



Independent Joint Anti-Corruption
Monitoring & Evaluation Committee (MEC)



Second Monitoring Report on the Ministry-Wide Vulnerability to Corruption Assessment of the Ministry of Mines and Petroleum: Implementation Status of MEC's Recommendations

October 2019



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1. Introduction

In October 2018, the Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC) released its Ministry-Wide Vulnerability to Corruption Assessment (MVCA) of the Ministry of Mines and Petroleum (MoMP). The original Assessment began with desk-based research in October 2017 and data collection activities took place from then until the end of July 2018, including interviews, Focus Group Discussions and further review and analyses of formal and informal documentation.

The original MVCA assessed the vulnerabilities in both MoMP's internal operations and regulation of the extractives industry in Afghanistan. It included examining corruption vulnerabilities across each step in the mining value chain for which MoMP is responsible and developing practical measures to mitigate such corruption risks, including within entities beyond MoMP and across the whole of the sector.

Based on findings from this original Assessment, MEC identified key areas of substantial vulnerability to corruption: 1) Rent-seeking behavior; 2) Weak Ministry governance and capacity; 3) Lack of Government accountability.

For rent-seeking behavior, the MVCA report identified issues affecting information about the country's mineral reserves, illegal mining, collection of payments of different Government agencies without authority, and political or other inappropriate interference in MoMP recruitment processes, leading to patronage, cronyism and nepotism.

For weak Ministry governance and capacity, the MVCA team identified poor coordination within MoMP and with other relevant agencies, lack of human, technical and financial capacity in Head Office and Provincial Directorates of MoMP, unclear or non-existence of necessary policies and regulations, weak legal frameworks to collect royalties, low salaries at MoMP, an unclear, lengthy and weak contract awards process and problems collecting production data.

For the lack of Government accountability, the MVCA report identified the failure to implement effective anti-corruption measures within MoMP, lack of due diligence in Government processes, lack of quality of internal audits, opaque and compromised contract negotiations, the limited opportunity for communities to contribute to effective monitoring of the industry and insufficient protections from and sanctions for inappropriate inspector behavior.

The MVCA identified significant concerns in all three areas and issued 16 high-level recommendations for the MoMP and additional stakeholders. These general recommendations were further developed into 191 more-detailed recommendations, based on SMART-testing by MEC. SMART-testing is MEC's standard method of evaluating recommendations (or project objectives) based on assurance the actions and reforms would be Specific, Measurable, Achievable, Results-oriented, and Time-bound. The more detailed recommendations were actions and reforms that had been broken down into their constituent elements to assure clarity and accuracy for the monitoring and evaluation phase following release of the MVCA report.

During 2019, MEC established an Active Follow-Up Team comprising one international consultant, one national consultant, and two national staff members from the MEC Secretariat.

On August 25th of 2019 the MEC Active Follow-Up Team presented the First Monitoring Report on the Ministry-Wide Vulnerability to Corruption Assessment of the Ministry of Mines and Petroleum. The recommendations status and main conclusions of the initial Monitoring Report were:

- Recommendations status at the 1st Monitoring Period:

Status	Number	Percentage
No response	27	14%
Not implemented	89	47%
Partially implemented	48	25%
Implemented	27	14%
Total	191	100%

- The evidence suggested a disconnection among different levels and positions within MoMP, or different offices across the same decision-making level. The communication channels between internal offices were not appropriate to fulfil implementation of 100% of MEC's recommendations. As an example, middle and low-level positions frequently reported that compliance on a given recommendation responded to (and was responsible to) higher (or different offices) institutional levels within the Ministry.
- In many instances, the implementation of recommendations was derived from isolated or unarticulated programs which were mostly financed by the sector's donors. There was no evidence suggesting that an integral program or plan was carrying out coordination to fulfill those recommendations.
- According to MoMP's professionals, the methodologies suggested in the MVCA were not 100 per cent consistent with current practices and policies in the Ministry, although the work was similar. Therefore, there was no incentive among MoMP workers to change current practices.
- The perception of some staff at MoMP was that MEC's work is like an auditing process, with rewards and penalties associated with reporting and compliance. It will help for future follow-up processes if MEC could more effectively explain the distinction between auditing processes and MEC's Active Follow-Up process to differentiate MEC's role in monitoring and evaluating initial implementation commitments made by MoMP.

2. Thematic Focus in 2nd Monitoring Report

2.1 Comparison of mining Contracts of Afghanistan to Colombia and Peru

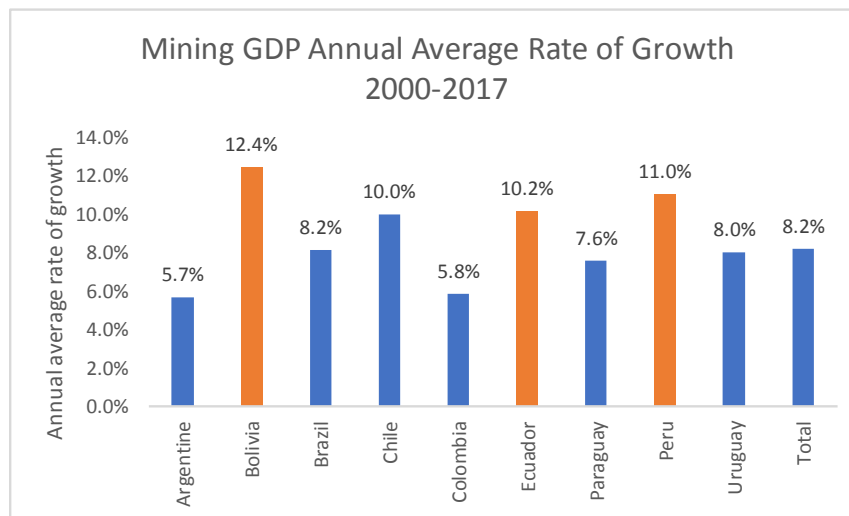
As per the decision of MEC, each Active Follow-Up Team includes a Thematic Focus besides following the status of implementation of recommendations. This way MEC would be able to not only assess the implementation of recommendations, but draw attention to a specific process inside of the MoMP. The Thematic Focus also allows MEC also to assess performance after the changes have been brought, or to closely examine a specific group of related issues. For MEC's MoMP 2nd Monitoring Report, the Thematic Focus is on the contracting process and mineral rights. The MEC MoMP Active Follow-Up Team have assessed the access to mineral rights process and the Afghanistan Mining contracts have been compared with contracting systems of Columbia and Peru.

Colombia and Peru were selected for comparison in the Thematic Focus due to the similarities to the context of Afghanistan. During the period 2000-2017, on average, South American mining countries experienced an 8.2% annual average GDP mining growth, even with the deceleration that was observed between 2012 – 2017. This general behavior can be explained by the increase of mining production in Peru, Chile, Argentine, Brazil and Colombia, as presented in the following table and figure. In terms of rate of growth, Bolivia and Peru presents the highest values in the region, with 12.4% and 11.0% respectively.

Table 1: Mining GDP (Millions of USD)

Years	Argentina	Bolivia	Brazil	Chile	Colombia	Ecuador	Paraguay	Peru	Uruguay	Total
2000	7,336	551	7,777	5,314	6,115	967	111	3,361	67	31,599
2001	6,881	515	7,736	4,595	4,973	660	96	3,281	53	28,790
2002	6,298	507	8,814	4,670	4,895	832	72	3,743	27	29,859
2003	7,312	611	10,504	6,205	5,434	1,286	77	4,368	26	35,822
2004	8,320	829	13,958	12,409	6,953	2,364	104	6,314	30	51,279
2005	9,931	940	23,835	17,925	9,511	3,783	122	8,419	43	74,509
2006	13,421	1,330	33,104	32,038	11,066	5,318	158	12,732	55	109,222
2007	12,676	1,612	35,226	35,637	12,724	5,970	185	14,671	62	118,765
2008	13,634	2,374	54,690	25,108	19,655	8,928	275	15,189	90	139,942
2009	13,647	2,248	31,361	22,459	17,184	5,121	249	12,627	147	105,043
2010	16,516	2,755	62,508	34,771	24,811	7,576	296	18,108	199	167,540
2011	17,929	3,713	97,181	37,451	38,172	10,463	378	25,160	210	230,658
2012	18,928	3,960	95,344	33,406	41,491	11,381	380	23,424	226	228,539
2013	17,970	4,326	87,860	30,577	39,244	11,851	416	20,956	283	213,483
2014	21,076	4,368	78,517	28,425	32,108	11,267	436	17,521	264	193,982
2015	20,579	3,301	33,296	20,922	17,370	4,691	374	14,197	228	114,959
2016	17,938	3,038	15,919	20,167	13,424	3,800	374	15,737	238	90,635
2017	18,807	4,041	29,476	26,901	16,041	5,024	384	19,906	249	120,829
Annual growth	5.7%	12.4%	8.2%	10.0%	5.8%	10.2%	7.6%	11.0%	8.0%	8.2%

Source: Economic Commission for Latin America and the Caribbean



In terms of Per Capita GDP, the following table presents the evolution of mining South American countries for the period 2000-2017. On the other side, according World Bank information, in 2018 the Per Capita GDP in Afghanistan was close to USD 521: meaning that large economies, like Argentine, Brazil or Chile are not good country reference for Afghanistan.

