The Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC) independently monitors and evaluates national and international efforts to fight corruption in Afghanistan. It reports to the public, parliament, president, and the international community.
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“We have reached a turning point in the global fight against corruption: only a coordinated response among all partners – government, business and civil society – will lead to meaningful reform and lasting change.”

The Organization for Economic Co-operation and Development (OECD)
Respected Reader,

In the first quarter of 2018 we continued to see progress in legal and systemic reforms of the Afghan government. We also witnessed setbacks, procrastinations, resistance, and the emergence of new forms of corruption.

This is normal. Any reform process comes with a mix of successes and setbacks. The determination of governments in their reform agenda is judged by their unrelenting will, openness to learning from flaws and failures and not allowing political expediency derail the agenda.

At the Independent Joint Anticorruption Monitoring and Evaluation Committee (MEC), we are pleased that several anticorruption measures that we had recommended were incorporated in the government’s recent reform activities.

For example, the Law of Land Affairs includes all provisions that MEC had recommended. The new Penal Code criminalizes all forms of corruption and sets specific penalties for each. The Ministry of Economy is now looking into improving its NGO Directorate’s regulatory and oversight activities. Similarly, the on-going reforms at the Ministry of Education, the Attorney General’s Office and the Ministry of Public Health are incorporating MEC’s recommendations for improving systemic vulnerabilities to corruption.

Conversely, the MEC researchers have recently experienced a degree of resistance from several institutions in which we are conducting vulnerability to corruption assessments. Often, this challenge comes from mid-level officials, but occasionally we face attitudinal resistance from higher-ups.

Nevertheless, MEC applauds the overall progress, but is
also concerned about lack of improvement in several key areas. Our bi-annual Kabul Bank monitoring shows that since 2014, there has been negligible progress in recovering the bank's assets. More worrisome is the recent trend in debtors’ attempts to reopen their cases and receiving reversal or reduction of the original court verdict.

Also, while we have observed continued improvement in ACJC’s prosecutorial efficiency and trial professionalism, there are questions about the rising numbers of acquittals and verdict reductions at the second and third stages of appeal. Vulnerabilities in the entire process require a thorough examination.

But, reforms in the executive branch, no matter how thoroughly planned, will not yield impact if the legislative and judiciary remain immune to change. Almost all of MEC’s studies of government institutions indicate that the other two branches of the state are among key instigators and enablers of chronic corruption in the country.

Finally, as crucial as the support of the international community is to Afghanistan’s security and development, so is their genuine espousal of the country’s fight against corruption. Donor countries are in the best position to set an example by enforcing transparent monitoring and evaluation of their own programs and those of their funded institutions. Adopting a sincere ‘lessons learned’ approach in donors’ anticorruption programming will serve their taxpayers and their overall Afghanistan policy much better.

With two elections looming on the horizon—Parliamentary this Fall and Presidential next Spring—the Afghan government, political elite, Civil Society and international friends of Afghanistan have a renewed chance to prove that on the anticorruption agenda, they are willing to walk the walk.

In the hope of a better tomorrow,

Helena Malikyar
Chair of the MEC

“The MEC researchers have recently experienced a degree of resistance from several institutions in which we are conducting vulnerability to corruption assessments. Often, this challenge comes from mid-level officials, but occasionally we face attitudinal resistance from higher-ups.”
The MEC published its analysis of corruption vulnerabilities in the MoPH on June 4, 2016, making 115 recommendations. This is MEC’s sixth follow-up report on the implementation of recommendations in the MoPH Special Report. In the current reporting period, covering MoPH implementation in October, November, and December 2017, progress has improved marginally compared to the previous period of monitoring. While in several specific areas there was evidence of progress in the sixth monitoring period, more than 40% recommendations are still only “partially achieved.”

This quarter, MOPH implementation of the anti-corruption recommendations has picked-up, slightly, compared to the prior Quarter, with some specific and notable progress in transparency and accountability. MEC calls on the Minister and his colleagues to continue to review where blockages remain and to support an improved rate of progress in their implementation.

