Transit Agreement's (APTTA) revision, when deemed in the national interest, will be made in light of Afghanistan's rights as a member of the WTO and with strong clauses for reciprocity.

### Key Actions

#### Within 18 months

- Develop roadmap to help implement trade, transit plans and agreements and initiate implementation
- Identify ways of improving and maximally utilization the transit rights of Afghanistan as a permanent member of the WTO under Article 5 of the GATT in the renegotiation and finalization of agreements such as APPTA
- Negotiate improved visa arrangements (long-term, multiple-entry visa for businesses) with key partners such as the UAE, Turkey, Uzbekistan, China, the EU and the US
- Review and revise the current bilateral trade and transit [and/or transport] agreements with the Central Asian countries and try to make them multilateral
- **Approve a binding implementation plan for the WTO Agreement on Trade Facilitation (TFA) jointly developed and agreed by MOIC and MOF and with clearly defined ways and means**
- Debate and decide whether to fully ban or impose significant tariff on the export of unprocessed wool used for production of carpets outside the country

#### Within 5 years

- Promote private sector-led road and train transportation via Central Asia as a reliable and affordable alternative transit route by streamlining the ongoing efforts (both soft activities like agreements etc and hard efforts like infrastructure investment, rehabilitation etc)
- Promote partnership between members of the private sector from Afghanistan and key trading partners in Central Asia to increase efficiency, transport time and cost

### 6.3 Improving the Operations of Customs:

The Afghan Customs Department (ACD) has fully operationalized the ASYCUDA World Electronic Transit System and the risk management system at the border crossing points in Weesh/Spin Boldak, Islam Qala, Torkham, Torghondi and Kabul. Ninety-five (95) percent of declared goods traded through these border points are captured. Custom Tariffs are being published and a One-Stop Shop staffed by ACCI, EPAA, MAIL and ACD has helped streamline the processes of export documentation for ground shipments, but is not yet being offered for air freight.

Despite these improvements, the implementation of customs procedures is still regarded as complicated and arbitrary by many traders, and severe levels of corruption in customs processing are reported. At Afghan border points, infrastructure needs to be further upgraded. Surveillance, prevention and enforcement capacity of customs need to be strengthened.

The Customs and Revenue department has responded to the concerns of the private sector and has developed a comprehensive reform program as part of its Strategic Plan which covers the following reforms:

- Further improving border infrastructure (and strengthening Operations and Maintenance, O&M) – warehousing, unload and loading areas etc.
- Establishing cargo villages at key airports (based on underlying need analysis)
- Opening additional official crossing points and upgrading existing ones – starting with Nimruz and Aqina - in response to developments in Afghanistan’s infrastructure for trade and trading relations
- Establishing an integrated web-based trade portal and single window operations
- Establishing e-pay and other new electronic systems for customs
- Increasing cross-border data sharing
- Developing the capacity of customs officers
- Establishing formal requirements and an examination system for recruitment

The private sector has also called for the introduction of a more customer-centered service delivery practice at the customs department including increased opening hours and seven day a week service – particularly during the peak season for the export of perishable goods (this is already in place at Torkham for perishables and, in general, requires reciprocating arrangements).

#### Key Actions

##### Within 18 months

- Further improving border infrastructure (and strengthening Operations and Maintenance, O&M) – warehousing, unload and loading areas etc.
- Opening additional official crossing points and upgrading existing ones – starting with Nimruz and Aqina
- Establish an integrated web-based trade portal (“Trade Information Portal”) and single window operations
- Establish e-payment and other new electronic systems for customs
- Expedite approval of the Export Procedure reform discussed at the High Economic Council and agree on timeline for streamlining documents required for import procedure,

##### Within 5 years

- Continue efforts to gradually move to a fully automated customs clearance system across the country.
- Foster interagency cooperation through the National Trade Facilitation Committee to ensure gradual implementation of the WTO Trade Facilitation Agreement.
- Fully implement good practices in processing and audits (risk management, pre-arrival processing and post-clearance audits).
- Move to a fully automated customs clearance system across the country.
- Improve the risk management regime through automation, adequate equipment, and coordination across relevant agencies involved in trade facilitation



including digitalization of current paper-based documents.