Table 2: Per capita GDP (USD)

Years	Argentina	Bolivia	Brazil	Chile	Colombia	Ecuador	Paraguay	Peru	Uruguay
2000	8,333	1,013	3,746	5,072	2,449	1,451	2,053	1,996	6,320
2001	7,792	963	3,155	4,569	2,373	1,904	1,883	1,981	5,830
2002	2,925	918	2,832	4,436	2,334	2,184	1,526	2,059	3,856
2003	3,675	921	3,060	4,759	2,224	2,440	1,561	2,181	3,517
2004	4,296	982	3,620	6,172	2,714	2,709	1,871	2,448	4,156
2005	5,139	1,050	4,762	7,567	3,354	3,022	2,002	2,755	5,221
2006	5,940	1,237	5,843	9,424	3,677	3,350	2,404	3,171	5,876
2007	7,267	1,393	7,284	10,459	4,636	3,590	3,071	3,611	7,007
2008	9,076	1,740	8,741	10,710	5,383	4,274	4,064	4,209	9,061
2009	8,263	1,779	8,498	10,174	5,099	4,255	3,647	4,166	9,416
2010	10,369	1,983	11,143	12,768	6,231	4,657	4,386	5,022	11,942
2011	12,756	2,379	13,064	14,595	7,207	5,224	5,356	5,770	14,173
2012	13,843	2,645	12,193	15,309	7,904	5,702	5,216	6,386	15,100
2013	14,451	2,947	12,115	15,809	8,066	6,074	5,965	6,580	16,888
2014	13,226	3,121	11,922	14,666	7,974	6,396	6,145	6,487	16,744
2015	14,894	3,073	8,675	13,614	6,085	6,150	5,447	6,046	15,531
2016	12,755	3,113	8,572	13,858	5,813	6,100	5,363	6,039	15,304
2017	14,425	3,388	9,691	15,284	6,344	6,274	5,737	6,567	17,283

Source: Economic Commission for Latin America and the Caribbean

Finally, during the last 10-15 years, in Bolivia, Ecuador and Venezuela the Government took a strong participation in economic activities, moreover, in some cases, these States nationalized some natural resources companies. These policies are different to the private sector – economy oriented following by the Government of Afghanistan.

The following table summarizes the previous results in order to choose those countries that will be compared with Afghanistan. Taking into consideration the 3 variables (per capita GDP, mining growth and economy orientation) Colombia and Peru are the countries whom satisfied the 3 criteria, specially Peru. Therefore, these countries will be used to compare the mining contracts with Afghanistan.

Country	Per capita GDP	Mining GDP growth	Economy orientation
Argentine	X	+	Ok
Bolivia	Ok	+++	X
Brazil	X	++	Ok
Chile	X	++	Ok
Colombia	Ok	+	Ok
Ecuador	Ok	+++	X
Paraguay	Ok	++	Ok
Peru	Ok	+++	Ok
Uruguay	X	++	Ok

The following section will present the main observations of a comparative analysis made between mining contracts in Afghanistan, Colombia and Peru. General aspects of contracts in those countries are presented in Annex B.

- In the three countries there is a contractual provision indicating that the property of minerals belongs to the concessionaire.¹ This provision means that the concession holder can decide the market, internal or export; selling price and market volume². This is relevant in order to create a more competitive framework to capture foreign investment in the minerals sector because investors feel more comfortable when they can decide the commercial aspects of the operation.

Some countries (not those analyzed in this Monitoring Report) will put some restrictions on exports or establish subsidized domestic prices for the extraction of natural resources. This situation creates artificial barriers to the free commercialization of minerals, affecting (in many opportunities) the rate of return of the operation. As mentioned in the previous paragraph this is not the general³ situation of the mineral contracts in the country.

¹ In the case of Afghanistan there are minor provisions to accomplish in the case of exports.

² Nevertheless, in all the countries, concession holders have production agreements to fulfill.

³ Governments always have the faculty to impose restrictions on free commerce.

- In regards to the types of licenses available, Colombia and Peru award mining contracts for exploration and exploitation, but in the case of Afghanistan, there are 2 distinct types of licenses: exploration and exploitation. This means that in Colombia and Peru, if the exploration activity is successful then the same concession holder can pass to the exploitation phase; but in the case of Afghanistan, this passthrough is not automatic – the concession holder must follow additional protocols in order to get the exploitation license.

Having two types of licenses could decrease the incentive to invest in the country. The logic of this is that once the concession holder gets the exploration license it's not 100% sure that they will get the exploitation license; then, it will be less aggressive in the amount of investment in exploration. In other words, the concession holder has all the incentive to make the minimum contractual exploration investment. Also, if as a result of the exploration phase the potential profitability of reserves is high, Governments have all the incentive for an inconsistent behavior, changing the initial rules in order to capture a high take of possible profits. This, of course, is likely anticipated by the concession holder which has a lower incentive to discover rich reserves.

- Regarding the concession term, in two examples projects in Afghanistan, Shaida and Badakhshan, the established terms include an exploration phase of 3 to 5 years, and an exploitation phase of 30 years. This is similar to the situation in Colombia, where the total length of the contract is 30 years, with a possible extension of two additional years. The case in Peru is peculiar, where the concession term is open ended, as long as the concessionaire reaches a minimum contractual level of production. This creates a very strong incentive to maximize the investment and production in the mine, because there is no rush to exploit all reserves before the contract's deadline.
- In all three of the analyzed countries in this Thematic Focus, the Government, through designated institutions, approves the working programs during exploration and exploitation phases. In some cases, there are also minimum investments required for the exploration period; all the infrastructure investment is also in charge of the concessionaire. In each country, with special emphasis in Afghanistan, concession holders must present a detailed environmental program and a community management plan.

In Afghanistan concession contracts are extensively bureaucratic, relative to the detail of production and environmental plans, closure conditions and community management. That imposes an expectation that government agencies allocate several layers of human resources to manage each contract. Management of these contracts require intensive command/control structures compared to other countries. Costs (in terms of human resources and others) of control could exceed the benefits of such controls, creating a large space to corruption activities.

- The award and administration of contracts in Colombia and Peru are under the supervision of decentralized Government institutions: The National Agency of Mining (*Agencia Nacional de Minería*) of Colombia and the Mining and Metallurgic Geological Institute (INGEMMET) of Peru. But in the case of Afghanistan, these activities are centralized under the management of MoMP.

The award and management of natural resources contracts (mining, oil, gas, etc.) in several countries of Latin America are managed by decentralized institutions because Ministries usually oversee public policy design and the oversight structures of the complete sector. The centralized situation in Afghanistan has both positive and negative issues.

Among the positive issues: Efficiency in the allocation of Government resources⁴, centralization of information, alignment between national policies and contract administration, and the existence of only one interlocutor between the Government and concessionaires, among others. In relation to negative issues: Subordination of the contract administration to Government, imposition of short term policies, concessionaires' perception that there is not a counterpart (inside the Government) that can balance conflicting issues that can arise during the implementation of the contract. This last point has resulted in the development of slower bureaucratic procedures inside MoMP since this Ministry has to manage multiple aspects of the industry, not only contract administration.

- In regards to the fiscal system applied in mining contracts, the following table presents a general overview of the three countries. A general comment of this comparative analysis is *a priori* the fiscal system, as applied in Afghanistan, generates a lower Government revenue intake than Peru and Colombia. It seems that Afghanistan lowered the fiscal take in the business to offset the high costs in infrastructure and (maybe) security.

⁴ With emphasis in human resources.