The MEC reviewed the status of the 112 remaining recommendations (the MEC monitoring team recommended that three MEC recommendations were dropped from monitoring in the Fourth Quarter):
• 61 (55%) have been fully implemented.
• 46 (41%) have been partially implemented. These are further broken down as follows:
  • 15 started or study underway
  • 10 achieved up to 25%
  • 21 achieved up to 50%
• Five recommendations (4%) are either pending or are for future implementation. In two of these remaining cases there are substantiated reasons for delay. However, while there are just five pending/future recommendations in the fifth monitoring period, MEC remains concerned that four of these five are due to reversals from a previous ‘study underway’ status. Notably, all five with pending/future implementation status are related to human resource management.

Since October 2017, the MEC has started with active monitoring of the implementation of the recommendations in the MEC’s Vulnerability to Corruption Assessment of the Attorney General’s Office (AGO) in close association with the AGO and other agencies (mainly the Supreme Court (SC), Ministry of Justice (MoJ), Ministry of Interior Affairs (MoIA), Ministry of Higher Education (MoHE), Afghanistan Independent Bar Association (AIBA), and National Legal Training Centre (NLTC).)

Perhaps the most encouraging aspect since publication of the MEC’s Special Report on Vulnerabilities to Corruption in the Afghan Attorney General’s Office in July 2017 is the strong commitment shown by the leadership of AGO and other stakeholders towards adopting and implementing the respective recommendations.

Significant progress could be seen in relation to certain key recommendations like development of a comprehensive training program including the setting up of a Professional Training Directorate, steps to counter conflicts of interest among prosecutors, reliable reimbursement of official travel of prosecutors, the use of a standardized biometric attendance system, verification of prosecutors qualification as aligned with their post, development of

### Implementation Status of the MEC Recommendations to the AGO and Relevant Stakeholders

- **Full Progress**: 27%
- **Partial Progress**: 12%
- **Limited Progress**: 4%
- **Lack of Progress**: 57%

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Terms Of Reference's for prosecutors, and rationalization of legal education.

However, in relation to several other areas, either no steps have been taken towards implementation or it is not known if any steps have been initiated. During a meeting on January 16, 2018 AGO claimed a committee has been established to look at the minister's cases, although further details were not forthcoming. The AGO failed to show any progress on the recommendation related to management and transparency of cases referred to the AGO by other ministries and agencies. According to AGO, they have dealt with all referred cases by other institutions.

Other ministries and stakeholders including the Supreme Court, MoJ, MoHE, MoIA, AIBA and NLTC with varying degrees of ownership of some of the recommendations have all come forward and expressed their willingness to implement them. They have provided the MEC team with updates on the status of the implementation.

Out of the total 51 recommendations in the AGO Special Report:

- Two recommendations (4%) have been fully implemented;
- Six recommendations (12%) have achieved partial progress;
- 29 recommendations (57%) have seen limited progress (up to 25%);
- 14 recommendations (27%) have had lack of progress.

Full AGO quarterly monitoring report:
The MEC issued an addendum to DABS Vulnerability to Corruption Assessment to clarify and supplement the donor fund management section on March 17, 2018.

The addendum is intended to amend the following statement:

“While DABS states that it received AFN 12.5 billion and it is shown on the balance sheet, the other sources show that from 2002 to 2017, the donors have contributed around 4 billion USD to the energy sector in Afghanistan. Converting this amount into AFN, it equals to AFN 220 billion and it should have been transferred to DABS as an asset. However, DABS received only AFN 12.5 billion. It means that billions of AFN are missing.” [Page 30 of DABS VCA report]

The MEC acknowledges that the statement is ambiguous, and that the sources cited in the footnotes do not provide ample clarification and support. As a result, the statement is open to different interpretations.

MEC retracts the original statement with footnotes and replaces it with the following statement with accompanying footnotes:

The original calculation made in the DABS VCA subtracted donor-funded DABS assets as reflected in the DABS balance sheet from total donor funds as reflected in certain public reports. The original calculation did not account for two key factors: i) that the nominal provision of international funds can be either pledged or disbursed; and ii) donor agencies disburse funds through the different modalities of off – and on-budget channels, each with markedly different implications for financial record-keeping.

