



Afghanistan

Population ¹	37,172,386
Area (km ²) ¹	652,860
GDP per capita (USD) ¹	493.75
TES (Mtoe) ²	N/A
Energy intensity (toe/10 ³ 2015 USD) ²	N/A
CO ₂ emissions - energy (MtCO ₂) ³	N/A

There is no data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2021

Sources:

1. The World Bank 2018
2. ©IEA (2021), World Energy Balances (<https://www.iea.org/data-and-statistics>). All rights reserved.
3. ©IEA (2021), CO₂ Emissions from Fuel Combustion (<https://www.iea.org/data-and-statistics>). All rights reserved.

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

Of the three risks assessed in EIRA, *breach of State obligations* is lower compared to *unpredictable policy and regulatory change* and *discrimination between domestic and foreign investors*.

Afghanistan’s performance is good on one indicator, and it is moderate on three indicators. Its highest-scoring indicator is *rule of law* at 65. It has the same score as in EIRA 2020 on the indicators *foresight of policy and regulatory change* (56), *management of decision-making processes* (56), and *regulatory environment and investment conditions* (47).

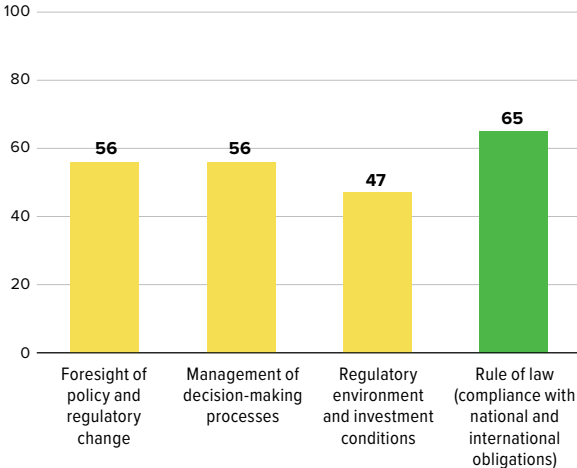
On a more detailed level, Afghanistan’s overall sub-indicator performance is moderate. *Management and settlement of investor-State disputes* continues to be the highest-scoring sub-indicator at 80. Compared to EIRA 2020, there were no changes to its scores on *communication of vision and policies* (74), *restrictions on FDI* (60), *institutional governance* (56), *transparency* (56) and *respect for property rights* (50). Its performance on *robustness of policy goals and commitments* (38) is on the same level as in EIRA 2020. *Regulatory effectiveness* continues to be the lowest-scoring sub-indicator at 33.

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

RISK LEVEL



INDICATOR PERFORMANCE

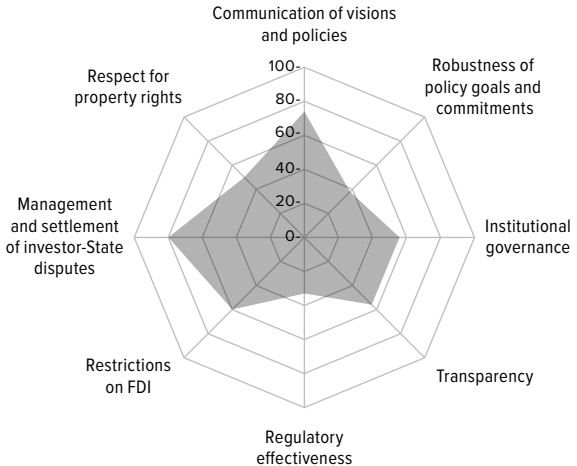


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020	2021
Unpredictable policy and regulatory change	44	41	41	41
Discrimination between domestic and foreign investors	47	44	44	44
Breach of State obligations	35	35	35	35

INDICATORS	2018	2019	2020	2021
Foresight of policy and regulatory change	55	55	56	56
Management of decision-making processes	49	56	56	56
Regulatory environment and investment conditions	47	47	47	47
Rule of law	65	65	65	65

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

In 2021, the Government of Afghanistan adopted the Afghanistan National Peace and Development Plan II (2021-2025): Forging our Transformation.

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

STRENGTHS

The Government aims to ensure that 65% of the country's population has electricity by 2032. For this purpose, it is working with international organisations to finance domestic power generation projects. In 2020, it signed a debt financing agreement with the International Finance Corporation for the Mazar-e-Sharif gas-to-power plant, which will increase the country's energy production by 30%. Moreover, the Ministry of Finance (MoF) is seeking investors for three HPPs that will collectively add 856.5 MW to the country's current generation capacity. To strengthen the power infrastructure, Da Afghanistan Breshna Sherkat (DABS) signed a contract with Tajikistan to extend the national transmission network by 12 km. It is also investing in new double circuit transmission lines and substations in Tranche 7, which is an integral part of the national transmission system. DABS is also implementing the TAP 500-KV line that will transport energy from Turkmenistan to the Herat area.