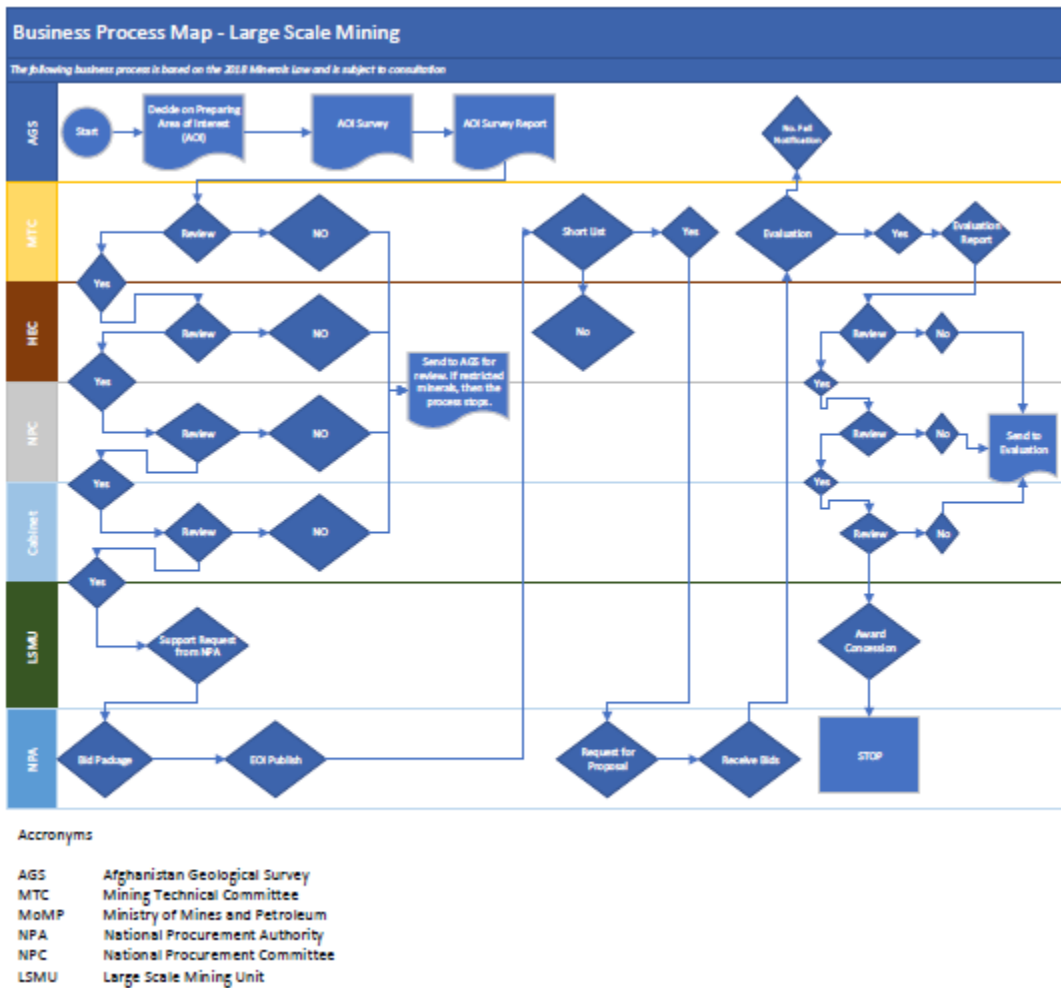
Fiscal terms	Afghectarenistan		Colombia	Peru
	Shectareida project	Badakhshectaren project		
Annual surface right	Exploration: 5.0 USD/hectare Renewal exploration: 10 - 15 USD/hectare Exploitation: Metallic and non-metallic minerals 25 USD/hectare Exploitation: Gem stones 35 USD/hectare		0-2,000 hectare: 1 minimum wage (240.3 USD/hectare) 2,000-5,000 hectare: 2 minimum wage (480.6 USD/hectare) 5,000-10,000 hectare: 3 minimum wage (720.9 USD/hectare)	General: 3.0 USD/hectare Small mining: 1.0 USD/hectare Artisanal mining: 0.5 USD/hectare
Royalty	Principal metal products: 6.1% Other mineral substances : 5.0%	Ore: 8.0% Doré : 6.0% Refined: 4.0%	1% - 12%	1% - 12%
Special Mining Tax	-	-	-	Progressive 2% - 8.4% Mining income
Corporate Income tax	20%		33%	29.5%
Business Receipts Tax (Sales tax)	10%		-	-
Business Receipts Tax (Imports tax)	2%		16%	18%
Wage withholding tax	20%		-	-
Remittance dividends	-		-	5.00%

- The three countries have provisions for small and artisanal mining, though in Peru the regional governments manage the contracts associated with this segment of the industry.

۲.۲ Vulnerabilities in large scale contracting process in Afghanistan

MEC’s Active Follow-Up Team conducted document reviews and interviews with MoMP professionals which revealed vulnerabilities still exist, as enumerated below:

۱. During data collection period for the 2nd Follow-Up report, the Mining Cadaster Administrative System is still not applied to large-scale contracts.
۲. During data collection period for the 2nd Follow-Up report, the large-scale contracting process was still being done manually, which was the same during the original MVCA.
۳. Up until the time of our interviews, the MoMP had not uploaded or published the large-scale contracts onto the MoMP website, although the Law stipulates they must upload contract details after 14 days of signing them. These large-scale contracts were signed in 2018 – well-beyond the 14-day timeframe. This demonstrates that there is still vulnerability, and it is possible to hide the information regarding mining contracts.
۴. The large-scale contracting process is still too long and would typically take months to complete and sign as the contracts must go through each of the High Economic Council, Afghan Cabinet, and National Procurement Commission for their approvals, in two different steps, 1st before starting the bidding process (for reviewing survey reports), and 2nd, after the bidding process is started and successful companies are shortlisted. This makes the process too long and as seen in large scale mining process map, below, the three decision layers have the same duties of review, approving or rejecting, and contributing to further delays.



9. Based on the Law, the contracting process duties of the High Economic Council, Cabinet, and National Procurement Commission are to “approve or reject” the mining contracts, which duplicate each other and would not necessarily contribute to more efficiency in the process.
10. Based on the Minerals Law (Article 6), which was finalized months ago, an independent Technical Committee should be hired and established within MoMP to check and assess all technical and financial aspects of mining contract applicants. This includes making recommendations for declaration or cancellation of large scale mining contracts, small scale mining areas would be the technical committee’s function – but this still has not been done and the functions are being delivered by manual committees selected by MoMP leadership, which creates vulnerability.

- ∪. Based on the Mining Law (Article 50), to collect the royalties of mining contracts MoMP must have three categories of products (primary, secondary and tertiary), but MoMP still lacks a clear procedure or mechanism to differentiate these products.
- ∧. Of the three active large-scale mining contracts, only one has approval from National Environmental Protection Agency (NEPA).
- ∩. Of the three active contracts, only one contract-holder has prepared and submitted their Exploration Plan to MoMP, although more than one year has passed since its signing.

3. Monitoring and Evaluation of Recommendations

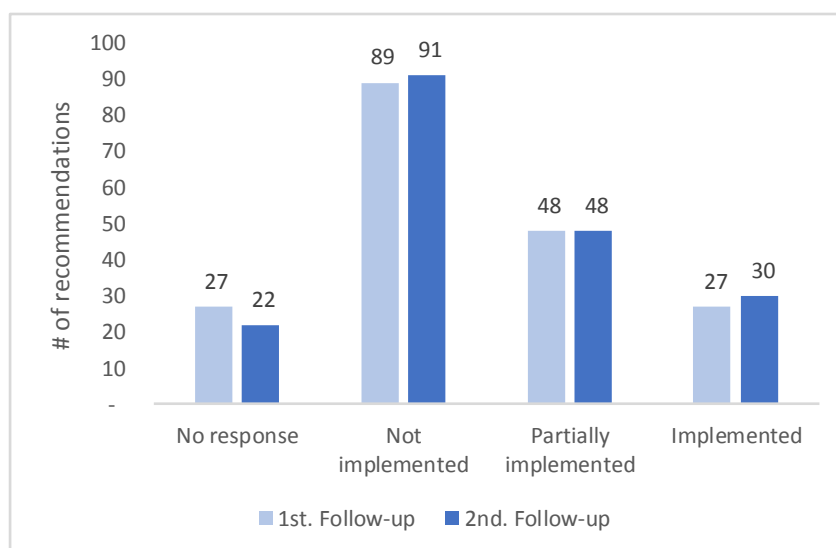
3.1 Monitoring of Implementation

In the table below:

- 'No response' includes Nil responses from the Ministry, despite multiple and repeated attempts to gather evidence of implementation.
- 'Not implemented' includes cases where responses received from the Ministry indicate existing procedures or systems didn't respond to the original MVCA recommendations.
- 'Partially implemented' includes cases where responses received from the Ministry indicate existing procedures or systems correspond to some degree to the original MVCA recommendations. 'Partially implemented' does not imply that all the elements of a recommendation can or will be implemented.
- 'Implemented' includes cases where recommendations have been superseded, for example, as a result of internal reorganization.