Further, there are other crucial unknowns that make it difficult to estimate accurately the amount of donor funding for the energy sector provided to DABS. First, on the donor side, the unknown is the amount of disbursed off-budget-funded technical assistance and hard assets. Second, on the DABS side of the ledger, the unknown is the extent to which DABS assets have been funded by off-budget funding as opposed to the known quantity of on-budget funding.

Third, the financial value-add of off-budget-funded assets would only be reflected in the financial records of DABS insofar as they relate to hard assets. Technical assistance would only be indirectly reflected. Fourth, certain funds for the electricity sector may be disbursed through an inter-agency mechanism, such as from USAID to ADB. If such disbursement occurred during this period, it would need to be accounted for to prevent double-counting.

Finally, to accurately ascertain the value of donor assistance in the final years of the existence of Da Afghanistan Breshna Mossesa (DABM) (2002-2009), and later transferred to DABS, researchers would need access to the findings of the Transition Committee tasked then with valuating DABM assets upon its liquidation.

In light of the above consideration, an international standard audit of both donor and DABS financial statements would be required to confidently ascertain the concrete value of donor funding accrued to DABS in the period 2002-2017.

During the quarter, the MEC has undertaken two reviews of Anti-Corruption Plans of the Ministry of Rural Rehabilitation and Development (MRRD) and the Ministry of Economy (MoEc).

**MRRD:**
A review of the MRRD Anti-Corruption Plan has found that the Ministry had not conducted a risk assessment prior to development of the Plan to identify vulnerable areas and to create a comprehensive Plan based on the findings of the assessment.

In addition, the committee assigned to develop the Anti-Corruption Plan was small in number and most of the key directorates were not observed to be involved in the process of developing the Plan.

Furthermore, it was evident that MRRD has not communicated the Anti-Corruption Plan with its lower-level employees since many of them were not aware of the Plan.

Full Anti-Corruption Plan Review:

**MoEC:**
The MoEC has been able to develop a relatively broad Anti-Corruption Plan that covers most units that are highly vulnerable to corruption. The Plan lists SMART objectives and aligns their implementation with well-developed activities, the progress of which can be easily measured through the indicators listed in the Plan. The measurement of the progress of the activities indicates that the expected outcome has been achieved to a certain degree.

Notwithstanding the progress, the MoEc Anti-Corruption Plan has not been designed and developed based on a proper risk assessment. Although the plan cites the findings of some sources as regards to corruption vulnerabilities in the Ministry, absence of a precise risk assessment has left many technical gaps.

For instance, recruitment of Advisors has not been incorporated into the Anti-Corruption Plan, while findings of the MEC in other Ministries show that recruitment of Advisors has been one of the processes most vulnerable to corruption.

Proper communication of the Plan with all levels of employees is another means that can readily add to its effective implementation in an institution as it nurtures a sense of ownership among the staff. However, the Anti-Corruption Plan of the Ministry has not been widely communicated. MEC discovered that most relevant sub-units of the MoEc had no knowledge whatsoever about the existence of the Ministry’s Anti-Corruption Plan.

Full Anti-Corruption Plan Review:

“It was evident that MRRD and MoEc have not communicated the Anti-Corruption Plans with their lower-level employees since many of them were not aware of the Plans.”
In 2016 MEC introduced its new Ministry-wide Vulnerability to Corruption Assessment (MVCA) instrument. Along with the new concept, MEC also decided to dedicate a monitoring team for each MVCA to actively follow-up the new recommendations for 8 consecutive quarters. This also meant a reallocation of human resources and an interruption of the monitoring of MEC’s “old” or standing recommendations.

Nonetheless, in December 2017 MEC’s M&E team resumed its monitoring activity and started following the implementation status of the old standing recommendations with 26 institutions. Each institution was asked to introduce a focal point to MEC’s monitoring team. The M&E team followed up the implementation process of 207 recommendations and updated their respective status. Most of the government institutions were very cooperative in providing the necessary details about activity to implement recommendations along with the supporting documents.