- Synchronize the operational hours of the border customs office with the neighboring customs offices.
- Mandate the Export one-stop-shop at the Kabul Airport be linked up with ASYCUDA, SIGTAS and other essential information management systems of the MOF and MOIC.
- Construct a new entrance and gate at the Kabul Airport to allow traders (especially exporters) to enter the Customs without delay.
- Align the operational hours and days of the Customs and bank branches where exporters pay fees, etc.
- Develop an alternative solution that is faster and more secure than the telegraphic transfer process of remitting money from Afghanistan to the UAE, which is too long (20 days).
- Supporting full implementation of the 2016 amendments to the Customs Act by developing all the necessary implementing rules and regulations, and conduct a legal review to assess the need for a more comprehensive overhaul of the legal framework.
- Implementing a customs joint operation (clearance) mechanism with the Central Asian neighbors and later on extending it to other transit routes
- Integrate the one-stop-shop for export Kabul Airport with the customs information management systems (i.e., ASYCUDA etc)
- Increase the customs' staff capacity so that staff members can use ASYCUDA system routinely.
- Streamline taxation procedures for traders and fully implement ongoing reforms in the taxation and customs systems so that the electronic data management systems SIGTAS and ASYCUDA are used by trained staff in all provinces and delink Tax Clearance Certificates from the tax audit process
- Introduce pre-arrival processing for shipments. Traders' time could be saved by allowing document to be submitted and processed before shipments arrive. Pre-arrival processing is a part of the WTO obligations that Afghanistan is required to comply with. Afghanistan's trade agencies can implement paperless processing of declarations and supporting document and all relevant agencies should ensure that licenses and permits can be issued prior to arrival.
- Establish post-clearance audits: Adoption of a Post-Clearance Audit (PCA) regime significantly expedites imports and exports. Audit results should be reported to the risk assessment office, and be taken into account in connection with ongoing clearance operations. Clear and comprehensive audit policy framework should be developed along with standard operating procedures for PCA.

#### 6.4 Sustainable Air Cargo:

Given Afghanistan's current security context, air cargo could be a viable and more secure modality for trade. However, shipping costs make up an important percentage of the export sales price. As a result, exporters have been reluctant to invest heavily in air transporting products to neighboring countries. A recent program to reduce the cost and risk of entering the Indian market by government contributing to the cost of air cargo has successfully led to the creation of a market for air-transported Afghan produce in India, Turkey, Kazakhstan and Saudi Arabia. The challenge now is to make this sustainable in the medium to long-term

through a slow reduction in the level of government contribution. Creating the ancillary infrastructure needed to support air cargo through the creation of a cargo terminal, the expansion of the One-Stop-Shop to cover air cargo will reduce the cost of air transport and improve its sustainability. In the longer term, cargo facilities should be developed at regional airports.

To improve its commercial diplomacy and export development, the Ministry of Industry and Commerce recently recruited more than 20 commercial attachés and assistants through a competitive process. In order to continually provide demand-driven and effective commercial services, the Ministry shall recruit commercial attachés and assistant commercial attachés using structured and well-defined processes in the future. The commercial attaches shall play a key role in facilitating and promoting bilateral trade, including institutionalizing air cargo, with the key trading partners. They shall facilitate to the extent feasible the government’s efforts to reduce the cost and time of administrative compliance for Afghan goods and services at the airports and ports of the host countries and extending support services (i.e., list of clearance agents) to traders.

### Key Actions

#### Within 18 months

- Review the experience of air freight and develop proposal for sustainability
- Conduct an analysis of need for establishing additional air corridors to high potential markets for Afghan-made goods to markets such as China, Germany and the United States
- Publish an easy to understand guide for businesses to introduce and explain important tariff agreements, including preferential tariff agreements, with key trading partners and how businesses can benefit from them

#### Within 5 years

- Expand operations of one-stop export shop to cover air freight
- Conduct regular PPD to raise the knowledge and understanding of the business community on existing tariff agreements, including preferential tariff agreements, with key trading partners and how businesses can benefit from them
- Develop a simple whole of the government guideline defining roles and responsibilities in order to keep the air cargo operations organized and functional
- Engage international air cargo firms to explore investment or partnerships with their Afghan counterparts

## 8. Implementation Mechanisms:

Since coming into office, the new government has taken many steps to institutionalize business reforms and improve the coordination among government agencies and implementation effectiveness.