Status	Number	Percentage
No response	22	12%
Not implemented	91	48%
Partially implemented	48	25%
Implemented	30	16%
Total	191	100%

In the graph below there's the evolution of the status of recommendations between the first and second follow-ups:



The table below shows the status of recommendations according to areas of concern:

Area of Concern	No response	Not implemented	Partially implemented	Implemented
Weaknesses in the Anti-Corruption System	17%	83%	0%	0%
Weak Governance	36%	36%	18%	9%
Poor Relations between National and Subnational Governments	0%	100%	0%	0%
Politicization of Decision-Making Processes	100%	0%	0%	0%
Gaps in Due Diligence	0%	33%	67%	0%
Illegal Mining	22%	28%	28%	22%
NEPA	0%	80%	20%	0%
MOMP Context: MOMP Reform Strategy	0%	100%	0%	0%
Afghan Geological Survey	0%	50%	50%	0%
Weak Ministry Capacity	0%	67%	25%	8%
Problems with Working Conditions in the Ministry	40%	40%	20%	0%
Weaknesses in the Ministry's Anti-Corruption System	0%	50%	0%	50%
Internal Audit Weaknesses	0%	33%	67%	0%
Poor Human Resource Practices	11%	44%	22%	22%
Weak Information Management Systems	0%	50%	50%	0%
Use of Donor Funds	0%	50%	50%	0%
Ineffective Legal and Policy Framework	0%	50%	38%	13%
Unclear Land Rights	0%	50%	0%	50%
Unclear Legal Requirements	0%	29%	0%	71%
Unclear and Weak Awards Processes	18%	27%	27%	27%
Inadequate Bidding Process	0%	100%	0%	0%
Opaque and Compromised Contract Negotiations	0%	33%	0%	67%
Unaccountable Decision-Making Processes	40%	0%	0%	60%
Lack of Information Transparency	33%	0%	67%	0%
Inappropriate Contract Content	0%	0%	0%	100%
Unclear and Inappropriate Renewal, Transfer and Termination Conditions	0%	67%	33%	0%
Inadequate Monitoring of Operations	0%	67%	33%	0%
Weak Requirements for Community Consultation	0%	50%	33%	17%
Incorrect Production Information	0%	100%	0%	0%
Inappropriate Inspector Behavior	0%	100%	0%	0%
Large Tax Payers Office of the Afghanistan Revenue Department	0%	71%	14%	14%
Inadequate Reporting of Production Information	33%	67%	0%	0%
Lack of Transparency	0%	50%	50%	0%
Incorrect Payments	0%	50%	0%	50%
Weak Revenue Collection Processes	33%	67%	0%	0%
Weak Legal Framework for Revenue Collection	0%	0%	0%	100%
Inspection and Reporting	0%	100%	0%	0%
Total	11.5%	47.6%	25.1%	15.7%

See Annex A for the status of individual recommendations.

۳.۲ Evaluation of Implementation

Based on the observation of MoMP's responses and work that the MEC Active Follow-Up Team has completed as part of its monitoring activities, the evaluation of the second follow-up period is as follows:

- In relation to the 1st Follow-Up Monitoring Report there has not been a significant improvement in the number of recommendations implemented during the 2nd monitoring period. The only major improvement was an 11.1 per cent increase (3 additional recommendations) related to the "Weaknesses in the Anti-Corruption System" and "Illegal Mining."
- During the 2nd Follow-Up monitoring period, MoMP requested an extension in the deadline to address more recommendations because of what they described as the short time between the release of the 1st and 2nd Monitoring Reports. This request was not granted because the deadlines inside MEC schedule are fixed in advance, the practice at MEC is to continuously monitor for evidence of implementation, and MEC determined that the agreeing to the request was not likely to result in improved levels of implementation. Nevertheless, MEC supports the idea that if there is a 'political will,' things can and do change, which appeared to be the case at MoMP until now. Notably, MEC has had similar experience with multiple other Ministries and entities – and there are nearly always some elements of progress which can be articulated in each monitoring period.

Annex A: Status of MoMP responses to MVCA Recommendations

Weaknesses in the Anti-Corruption System

	RECOMMENDATION	Status
R.1	MoMP formally revises the Industry Roadmap (GoIRA 2017c) based on the specific risks identified in this MVCA, within three months.	Not Implemented
R.2	MoMP puts in place practical measures to protect whistleblowers who report cases of suspected corruption in good faith and on reasonable grounds, within 18 months.	Not Implemented
R.3	NEPA puts in place practical measures to protect whistleblowers who report cases of suspected corruption in good faith and on reasonable grounds, within 18 months.	Not Implemented
R.4	MoI imposes spot checks in Districts with mining operations to detect and prevent checkpoints being used to impose illegal charges on mining operators, within 12 months.	Not Implemented
R.5	MoMP implements an independent mechanism for review of Government decision-making about mining, within six months of the release of the MVCA.	Not Implemented
R.6	An MoMP Anonymous Complaints Hotline is established and promoted internally to MoMP staff as well as to the general public within three months of the launch of this report.	No response

Weak Governance

	RECOMMENDATION	Status
R.7	MoMP delegations of accountabilities to Provincial Offices for regulating mining should be articulated in detail to ensure that there are no gaps in accountability for mining governance responsibilities between National and Provincial Offices within three months of the release of the MVCA.	No response
R.8	MoMP delegations of accountabilities to Provincial Offices for regulating mining should be published on the MoMP website within three months of the release of the MVCA.	No response
R.9	MoMP monitors the fulfillment of the accountability functions by Provincial and National Head Office within one year of the release of the MVCA.	No response
R.10	MoMP finalizes an MOU with relevant Government regulatory authorities to a) formally coordinate strategy and b) formalize the exchange information between Provincial Offices, within one year of the release of the MVCA.	No response
R.11	MoMP and NEPA establish a formal mechanism to ensure Environmental Approvals are obtained for all mining operations, based on existing Law, within one year of the release of the MVCA.	Not Implemented
R.12	MOMP and NEPA prepare Guides and Toolkits, within a year of release of the MVCA, to help mine site operators meet their legal obligations for Environmental Approvals.	Not Implemented
R.13	MoMP and NEPA establish 'Grandfathering-In' policies for current mine site operators to permit them to achieve legal obligations of Environmental Approval, within one year of the release of the MVCA.	Not Implemented
R.14	MoMP acts internally to enforce asset registration obligations, for all positions at Director level and above, within six months of the release of the MVCA.	Partially implemented
R.15	MoMP enforces Beneficial Ownership Transparency obligations for all extractives operators, within six months of the release of the MVCA.	Implemented
R.16	MoMP prepares and implements a system of due diligence for verification of the completeness, truth, and correctness of mining License applicants, within six months of the release of the MVCA.	Not Implemented
R.17	MoMP prepares and implements a system of due diligence for verification of the completeness, truth, and correctness of mining Contract applicants, within six months of the release of the MVCA.	Partially implemented

Poor Relations between National and Subnational Governments

	RECOMMENDATION	Status
R.18	MoMP coordinates with Independent Directorate of Local Governance (IDLG) to fully implements its Strategy and Action Plan to return five percent of mining revenues to affected Provinces, including involvement of the CCP, within one year of the release of the MVCA.	Not Implemented
R.19	MoMP coordinates with Independent Directorate of Local Governance (IDLG) to develop an articulated Action Plan to return five percent of mining revenues to affected Provinces, including involvement of the CCP, within nine months of the release of the MVCA.	Not Implemented
R.20	MoMP coordinates with Independent Directorate of Local Governance (IDLG) to fully implements its Strategy and Action Plan to return five percent of mining revenues to affected Provinces, including involvement of the CCP, within one year of the release of the MVCA.	Not Implemented

Politicization of Decision-Making Processes

	RECOMMENDATION	Status
R.21	MoMP formally, continuously, and publicly registers all approaches at MoMP by PEPs, utilizing official Security Logs, and detailing the person approached for meetings, beginning within three months of the release of the MVCA.	No response
R.22	MoMP staff and management continuously report to the Minister any other approaches by PEPs, beginning within three months of the release of the MVCA.	No response
R.23	MoMP requests AEITI/ AEITI MSG/ IWA to implement an independent mechanism for review of Government decision-making about mining, within nine months of the release of the MVCA.	No response

Gaps in Due Diligence

	RECOMMENDATION	Status
R.24	MoMP adapts the legislative instruments included in Westenberg and Sayne (2018) for application in the revised regulations to require due diligence in Beneficial Ownership Transparency for extractives contracts, within one year of release of the MVCA.	Partially implemented
R.25	MoMP adapts the legislative instruments included in Westenberg and Sayne (2018) for application in the revised Hydrocarbons Regulations to require due diligence in Beneficial Ownership Transparency for extractives contracts, within one year of release of the MVCA.	Not Implemented

R.26	MoMP develops due diligence procedures for checking Beneficial Ownership as a part of awarding mineral rights based on advice in Westenberg and Sayne (2018) and in Votava et al., (2018) within one year of release of the MVCA.	Partially implemented
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Illegal Mining

	RECOMMENDATION	Status
R.27	MoMP demonstrably strengthens the contract award and renewal processes within three months of release of the MVCA.	Partially implemented
R.28	MoMP demonstrably streamlines the contract award and renewal processes within three months of release of the MVCA.	Partially implemented
R.29	MoMP strengthens the integrity of contract award and renewal processes through publishing the details of the steps of the processes including details about complaints and appeals within three months of release of the MVCA.	Partially implemented
R.30	MoMP develops articulated strategy for illegal artisanal mining, within one year of release of the MVCA.	Implemented
R.31	MoMP develops an articulated strategy for illegal mining that occurs within insecure and insurgency-controlled territories, within one year of release of the MVCA.	Partially implemented
R.32	MoMP commits that it will not issue contracts in areas of active conflict, within three months of the release of the MVCA.	Not Implemented
R.33	MoMP leadership requests a detailed Action Plan from the National Security Council to increase Government control over mining areas, within three months of the release of the MVCA.	No response
R.34	MoMP establishes a system to monitor all mining activity remotely, possibly using satellite imagery, within one year of release of the MVCA.	Not Implemented
R.35	MoMP uses the results of the monitoring system to formally assess the extent of illegal mining activities on legal sites, within one year of release of the MVCA.	Not Implemented
R.36	MoMP uses the results of the monitoring system to check accuracy of financial and production statements by mines, within one year of release of the MVCA.	Not Implemented
R.37	MoMP implements the MOU with Ministry of Urban Development and Affairs, MoPW, and Kabul Municipality to ensure construction material contractors have legal mining contracts, within six months of the release of the MVCA.	Implemented