Overall, 20 of the 207 recommendations were implemented and in 148 cases the implementing institutions started the implementation, but have not completed the action yet. Among the old standing recommendations, 39 are not implemented by the government institutions.

The main reforms initiated, and achievements that are related to the implementation of these recommendations, are as follows:

1. The new Penal Code has been endorsed through a Presidential Decree and is enforceable from February 2018. Based on MEC’s recommendations and in accordance with the United Nations Convention against Corruption (UNCAC), the new Penal Code criminalizes in Section Four (Articles 370 – 460) all forms of corruption and determines penalties for each form of corruption and financial crime. The new Penal Code also criminalizes the usurpation of land and moveable property and punishes the usurpation of land in Articles 715 – 718, as recommended by MEC.

2. The Law of Land Affairs and the Expropriation Law have been enacted in April 2017 through Executive Decrees. The Law of Land Affairs contains all the provisions recommended by MEC including identification and recovery of usurped land (articles 91 – 93) and prosecution and punishment of the usurpers (Article 96).

3. In order to accelerate the handling of land and other governmental property usurpation cases, the High Council of the Supreme Court has decided on 13.09.2017 to establish a Specialized Preliminary and Appeals Court. According to the resolution of the High Council of the Supreme Court, these Courts will have the jurisdiction in civil and criminal matters. The Specialized Courts for Land Usurpation will be established in Kabul, Herat, Nangarhar, Balkh, Kandahar, Kunduz, Paktia and Bamyan and the General Administrative Office of the Judiciary was assigned to submit the proposed resolution to the President of Afghanistan for approval.
4. Due to major efforts of the Afghanistan Financial Intelligence Unit of Da Afghanistan Bank to combat money laundering, Afghanistan was removed from the grey list of the Financial Action Task Force (FATF). MEC had issued several recommendations to strengthen the Information Management Systems of the FIU and urged a better cooperation between the FIU and the law enforcement authorities.

5. MEC had issued several recommendations to the Ministry of Economy’s NGO Directorate regarding the regulatory and oversight activity of the MoEc. In March 2018, the Ministry held a National NGO Conference and invited representatives of the donor community, the Afghan Government as well as national and international NGOs. The purpose of the two-day conference was to establish a joint forum for discourse on the crucial role of the NGOs, as well as better coordination and a harmonized reporting mechanism. Five panels discussed different issues over two days and concluded with a joint statement emphasizing transparency and effectiveness in the NGOs’ activities, coordination with the government’s activities, and asks for a clear roadmap of the NGO’s activities that demonstrates alignment with the National Peace and Development Framework.

6. Ministry of Public Works officially requested MEC to support the Ministry in developing a Corruption Complaint Registration System. MEC will assist the MoPW in developing the system during 2018.

7. Based on Resolution of the High Economic Council, in April 2017 the National Procurement Authority in cooperation with the Ministry of Commerce and Industries drafted the

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Total 854 MEC Recommendations Issued Since 2011

- Issued before 2016: 486
- MoPH: 65
- ACP: 51
- MoE: 115
- AGO: 65
- DABS: 72

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Guideline for Beneficial Ownership of Private Companies and submitted the draft to the High Council. The approval of the draft is still pending. The new Guideline will bring more transparency in the procurement of the public sector and prevent possible conflicts of interest.

8. Based on MEC’s recommendation, the Anti-Corruption Committee of the High Council of Rule of Law and Anti-Corruption decided on December 26th to conduct the second round of the UNCAC Self-Assessments. A Lead Committee composed of the involved institutions and a Technical Committee will be established to coordinate the efforts and complete the second round of the Self-Assessment, in accordance with the UNCAC requirements.

MEC’s overall number and status of recommendations keeps changing on account of dual forces: Actions are being tracked and documented continuously leading to a possible change in the status of a recommendation, while additional recommendations are added each Quarter as MEC produces new monitoring mechanisms for successive reports.