The State Audit Office has made available the 2020 performance audit of the economic measurement system and electricity services of DABS. The National Statistics and Information Authority published quarterly statistics on the State authorities engaged in the energy sector, such as the number of energy projects implemented by them, their total expenditure and the share of spending financed by internal and external budgetary sources. The Ministry of Mines and Petroleum (MoMP) also published its quarterly and annual financial reports for 2020, as well as the provincial budget distributions for 2019 and 2020.

AREAS FOR IMPROVEMENT

The Government should prepare an integrated national energy policy to strengthen the country's energy security, reduce import dependency, and ensure access to a reliable power supply. The policy should include measurable targets and implementation programmes that create synergies among different energy forms and priorities. The Government should also update the Afghanistan National Renewable Energy Plan, which terminated in December 2020.

The Government should define the modalities, timeframe, and other steps of the policy monitoring and evaluation process. Also, the Afghanistan Energy Information Center (AEIC) should regularly update the energy and power system data on its website to become a useful tool for policy-makers, investors, and the public.

Management of decision-making processes

QUICK FACTS

The Afghanistan Energy Services Regulatory Authority (ESRA) is the lead decision-maker for the energy sector. The hydrocarbon sector is under the responsibility of the MoMP.

The Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC) ensures public accountability across sectors, including energy.

STRENGTHS

In the last year, the Government took some legislative and administrative measures to improve the country's business environment. The Ministry of Justice (MoJ) planned, drafted, and scrutinised over 21 laws, 27 regulations, 2 statutes and 29 amendments to legislative acts in various fields, including economics and trade. The MoMP is currently implementing an electronic Mining Cadastre Administration System (MCAS) to register and administer mining licence allocations. The Directorate General of the Cadastre, operating within the MoMP, will monitor the MCAS' implementation.

Afghanistan has made substantial progress in improving the extractive sector's accountability and transparency. On 28 October 2020, it received its second EITI membership validation. The EITI's report noted that as of May 2020, the MoMP's transparency portal disclosed information on beneficial ownership of 127 mining companies. The portal also recently started giving real-time information on the licensed awards, executed payments and the ownership structure of companies. The MEC is monitoring the Government's efforts to fight corruption in the mining sector. For 2020, it produced evaluation reports on the progress made by the MoMP, the National Procurement Authority, the National Environmental Protection Agency and DABS in implementing its recommendations. In October 2020, the MEC launched its Anti-Corruption Monitoring and Evaluation Database to facilitate the public's access to its recommendations.

AREAS FOR IMPROVEMENT

The Government should update the e-governance strategy, approved in 2012, to support digital business services. It may also consider changing the existing investment registration procedures, which require companies to physically submit all the documents at the Afghanistan Central Business Registry's main office or a regional office.

The Government should ensure an adequate budget and technical capacity for the Anti-Corruption Commission to fulfil its mandate effectively.

The Supreme State Audit conducted a performance audit of the Afghan Gas Enterprise and the North Coal Enterprise for the first time in 2019. The Government should now ensure that such audits become standard practice for all State-owned enterprises. Moreover, it should take steps to improve the availability of data on financial disclosures in the future.

Regulatory environment and investment conditions

QUICK FACTS

The Electricity Services Regulation Department, under the ESRA, regulates the electricity market.

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

STRENGTHS

Starting from 2020, DABS is offering large solar packages to investors in the electricity sector. It has also published guidelines to regulate and standardise electricity distribution for registered businesses and ensure consumers have access to reliable, safe, and affordable services. Apart from its efforts to improve electricity supply and generate investments, DABS is also focusing on demand-side management. In 2020, it published general guidelines for saving electricity and conducted campaigns to encourage the use of efficient technologies by residential consumers.

The Government intends to introduce Value-Added Tax (VAT) in 2022 to improve the country's financial stability. It is expected that this new tax regime will yield an additional revenue of 1.1% of GDP. Moreover, to attract private investors, the MoF recently launched an investment package worth USD 8.7 billion to channel private and public capital in different economic sectors, including energy and power. The Government anticipates that these investments will lead to a 37% increase in energy availability. The Fiscal Strategy Paper 2021 expects that in terms of GDP (USD 7.48 million) and job creation, the incremental effects of the electricity sector's investment will be higher compared to other public sectors. This increase will come from priority projects, including the 220 kV transmission lines of the Puli Hashimi-Shindand project, and the 50 kV Surkhan Uzbekistan – Alawan Plain transmission line.

AREAS FOR IMPROVEMENT

The functions and powers of the policy-making, regulatory, executive, and service delivery institutions should be separated. While the Government is taking steps to reduce the MoMP's regulatory role, it is yet to establish an independent electricity regulator that will facilitate transparency in licensing, return on investments, and tariffs. Additionally, the Government must take measures to operationalise the Afghanistan Oil and Gas Regulatory Authority fully.