R.38	MoMP implements a non-bidding License system for artisanal miners as a pilot project, within 18 months of the release of the MVCA. Panjshir Province should be considered for this pilot.	Partially implemented
R.39	MoMP conducts analysis of Fiscal Terms for fee-based and income taxed artisanal mining, free from royalties, within 18 months of the release of the MVCA.	No response
R.40	MoMP develops an Artisanal Mining Inspection and Monitoring Strategy, based on capacity building, within six months of the release of the MVCA.	Implemented
R.41	MoMP establishes a Mineral Support Centre for artisanal mining, within 18 months of the release of the MVCA.	Not implemented
R.42	MoMP identifies areas to be restricted to artisanal mining, based on USGS analysis, within six months of the release of the MVCA.	No response
R.43	MoMP quarantine areas for artisanal mining only, based on USGS analysis, within one year of the release of the MVCA.	No response
R.44	MoMP conducts analysis of lessons learned from previous episodes where Artisanal Licenses overlapped with Exploration/Exploitation Contracts for other minerals in order to determine the feasibility of developing legal operations without abuses, within twelve months of the release of the MVCA.	Implemented

NEPA

	RECOMMENDATION	Status
R.45	NEPA fully enforces legal requirement of ESIA for all extractive projects before mining activities begin, immediately upon acceptance of the MVCA.	Not Implemented
R.46	NEPA initiates establishment of a Joint MoMP-NEPA Coordination Committee through the Environmental Geology Directorate of the Afghan Geological Survey (AGS) to coordinate multi-disciplinary teams to conduct technical inspections of mine sites, within six months of the release of the MVCA.	Not Implemented
R.47	Joint MoMP-NEPA Coordination Committee prepares a Guide covering how to develop an ESIA that includes a list of required assessments and an Inspection Checklist for Inspectors, within one year of the release of the MVCA.	Partially implemented
R.48	NEPA implements three-month site-specific public awareness packages, based on project ESIA, before start of mining projects, beginning within one year of release of the MVCA. The content and methods of delivering public awareness messages will be determined by NEPA, based on available resources.	Not Implemented
R.49	NEPA articulates considerations of vulnerable groups, including women and children, in ESIA's,	Not Implemented

	within six months of release of the MVCA.	
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MOMP Context: MOMP Reform Strategy

	RECOMMENDATION	Status
R.50	MoMP conducts a comparative analysis of the anti-corruption elements of the Reform Strategy and the recommendations of MEC's MVCA, within six months of release of the MVCA.	Not Implemented

Afghan Geological Survey

	RECOMMENDATION	Status
R.51	AGS develops a SMART-tested strategy with specific objectives for increasing technical capacities of staff, within six months of release of the MVCA.	Partially implemented
R.52	AGS develops a SMART-tested strategy with specific objectives for increasing administrative capacities of staff, within six months of release of the MVCA.	Not Implemented
R.53	AGS develops a SMART-tested strategy with specific objectives for improving budget management capacities of staff, within six months of release of the MVCA.	Not Implemented
R.54	AGS convenes a standing Technical Committee to review and evaluate field survey reports, within six months of release of the MVCA.	Partially implemented

Weak Ministry Capacity

	RECOMMENDATION	Status
R.55	MoMP requests an independent Vulnerability to Corruption Assessment of NCE, within three months of the release of the MVCA.	Not implemented
R.56	MoMP request an independent Vulnerability to Corruption Assessment of AGE, within three months of the release of the MVCA.	Not implemented
R.57	MoMP reviews the organizational arrangements resulting from the Industry Road Map and the Ministry Reform Strategy, within one year of the release of the MVCA, to ensure that they establish a clear separation between regulatory functions from the functions of industry promotion and preparing industry policy. This review should also assess the risks associated with having a number of new regulatory agencies and develop suitable risk control measures.	Not Implemented
R.58	MoMP should specify the required qualifications and skills for all key positions within MoMP, within one year of the release of the MVCA, to ensure that recruitment is based on these requirements.	Implemented
R.59	MoMP establishes a standard method for determining the Tashkiel for the Ministry as a whole and for the Provincial Offices, based on analyzing the workload required, within one year of the release of the MVCA. For Provincial Offices, this should consider the number of mining activities to be monitored and regulated, and the efforts required to address illegal mining in the Provinces. The method should require active involvement of Provincial Offices in these analyses.	Not Implemented
R.60	MoMP involves Provincial Offices in annual analyses of its Tashkiel, beginning within six months of the release of the MVCA.	Partially implemented
R.61	MoMP provides inspectors with access to suitable Ministry vehicles to visit mine sites, within one year of the release of the MVCA.	Not Implemented

R.62	MoMP recruits competent permanent Officers to positions currently staffed with acting Officers, within one year from the release of the MVCA.	Partially implemented
R.63	MoMP completes a Functional Review of AGS to clarify and emphasize the role of AGS in mining governance, with recommendations, within six months of the release of the MVCA.	Partially implemented
R.64	MoMP completes a Physical/Technical Resource Review of the Ministry, including Provincial Directorates, with recommendations, within one year of the release of the MVCA.	Not Implemented
R.65	MoMP analyzes, and publishes the results of the analysis of its Reform Strategy, with recommendations, within one year of the release of the MVCA.	Not Implemented
R.66	MoMP establishes a multi-stakeholder monitoring mechanism for the Reform Strategy, including engagement with the industry's workforce, within three months of the release of the MVCA. MEC notes that the AEITI MSG may meet the implementation objective of this recommendation.	Not Implemented

Problems with Working Conditions in the Ministry

	RECOMMENDATION	Status
R.67	MoMP revises the Reform Strategy to address low salary levels, within the range of feasible and legal options available to the Ministry, within one year of the release of the MVCA.	Not Implemented
R.68	MoMP adopts a transparent and single salary structure, based on skills and experience, within one year of the release of the MVCA.	Not Implemented
R.69	MoMP assures a transparent per diem system, supported by documentation and audits for reviews and checks, within six months of the release of the MVCA.	Partially implemented
R.70	MoMP adopts a transparent resource monitoring system during inspection visits, supported by documentation and audits, within six months of the release of the MVCA.	No response
R.71	MoMP implements a Code of Conduct, including prohibition of private work with organizations governed by the MoMP, within six months of the release of the MVCA.	No response

Weaknesses in the Ministry's Anti-Corruption System

	RECOMMENDATION	Status
R.72	MoMP revises the current draft AC Plan, based on the MVCA findings, with tactics to address internal corruption vulnerabilities within MoMP, within one month of the release of the MVCA.	Implemented
R.73	MoMP provide comprehensive anti-corruption training to all MoMP staff, within three months of the release of the MVCA.	Not Implemented

Internal Audit Weaknesses

	RECOMMENDATION	Status
R.74	MoMP, in coordination with the SAO, clarifies the mandate of the Internal Audit Department for MoMP staff, including the relationship of IAD with the SAO, within three months of the release of the MVCA.	Not Implemented
R.75	MoMP prepares a comprehensive Internal Audit Guide for MoMP, based on the SAO Guidance, within six months of the release of the MVCA.	Partially implemented
R.76	MoMP finalizes the MoMP Internal Audit Reports format, based on the Internal Audit Guide for MoMP, within six months of the release of the MVCA.	Partially implemented
R.77	MoMP implement MoMP Internal Audit Reports format, based on Internal Audit Guide for MoMP, within six months of the release of the MVCA.	Partially implemented

R.78	MoMP engages Internal Audit Department at relevant MoMP Senior Management Team forums, within six months of the release of the MVCA.	Partially implemented
R.79	MoMP determines resources required for Internal Audit Department to conduct audits to the mandated standard, within six months of the release of the MVCA.	Not Implemented
R.80	MoMP mobilizes resources required for Internal Audit Department to conduct audits to the mandated standard, within one year of the release of the MVCA.	Not Implemented
R.81	MoMP determines the appropriate process and establishes a practical/effective process for Internal Audit Report approval, within six months of release of the MVCA.	Partially implemented
R.82	MoMP resolves obstacles that prevent the timely approval of Internal Audit Reports, based on SAO standards, within one year of release of the MVCA.	Partially implemented
R.83	MoMP determines the systematic, effective and practical process for following-up implementation of Internal Audit recommendations, within six months of release of the MVCA.	Partially implemented
R.84	MoMP tracks implementation progress of Internal Audit recommendations, within six months of release of the MVCA.	Partially implemented
R.85	MoMP includes 'Track implementation progress of Internal Audit recommendations' in Performance Reviews for MoMP Directors, within six months of release of the MVCA.	Not Implemented