MEC has conducted two comprehensive reviews of its recommendations, one in 2016 and one in 2017, to verify the validity of all old standing recommendations, as well as to confirm that each was articulated clearly to be in accordance with the national laws and regulations. As a result of the two reviews, MEC secretariat has archived 75 recommendations that were either outdated or not relevant any more.

The overall status and origin of MEC’s recommendations are illustrated in the chart below:
MEC has issued 854 recommendations since its establishment. 486 Recommendations (56%) have been issued before 2016 based on the research and VCAs MEC has conducted in different institutions. The 3 MVCAs MEC has conducted in the Ministry of Public Health, the Attorney General’s Office, and the Ministry of Education during 2016 and 2017 have 112, 51 and 65 recommendations respectively. Additionally, MEC has issued 72 recommendations after reviewing the Anti-Corruption Plans of 6 Ministries during 2016 and 2017. Our Vulnerability to Corruption Assessment of the state owned electricity company, Da Afghanistan Breshna Sherkat, which was completed in December 2017, has 65 recommendations.

As mentioned above, MEC’s M&E team is responsible for monitoring MEC’s recommendations issued before 2016, while for the MVCA recommendations, a dedicated monitoring team is assigned to follow up with the implementing institutions and preparing Monitoring Reports on a Quarterly basis. Of the 486 recommendations issued before 2016, 224 (46%) have been completely implemented (20 of them in the reporting period) and 146 (30%) have been partially implemented. 39 Recommendation (8%) are not implemented at all, and 75 recommendations (15.4%) have been archived.

The overall status of implementation of all MEC’s recommendations is shown in the chart below.

Da Afghanistan Breshna Sherkat, which was completed in December 2017, has 65 recommendations.

As mentioned above, MEC’s M&E team is responsible for monitoring MEC’s recommendations issued before 2016, while for the MVCA recommendations, MEC will follow up the implementation status of its recommendations every four months, in accordance with its recently developed M&E Methodology. We hope that the implementing institutions will continue to provide the required information and documents.

In this report, MEC reflects on the developments from the beginning of the National Unity Government and criticizes the decreasing interest of the government to recover the stolen assets and follow the money by seeking international cooperation. The report shows, that overall the “Incentive Procedure” (طرز العمل تشويقي) that was developed by the Kabul Bank Settlement Commission, and endorsed by the Cabinet in February 2015, to accelerate the recovery process had only a small effect. The main purpose of this procedure was to give the debtor of Kabul Bank an incentive – in the form of a considerable interest rate reduction – to pay back the (mostly fraudulent) loans they received from Kabul Bank.

As illustrated in the below chart, only USD 63.6 million has been recovered since 2014. Of this amount USD 32.7 million has been recovered in cash and for the remaining USD 30.9 million repayment agreements have been signed.
with the debtors. On the other hand, USD 14.3 million has been discounted in accordance with the provision of the Incentive Procedure.

A comparison of the assets recovery status of April 2018 with October 2014 shows that a considerable amount of the stolen money, around $539 million, is still outstanding (see chart below).

Additionally, the debtors and those who “had an active role in the embezzlement of Kabul Bank’s Assets,” are gradually trying to undermine the verdict of the court and deny being liable to the Bank or faithfully trying to renegotiate the outstanding amount. In one case, the Supreme Court (for unclear reasons) allowed reopening the case of one of the debtors who argued that he is not a shareholder of the company that had an outstanding debt of $21 million to the Kabul Bank, and thus not responsible for paying it back. The case was handled by the Kabul Bank Special Tribunal which decided in favor of the debtor.

This urged the other shareholders of that company as well as former debt and equity holders of Kabul Bank to deny having any outstanding liability or questioning the calculated amount.

Furthermore, the privatization of the New Kabul Bank is still pending and the Government is currently working on a plan to merge it with one of the other State Owned Banks. As the process of recovery of assets and sale of the NKB go forward, MEC will closely monitor and expect transparency in all these areas.
During this quarter, the International Budget Partnership (IBP) published the results of its 2017 Open Budget Survey about Afghanistan, where the country scored 49 out of 100, higher than the global average score of 42, on the 2017 Open Budget Index. The Survey also ranked Afghanistan as having the second most transparent budget in the region this year, following Nepal.