According to the Fiscal Strategy Paper 2021, Afghanistan's economic development still heavily relies on foreign aid. Therefore, the Government should develop a multi-sectoral strategy to increase private investments and, in turn, reduce dependence on donor agencies. Such a strategy should allow the Government to identify the sectors with the most investment potential and establish support schemes to promote them.

Rule of law

QUICK FACTS

Afghanistan is a contracting party to the ECT since 2013.

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

The Law on Private Investment 2005 contains provisions protecting private property against unlawful expropriation.

STRENGTHS

In the last year, the Government of Afghanistan took steps to improve domestic case management mechanisms. On 24 August 2020, the Cabinet of Ministers approved the Regulation on Case Management, which establishes a leadership board to oversee the case management system. It defines the board's duties and responsibilities and the procedure to operate and supervise the system. The Regulation also emphasises that the system must fast-track legal proceedings and establish an electronic registry of cases. The Government anticipates that this system will allow for smoother and more transparent judicial processes.

The Government of Afghanistan remains committed to upholding the property rights of investors and to their protection from incidents of unlawful expropriation. On 15 March 2020, the Law on Expropriation of Lands for TAPI Gas Pipeline Project Route was published in the Official Gazette. This Law sets out conditions for the better implementation of the TAPI Gas Pipeline project and to meet the lenders' requirements. It determines the ownership rights, dispute resolution mechanism, valuation of properties, compensation, and resettlement of affected communities and citizens in the TAPI project route. The Law establishes a Property Recognition Board to resolve any dispute concerning the lands falling in the TAPI pipeline route. If the parties disagree with the board's decision, they may refer the dispute to the domestic courts.

AREAS FOR IMPROVEMENT

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

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

IMPLEMENTATION STATUS



Afghanistan

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2021
Indicator 1		
	Set evidence-based measurable targets for the energy sector.	Pending
2018	Adopt a national action plan to implement the energy targets.	Pending
	Publish the performance evaluation reports of the Afghan Energy Authority and the Ministry of Mines and Petroleum (MoMP).	Work ongoing. The MoMP published its quarterly and annual financial reports for 2020.
2020	Update the renewable energy targets that expired in 2020.	Pending
	Regularly update the energy and power system data on the Afghanistan Energy Information Center's website.	Pending
Indicator 2		
	Set up a one-stop shop for all business-related services in the energy sector.	Work ongoing. The MoMP is currently implementing an electronic Mining Cadastre Administration System to register and administer mining licence allocations.
2018	Publish official translations of laws and regulations in foreign languages.	Pending
	Adopt legal provisions guaranteeing public consultation on draft legislation, policies, and regulations.	Work ongoing and partially implemented. The Law on Access to Information was enacted in 2018, and a new Oversight Commission on Access to Information was appointed under this law.
2019	Reinforce Afghanistan's international commitments under global transparency initiatives.	Fully Implemented. On 28 October 2020, Afghanistan received its second EITI membership validation.
2020	Update the e-governance strategy (approved in 2012) to encourage the digitalisation of business services.	Pending
	Operationalise the Anti-Corruption Commission and equip it with an adequate budget and technical facilities.	Work ongoing. As of April 2021, one-third positions in the Anti-Corruption Commission have been filled.
2021	The Supreme State Audit should produce audit reports on the extractive sector State-owned enterprises, including the Afghan Gas Enterprise and the North Coal Enterprise, for 2021 and beyond.	Improvement suggested in 2021. Status will be updated in 2022.
Indicator 3		
2018	Establish an independent electricity regulator that will facilitate transparency in licensing, return on investments, and tariffs.	Work ongoing. Presidential Decree No. 36 of 9 February 2020 dissolves the Ministry of Energy and Water. The energy sector is now regulated by the Energy Services Regulatory Authority and the water sector is regulated by the National Water Affairs Regulation Authority. These two authorities function as independent budgetary units.
	Develop a clear criteria for the Government's right to restrict investment in natural resources and energy infrastructure.	Pending
2020	Make the Afghanistan Oil and Gas Regulatory Authority fully operational.	Pending
2021	Develop a national investment strategy to attract foreign investments and adopt an action plan that specifies the measures and timelines to achieve the targets outlined in the strategy.	Improvement suggested in 2021. Status will be updated in 2022.
Indicator 4		
2018	Establish a foreign investment ombudsperson to settle conflicts arising in the course of energy projects.	Pending
	Set a legally binding process to determine the compensation for the expropriation of private property and a payment timeframe.	Fully implemented. The updated Law on Expropriation 2017 (effective since late 2018) establishes a compensation valuation committee and clarifies the rules for determining the amount of compensation.
2020	Update the domestic laws to increase the scope of protection granted to the intangible property rights of foreign investors against expropriation.	Pending