Poor Human Resource Practices

	RECOMMENDATION	Status
R.86	MoMP develops recruitment procedures for MoMP, articulating the requisite knowledge, skills and qualifications, and based on cooperation between MoMP and the IARCSC, within six months of the release of the MVCA.	Implemented
R.87	MoMP enforces the Code of Conduct for Civil Servants among MoMP staff, within six months of the release of the MVCA.	Not Implemented
R.88	MoMP develops a Performance Management System that incorporates professional development opportunities, within six months of the release of the MVCA.	Partially implemented
R.89	MoMP implements a Performance Management System that incorporates professional development opportunities, within six months of the release of the MVCA.	Not Implemented
R.90	MoMP develops a Performance Management System that incorporates methods to sanction poor work standards or unethical behavior, within six months of the release of the MVCA.	Partially implemented
R.91	MoMP implements a Performance Management System that incorporates methods to sanction poor work standards or unethical behavior, within six months of the release of the MVCA.	Not Implemented
R.92	MoMP implements a mechanism to protect the MoMP Performance Management System from abuse or interference, including systematic decision reviews, within one year of the release of the MVCA.	Not Implemented
R.93	MoMP establishes a Professional Development Action Plan for MoMP, within six months of the release of the MVCA.	Implemented
R.94	Based on the Professional Development Action Plan, MoMP establishes a continuing Professional Development strategy that incorporates mechanisms for ensuring that all of those receiving professional development and higher education opportunities provided to Ministry staff can be reintegrated within the Ministry upon completion of the program, within six months of the release of the MVCA.	No response

Weak Information Management Systems

	RECOMMENDATION	Status
R.95	MoMP implements the electronic MCAS, within six months of the release of the MVCA.	Partially implemented

R.96	MoMP implements the NTRS and transparency portal, within six months of the release of the MVCA.	Partially implemented
R.97	MoMP consults with civil society on the operation of the transparency portal to determine further information needs, within six months of the release of the MVCA.	Partially implemented
R.98	MoMP refines the transparency portal to meet civil society needs, within one year of the release of the MVCA.	Not Implemented
R.99	MoMP consults with mining communities on the operation of the transparency portal to determine further information needs, within six months of the release of the MVCA.	Not Implemented
R.100	MoMP refines the transparency portal to meet mining community needs, within one year of the release of the MVCA.	Not Implemented

Use of Donor Funds

	RECOMMENDATION	Status
R.101	MoMP demonstrates prioritization of the management of donor inputs through the Donor Coordination Unit, within six months of the release of the MVCA.	Not Implemented
R.102	MoMP provide resources to effectively manage donor inputs through the Donor Coordination Unit, within six months of the release of the MVCA.	Partially implemented
R.103	MoMP Donor Coordination Unit establishes mechanisms to ensure Donor Coordination Unit monitoring processes quickly identify inappropriate use of donor funds, within three months of the release of the MVCA.	Partially implemented
R.104	MoMP Donor Coordination Unit establishes mechanisms to ensure quick response to inappropriate use of donor funds, within three months of the release of the MVCA.	Not Implemented

Ineffective Legal and Policy Framework

	RECOMMENDATION	Status
R.105	MoMP completes a thorough needs assessment before final promulgation of the new Minerals Law, incorporating the findings of this MVCA, within three months of the release of the MVCA.	Not Implemented
R.106	MoMP analyzes risks of abuse in a potential transition from Contracts to Licenses for mineral rights, within one year of release of the MVCA.	Not Implemented
R.107	MoMP analyzes option to mitigate abuses under a Licenses regime for mineral rights, within one year of release of the MVCA.	Partially implemented
R.108	MoMP prepares new Minerals Regulations in parallel to the finalization of the new Minerals Law, within six months of the release of the MVCA.	Partially implemented
R.109	MoMP includes a sunset clause for regular review of the new Minerals Law and new Regulations, within three months of the release of the MVCA.	Not Implemented
R.110	MoMP includes consideration of new legislation after a suitable period, within one year of the release of the MVCA.	Partially implemented
R.111	MoMP establishes an effective independent appeal mechanism through a Mining Warden [or Ombudsman] with authority in the new Minerals Law, within three months of the release of the MVCA.	Not Implemented
R.112	MoMP provides resources for policy development functions inside MoMP, within three months of the release of the MVCA.	Implemented

Unclear Land Rights

	RECOMMENDATION	Status
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R.113	MoMP includes rights for both land users as well as land owners in the new Minerals Law, within three months of release of the MVCA.	Implemented
R.114	MoMP includes explicit protections for land owners exposed to threats in the new Minerals Law, within three months of release of the MVCA.	Not Implemented

Unclear Legal Requirements

	RECOMMENDATION	Status
R.115	MoMP establishes definitions for 'Politically Exposed Persons,' including defining job levels for public officials, within six months of release of the MVCA.	Implemented
R.116	MoMP establishes criteria to assess applicants for mineral rights, including a 'fit and proper person' test, within six months of release of the MVCA.	Implemented
R.117	MoMP establishes criteria to review the background and history of applicants for mineral rights through conducting due diligence checks, within six months of release of the MVCA.	Not Implemented
R.118	MoMP establishes criteria to decide about renewals and cancellations of mineral rights, within six months of release of the MVCA.	Implemented
R.119	MoMP establishes clear renewal and cancellation enforcement powers of MoMP, within six months of release of the MVCA.	Implemented
R.120	MoMP establishes criteria for how royalties will be defined and calculated, within six months of release of the MVCA.	Implemented
R.121	MoMP prepares a Regulatory Impacts Assessment prior to promulgation of the new Minerals Law and Regulations, within three months of release of the MVCA.	Not Implemented

Unclear and Weak Awards Processes

	RECOMMENDATION	Status
R.122	MoMP includes a special License for Artisanal Mining in the new Regulations of the Minerals Law, within six months of release of the MVCA.	Not Implemented
R.123	MoMP includes articulation of the fundamental and minimum steps for accessing mineral rights, including who is responsible at each step in the new Minerals Law, within six months of release of the MVCA.	Implemented
R.124	MoMP includes articulation on MoMP time limits at each decision step, criteria for decision points adapted to each License for accessing mineral rights within the new Minerals Law, within six months of release of the MVCA.	Partially implemented
R.125	MoMP includes articulation of a 'fit and proper person' test for application for mineral rights within the new Minerals Law, within six months of release of the MVCA.	Implemented
R.126	MoMP includes articulation of the obligation to follow due diligence processes to test applicant claims about capacity, integrity and beneficial ownership in the new Minerals Law, within six months of release of the MVCA.	Not Implemented
R.127	MoMP includes articulation of how interested parties can have a say about decision- making about mineral rights in the new Mining Law, within six months of release of the MVCA.	Not Implemented
R.128	MoMP includes articulation of obligations to make public any contributions made to the decision- making process by interested parties, especially PEPs, in the new Mining Law, within six months of release of the MVCA.	No response
R.129	MoMP establishes effective independent appeal rights for interested parties in the new Mining Law, within six months of release of the MVCA.	No response
R.130	MoMP includes a requirement to publish the reasons for awards or refusal of mineral rights in the new Mining Law, within six months of release of the MVCA.	Partially implemented
R.131	MoMP prepares transparent procedures to operationalize the system for accessing mineral rights in the new Mining Law, within six months of release of the MVCA.	Partially implemented
R.132	MoMP prepares unambiguous and clear Duty Statements for the different roles in the system for accessing mineral rights specified in the new Mining Law, within six months of release of the MVCA.	Implemented

Inadequate Bidding Process

	RECOMMENDATION	Status
R.133	MoMP analyzes options for a licensing system, 'use it or lose it' provisions, escalating fees, and minimum work obligations, within six months of release of the MVCA.	Not Implemented

Opaque and Compromised Contract Negotiations

	RECOMMENDATION	Status
R.134	MoMP limits the scope of contract negotiations by using licensing as the primary way for accessing mineral rights (and only using contracts for large scale industrial projects), within six months of release of the MVCA.	Implemented
R.135	MoMP uses model contracts to limit the scope of contract negotiations by providing the key contract obligations for large scale industrial projects and establishing clear negotiating terms for those items that can be negotiated as designated in the model contract guidelines, within six months of the release of the MVCA.	Implemented
R.136	MoMP establishes a system to make the negotiating terms public for large scale contracts, providing public reports at the end of contract negotiations that sets out how the decision on the successful bidder was made and how the final terms and conditions were agreed, within six months of the release of the MVCA.	Not Implemented

Unaccountable Decision-Making Processes

	RECOMMENDATION	Status
R.137	MoMP requires the preparation of environmental, OHS, community engagement and work plans for all applications, commensurate with the scale of the operation within six months of the release of the MVCA.	No response
R.138	MoMP assesses the quality of all these plans in determining whether to issue a license, involving other relevant agencies such as NEPA, within six months of release of the MVCA.	No response
R.139	MoMP ensures that the financial guarantee required of successful applicants is sufficient to cover the environmental and other costs of closure. This should not just be a percentage of the expected revenue and requires specialist input (possibly from NEPA) to determine, within six months of the release of the MVCA.	Implemented
R.140	MoMP coordinates with MoF to establish a Revenue Code for signature bonuses, within six months of the release of the MVCA.	Implemented
R.141	MoMP coordinates with MoF to ensure signature bonuses are paid into the appropriate Treasury account, within six months of the release of the MVCA.	Implemented