However, transparency alone is insufficient for improving governance. Public participation in budgeting is vital to realize the positive outcomes associated with greater budget transparency. Afghanistan's score of 15 out of 100 indicates that it provides few opportunities for the public to engage in the budget process. In addition, the Survey reflects that the legislature provides weak oversight during the planning stage of the budget cycle and limited oversight during the implementation stage of the budget cycle.

To its credit the Ministry of Finance announced in January that it is actively engaged with civil society organizations and the public this year to formulate the national budget.

There were some other areas in which positive steps were taken towards fighting corruption in the last quarter. The Anti-Corruption Justice Center (ACJC) has continued fighting corruption in different government organizations. In this quarter, the ACJC sentenced four senior Ministry of Interior (MoI) and one Ministry of Hajj and Religious Affairs official to different jail terms of up to three years over corruption. Only in 2017, the ACJC courts have tried 426 cases, nearly 15 individuals were suspended and 54 government employees including military personnel were banned from traveling, according to the Attorney General’s Office. During the year, ACJC has also issued separate orders for repayment of one billion Afghanis, up to $49.5 million USD and around 300,000 Pakistani Rupees. Meanwhile, the Criminal Justice Task Force (CJTF) has prosecuted and tried up to 95 high-ranking civil and military officials on charges of corruption during the solar year 1396.

Notwithstanding the seemingly improved efficiency of prosecutors in making sound cases and preparing complete files and the increased quality of trials, concerns remain about factors preventing the ACJC from undertaking larger cases.

Moreover, the MoI has referred 158 military officials, including four generals, accused of corruption to the Attorney General’s Office. The MoI also unveiled its four-year strategic plan that will boost reforms in the ministry and within the structures of the Afghan National Police (ANP) in February. This comes some months after the President called the Ministry “heart of corruption” and emphasized on fundamental reforms.

In February, the Transparency International released its 23rd annual Corruption Perceptions Index ranking 180 countries by their perceived levels of public sector corruption. According to this survey, Afghanistan was ranked the fourth most corrupt country in the world being ranked 177th place out of 180 countries. While Afghanistan rates very low on the index, its score increased by seven points in the last six years, moving from 8 in 2012 to 15 in 2016 and 2017.

Although Ministry of Finance claims it has plans for bringing reforms in the custom departments in order to prevent corruption, the Afghanistan Chamber of Commerce and Industries complaints that a big part of the country’s revenue is still embezzled by the powerful figures and corrupt individuals.

Also, despite government’s commitments for reforms in the electoral system, the Independent Elections Commissions and the Independent Elections Complains Commission reported interference from powerful individuals and government in the
recruitments of the two commissions, which creates questions about independence and integrity of the commissions.

Last but not the least, land usurpation by powerful figures continues to figure as a major challenge for the government.

“According to the Transparency International survey, Afghanistan was ranked the fourth most corrupt country in the world being ranked 177th place out of 180 countries on the Corruption Perceptions Index 2017.”
Lorenzo Delesgues

Mr. Lorenzo Delesgues was appointed by President Ashraf Ghani as the new International Member of the Independent Joint Anti-Corruption Monitoring and Evaluation Committee of Afghanistan in March 2018.

Mr. Lorenzo, lived for 10 years in Afghanistan where he cofounded, at the age of 25, Integrity Watch, the leading anti-corruption organization in the country, which he directed from 2006 to 2011. That’s where he realized the power of social design to fight corruption, conducting pioneering social audits in post-conflicts environments, launching the Community Based Monitoring.

In 2012, back in France and dreaming to apply these approaches to the western context, he started to design Voxmapp, awarded innovation of the year 2016 by the French Salon of Mayors. He applies social design to connect citizens and the state with the objective to make public space shaping a pleasure.

Mr. Lorenzo is teaching at Sciences Po Paris a class on “accountability and Transparency in post-conflict environments” and at the design school Ecole Camondo a class on “sociology and anthropology applied to design and architecture” to share experiences and to get inspiration.