To improve coordination and implementation of the private sector development reform agenda, the government has established a high-level Private Sector Development Executive Committee – PRISEC – which brings together the government, international partners and the private sector to oversee, facilitate and support the implementation of prioritized reforms. PRISEC acts as a de facto High Development Council (HDC) and is responsible for overseeing the implementation of this NPP PSD and reporting on progress to the Council of Ministers (Economic Committee) and the Government’s Cabinet. PRISEC has a secretariat to support its daily operations, coordinate with line ministries, international partners and the private sector. Upon approval of this NPP, the Secretariat shall develop detailed action plans on reform priorities, implementation delivery roadmap, Logical Framework, communication plan and public private dialog priorities.

PRISEC has four Working Groups (WGs): (1) Finance and Banking, (2) Agriculture, Trade and SMEs, (3) Energy, Infrastructure and Land, and (4) Legal, each co-chaired by private sector and a line government ministry

(usually deputy minister or director general). WGs are mandated by the action plans that they have drafted and regularly report their progress to PRISEC and bring action items for decisions or guidance. The Secretariat shall update the Terms of Reference and Action Plans for each Working Group and submit to PRISEC for approval. This NPP will be a living document and will be updated regularly. The Secretariat shall have the authority to propose change in the Action Plans and seek approval of PRISEC when necessary. PRISEC has full discretion to add, remove or modify its Working Groups' structure and functions as long those actions are necessary for fulfilling its mandate.

PRISEC will monitor the implementation of this NPP by the relevant government ministries and agencies and regularly report to the Government's Cabinet and the Council of Ministers. Where serious deficient capacity in the government entities responsible for implementing the NPP Implementation Plan is noticed, PRISEC shall engage the relevant entity and request action by the Council of Ministers/the Government's Cabinet to address the issue. PRISEC will validate the proposed funding for the NPP PSD prior to a final review by the Council of Ministers/Government's Cabinet, after which it can be included in the development budget. For the whole life of this NPP, the Ministry of Industry and Commerce shall be the lead technical line ministry and the Ministry of Finance as the financial coordinator. In the case of any changes to the government structure, the interagency nature of PRISEC and this NPP shall remain unchanged. There shall be a mid-term review of performance of the indicators 18 months after the action plans are officially approved for implementation.

In addition to the government, the private sector and international partners are the two key players that will impact the success of this NPP. The private sector has played a central role in identifying and prioritizing the key actions that must be addressed by this NPP. It will continue to have a pivotal role during implementation of this NPP, monitoring progress and encouraging partnerships. Similarly, the government has consulted with Afghanistan's international partners in the design of this NPP who provided valuable contribution.

Donor coordination is crucial for properly resourcing the private sector development reforms under this NPP. Without financial and technical support from Afghanistan's international partners, the government does not adequate resources to address all these reform priorities in the current timeline. Therefore, the government through MoF has started a dialog with Afghanistan's international partners to reach a firm agreement that ensures alignment between the government business reform agenda and the development spending (on-budget and off-budget) by Afghanistan's international partners (for instance, by involving donors and selecting the most relevant projects according to the NPP priorities).

Lastly, the government recognizes the changing nature of barriers the private sector faces. Therefore, the government will deepen and broaden its public-private dialog activities in Kabul and provinces through PRISEC to ensure that reform impacts are visible to key stakeholders (i.e., private sector and international partners) and the relevant new concerns and needs of the private sector are reported on a timely manner. PRISEC will explore the possibilities of enhanced participation of the private sector in the working groups, better communication of results and linking technical analysis by relevant stakeholders with the reform agenda in the NPP and other activities.