Lack of Information Transparency

	RECOMMENDATION	Status
R.142	MoMP ensures completed bidding documents from all companies are publicly available 'within 10 days after the process is over,' consistent with the recommendations of the EITI Standard, within six months of release of the MVCA.	No response
R.143	MoMP ensures contracts are published in a searchable format, within six months of release of the MVCA.	Partially implemented
R.144	MoMP ensures that contract publication is a condition of contract validity, within six months of release of the MVCA.	Partially implemented

Inappropriate Contract Content

	RECOMMENDATION	Status
R.145	MoMP includes clear and enforceable anti-corruption clauses in contracts and in licensee obligations in the Regulations of the revised Minerals Law, within one year of the release of the MVCA.	Implemented

Unclear and Inappropriate Renewal, Transfer and Termination Conditions

	RECOMMENDATION	Status
R.146	MoMP ensures that appropriate corruption risk control measures for contract renewal are in place, within three months of the release of the MVCA.	Partially implemented
R.147	MoMP ensures that the independent appeal mechanism is capable of dealing promptly and effectively with appeals regarding License and Contract transfers, renewals and revocations, within six months of the release of the MVCA.	Not Implemented
R.148	MoMP establishes security of tenure for Reconnaissance and Exploration Contract holders in the new Minerals Law, within six months of the release of the MVCA.	Not Implemented

Inadequate Monitoring of Operations

R.149	MoMP includes clear enforcement powers for the Inspectorate in the new Minerals Law and associated Regulations, within six months of the release of the MVCA.	Not Implemented
R.150	MoMP establishes a clear Enforcement Policy and Strategy that includes processes for review of inspectors' decisions, based on the provisions of the Law, within one year of the release of the MVCA.	Not Implemented
R.151	MoMP addresses the capacity constraints on the Inspectorate by employing technically qualified inspectors and implementing an effective professional development program, within one year of the release of the MVCA.	Not Implemented
R.152	MoMP establishes teams of inspectors that incorporate different skill sets necessary to thoroughly and effectively inspect and monitor mine sites, within one year of the release of the MVCA.	Not Implemented
R.153	MoMP ensures that the resources at Provincial Offices match the needs for inspection and monitoring of mine sites, within one year of the release of the MVCA.	Partially implemented
R.154	MoMP provides the Inspectorate with a toolkit incorporating usable Guides, tools and Checklists that establish consistent and useful information to regulate and monitor sites, within one year of the release of the MVCA.	Partially implemented
R.155	MoMP implements a professional development program to ensure the Inspectorate has the skills to use their toolkit, within one year of the release of the MVCA.	Partially implemented
R.156	MoMP establishes an MOU with NEPA to operationalize MoMP and NEPA's joint obligation for environmental monitoring of the industry, within one year of the release of the MVCA.	Not Implemented
R.157	MoMP incorporates review of the results of the previous year's mine site inspections to update obligations on the operator in inspection plans, within one year of the release of the MVCA.	Not Implemented

Weak Requirements for Community Consultation

	RECOMMENDATION	Status
R.158	MoMP ensures that the new Mining Law and Regulations provide a clear legal basis for community consultation about and engagement with the mining industry, within six months of the release of the MVCA.	Implemented
R.159	MoMP addresses the omission of community consultation and engagement from the new Hydrocarbons Law by including appropriate provisions in the associated Regulations, within six months of the release of the MVCA.	Partially implemented
R.160	MoMP prepares the necessary policies, procedures and strategies to give effect to the legal provisions for community consultation and engagement, within six months of the release of the MVCA.	Partially implemented
R.161	MoMP incorporates the necessary policies, procedures and strategies in the Inspectorate toolkit, within one year from the release of the MVCA.	Not Implemented
R.162	MoMP conducts a pilot project to test how best to engage communities in monitoring extractives activities, without placing communities at risk from violence, based on the existing strategies of MWA and the ENRMN, within two years of the release of the MVCA.	Not Implemented
R.163	MoMP uses the results of this pilot as the basis to inform further development of the policy package on community engagement and implementation elsewhere, within two years of the release of the MVCA.	Not Implemented

Incorrect Production Information

	RECOMMENDATION	Status
R.164	MoMP includes tools and resources in the Inspectorate Toolkit to help inspectors more accurately and reliably monitor production data when they visit sites, within one year of the release of the MVCA.	Not Implemented
R.165	MoMP establishes a project to develop a workable production verification system, potentially including satellite imagery to monitor signs of production volumes (such as truck movements), within one year of the release of the MVCA.	Not Implemented

Inappropriate Inspector Behavior

	RECOMMENDATION	Status
R.166	MoMP provides resources to the Inspectorate appropriately so there is no need to seek benefits and resources from mine sites in order to conduct inspections, within one year of the release of the MVCA.	Not Implemented
R.167	MoMP reviews the structure of the Inspectorate and considers creating a single, coherent Directorate, with Provinces as well as Head Office reporting to the Inspectorate Director, within one year of the release of the MVCA.	Not Implemented
R.168	MoMP establishes a professional development program for inspectors, within one year of the release of the MVCA.	Not Implemented

Large Tax Payers Office of the Afghanistan Revenue Department

R.169	MoMP formally coordinates information sharing between LTO and cadaster Department, within six months of the release of the MVCA.	Not Implemented
R.170	MoMP coordinates with LTO to support digitization and barcoding of all mining contracts, within one year of the release of the MVCA.	Implemented
R.171	MoMP and LTO jointly coordinate with the Custom Department and register all export of minerals into system based on allocated barcodes, within 18 months of the release of the MVCA.	Partially implemented
R.172	MoMP coordinates with LTO to develop projections of revenue from each mining project, within 18 months of the release of the MVCA.	Not Implemented
R.173	MoMP coordinates with LTO to assess mineral production at the end of each year, within 18 months of the release of the MVCA.	Not Implemented
R.174	MoMP coordinates with LTO to define a benchmark system for pricing mineral commodities, within 18 months of the release of the MVCA.	Not Implemented
R.175	MoMP coordinates with LTO to conduct random checks of mining sites for verification of reporting accuracy, within 18 months of the release of the MVCA.	Not Implemented

Inadequate Reporting of Production Information

	RECOMMENDATION	Status
R.176	MoMP implements the NTRS and MCAS within one year, ensuring compatibility with SIGTAS and ASYCUDA, within one year of the release of the MVCA.	Not Implemented
R.177	MoMP ensures that the NTRS and MCAS systems integrate with other information gathering systems, such as Inspector's reports, within one year of the release of the MVCA.	Not Implemented
R.178	MoMP works with the AEITI to investigate and develop strategies to improve financial management capacity of the industry within AEITI's current level of capacity, within one year of the release of the MVCA.	No response

Lack of Transparency

	RECOMMENDATION	Status
R.179	MoMP works with MoF to incorporate disaggregated reporting against the agreed mining Revenue Codes and by TIN in the regular Budget Reports, within one year of the release of the MVCA.	Not Implemented
R.180	MoMP uses the enforcement powers in the Law to address the continued failure of some contractors to meet their legal obligations to comply with the EITI, within one year of the release of the MVCA.	Not Implemented
R.181	MoMP clarifies the status of mismatch in the payments reported by Belal Mosazai Company to trace what happened to the money paid by the company, but not accounted for by Government, within three months of the release of the MVCA.	Partially implemented
R.182	MoMP establishes a system for distributing subnational financial resource transfers to the Provinces with appropriate corruption control measures, and including proper audits, including reference to the Citizens' Charter National Priority Program and involvement of CDCs as key partners, within one year of the release of the MVCA.	Partially implemented

Incorrect Payments

	RECOMMENDATION	Status
R.183	MoMP uses the findings of the Regional Royalty Benchmarking Project to determine suitable royalties for different commodities, and applies the legal definition of royalties as a percentage of the value of the commodity mined, not a flat rate, within six months of the release of the MVCA.	Implemented
R.184	MoMP implements the ARD Guideline, and ensures that all mining companies are registered under Large Tax Office within three months of the release of the MVCA.	Not Implemented

Incorrect Payments

	RECOMMENDATION	Status
R.185	MoMP ensures that MCAS and NTRS are based on a revenue process that eliminates unnecessary steps and that has been tested for reliability, within one year of the release of the MVCA.	Not Implemented
R.186	MoMP ensures that the link between NTRS and ASYCUDA means that Customs can prevent release of an export shipment of commodities if required payments have not been paid, within one year of the release of the MVCA.	Not Implemented
R.187	MoMP requires external financial audits by reputable audit firms of all SOEs and all large extractives companies, within three months of the release of the MVCA.	No response

Weak Legal Framework for Revenue Collection

	RECOMMENDATION	Status
R.188	MoMP ensures the new Law clearly defines the responsibilities for revenue collection of MoMP and MoF and clearly specifies the roles of central and Provincial Offices for determining liabilities, within six months of the release of the MVCA.	Implemented
R.189	MoMP ensures that all legal instruments (Act, Regulations, Contracts and Policies) consistently require that all revenue is paid into the TSA, not Ministry-controlled accounts, within one year of the release of the MVCA.	Implemented

Inspection and Reporting

	RECOMMENDATION	Status
R.190	NEPA establishes a team to inspect mine sites, within one year of the release of the MVCA.	Not Implemented
R.191	NEPA publishes an Annual Report of the Impact of Mining, within two years of the release of the MVCA.	Not Implemented

Annex B: Mining contracts in Afghanistan, Colombia and Peru

This section compares the main features of the mining contracts of Afghanistan, Colombia and Peru. The latter ones are South American countries with a long tradition in the exploitation of mineral resources.

Afghanistan

The main features of the new Concession contract are:

١. The concession is: a) approved by the High Economic Council; b) approved by the National Procurement Commission; and c) endorsed by Cabinet.
٢. The contract is entered by the parties and administered by the Ministry, on behalf of the State.
٣. There are 2 types of licenses: Exploration and exploitation.
٤. Prior to commencing ground-disturbing work, pursuant to the relevant license (exploration or exploitation), the concessionaire must obtain approval of each proposed plan by the relevant Authority.
٥. The concessionaire has the property of all the mineral extracted. Employing that property right, the concessionaire can choose the selling price, the production volume, and the final market (export or domestic market).
٦. Regarding the term of the contract, Shaida project has the following text:

“(a) This Contract applies to the Exploration Phase and, if an Exploitation License is granted pursuant to Clause 2.3(b) (Licenses), the Exploitation Phase.

(b) Exploration Phase. The Exploration Phase shall be for a period of three (3) years commencing from the date of registration of the Exploration License by the Mining Cadastre in accordance with the Mining Regulations. To the extent permissible under Applicable Law, the Company may renew the Exploration License for two (2) consecutive periods of three (3) years in accordance with the Minerals Law and the Mining Regulations. If, and to the extent that all conditions for the renewal of the Exploration License in the Applicable Law have been satisfied the MoMP agrees that it shall procure the grant of such renewal to the extent permitted, and in accordance with, Applicable Law.

(c) Exploitation Phase. If an Exploitation License is granted pursuant to Clause 2.3(b) (Licenses) the Exploitation Phase shall be for a period of thirty (30) years commencing

from the date of registration of the Exploitation License by the Mining Cadastre in accordance with the Mining Regulations. To the extent permissible under Applicable Law, the Company may renew the Exploitation License for consecutive periods of five (5) years each provided that there remains commercial quantities of undeveloped Mineral Substances in the Mining Area at the end of the preceding period. Any such renewal shall be in accordance with the Minerals Law and the Mining Regulations. If, and to the extent that all conditions for the renewal of the Exploitation License in the Applicable Law have been satisfied the MoMP agrees that it shall procure the grant of such renewal to the extent permitted, and in accordance with, Applicable Law. To the extent permitted by Applicable Law the Company may apply for multiple Exploitation Licenses in respect of the Mining Area covered by an Exploration License.”

Another example is from Badakhshan project:

“(a) This Contract applies to the Exploration Phase and, if an Exploitation License(s) is granted pursuant to Clause 2.3(b) (Licenses), the Exploitation Phase.

(b) Exploration Phase. The Exploration Phase shall be for a period of three (3) years commencing from the date of registration of the Exploration License(s) by the Mining Cadastre in accordance with the Mining Regulations. To the extent permissible under Applicable Law, the Company may renew each Exploration License for two (2) consecutive periods of three (3) years in accordance with the Minerals Law and the Mining Regulations. If and to the extent that all the conditions for the renewal of the Exploration License in the Applicable Law have been satisfied the MoMP agrees that it shall procure the grant of such renewal, to the extent permitted, and in accordance with, Applicable Law.

(c) Exploitation Phase. If an Exploitation License is granted pursuant to Clause 2.3(b) (Licenses) the Exploitation Phase shall be for a period of thirty (30) years commencing from the date of registration of Exploitation License(s) by the Mining Cadastre in accordance with the Mining Regulations. To the extent permissible under Applicable Law, the Company may renew an Exploitation License for consecutive periods of five (5) years each provided that there remains commercial quantities of undeveloped Mineral Substances in the Mining Area at the end of the preceding period. Any such renewal shall be in accordance with the Minerals Law and the Mining Regulations. If and to the extent that all the conditions for the renewal of the Exploitation License in the Applicable Law have been satisfied the MoMP agrees that it shall procure the grant of such renewal, to the extent permitted, and in accordance with, Applicable Law. To the extent permitted by Applicable Law the Company may apply for multiple Exploitation Licenses in respect of the Mining Area covered by an Exploration License.”

Y. The main obligations of the concessionaire are:

- a. Recognize and respect the rights, customs and traditions of local communities;
- b. Ensure that its operational policies and manuals reflect its responsibility to respect human rights, including its obligation to prevent any negative human rights impacts arising from its mineral activities; and
- c. Remediate any negative human rights impacts arising from its mineral activities as soon as is practicable, including by (as appropriate):
 - i. Providing adequate compensation or other appropriate remedy to any victim of the negative impact;
 - ii. Removing or altering the cause of the negative impact to avoid further negative impacts of the same type;
 - iii. Reviewing and revising its operational policies and manuals to seek to prevent a recurrence of the acts or omissions leading to the negative impact; and
 - iv. Such other actions as may be necessary to avoid similar negative impacts in the future.
- d. Pay all Government taxes, royalties, fees and other.
- e. Construct all Infrastructure required in connection with its mineral activities.
- f. Plan, develop, construct and operate all Infrastructure required to be constructed.
- g. The fiscal systems applied in contracts will be described using two examples: Shaida and Badakhshan projects.

Shaida project:

"FISCAL AND FINANCIAL PROVISIONS

7. SURFACE RENTAL

7.1 Amount of Surface Rights Fees. The Company shall pay to the MoMP an annual surface rights fee in accordance with the Mining Regulations and the following schedule (the "Surface Rights Fees"):

(a) For Exploration Licenses: (i) For the initial term: USD 5 per hectare of land included in the Mining Area; (ii) For the initial renewal term: USD 10 per hectare of land included in the Mining Area; (iii) For subsequent renewal terms: USD 15 per hectare of land included in the Mining Area.

(b) For Exploitation Licenses: (i) For metallic and non-metallic minerals; USD 25 per hectare of land included in the Mining Area; (ii) For gemstones: USD 35 per hectare of land included in the Mining Area, or in any such case at such other rates as may from time to time be stipulated under the Minerals Law, the Mining Regulations or Applicable Law.

8. ROYALTIES

8.1 Royalty Rate. The Company shall pay to the Government a royalty at the rate of 6.1% (the "Royalty Rate") on all Principal Metal products from the Mining Area. The royalty shall be calculated as follows: (a) Except as set forth in Clause 8.1 (b) the Royalty Rate shall be applied to the total Gross Market Value of all Contained Metal within the Commercial Product. (b) The Royalty Rate in respect of any Commercial Product (i) sold for final Beneficiation (refining) within Afghanistan shall be based on the Net Smelter Return payable to the Company in connection with such sale, and (ii) which is subject to final Beneficiation (refining') within Afghanistan on a Toll Treatment basis shall be based on the Combined Metal before any charge for the Toll. (c) Except in connection with the payment of a royalty calculated in accordance with Clause 8.1(b), no deductions shall be allowed in determining any royalty paid under this Contract under permitted Applicable Law. (d) The amount calculated pursuant to clause (a) or clause (b) shall be determined as set forth in Clause 8.3 (Payment and calculation of royalty).

8.2 Royalty on other Mineral Substances (a) If Mineral Substances other than the Principal Metal are produced from the Mining Area, the Company shall pay a royalty on all such Mineral Substances produced from the Mining Area. The royalty rate shall be 5%. The value of such Mineral Substances shall be based on the international fair market value of such Mineral Substances, determined, in the absence of published international market prices for such Mineral Substances, in such manner as agreed by the Parties. (b) Royalties shall not be payable or paid on stone, sand, gravel or other construction materials produced in the Mining Area and used internally by the Company in construction of any of its facilities or infrastructure for the Project.

10. TAXATION

10.1 Taxation - General

(a) The Company shall be subject to all Tax Law in force in the State and shall pay income tax, customs duties and other Taxes in accordance with the Minerals Law and other relevant Applicable Law, except where it is subject to any relief from the applications of the provisions of a particular Applicable Law pursuant to a validly granted authority under the Minerals Law or under any other Applicable Law. The Parties expressly agree that upon the grant of the Exploitation License the Company shall qualify for treatment as a Qualified Extractive Industries Taxpayer under (and as defined in) the—Tax Code (and, for the avoidance of doubt, references in this Contract to the Date of Commencement of Commercial Production shall be solely for the purposes of this Contract and shall not in any way affect the method of determining the commencement of commercial production for purposes of determining the

permissible deduction of pre-production costs within the meaning of the Tax Code). (b) The Company shall prepare its balance sheets and other financial statements for each of its Financial Years in accordance with the requirements of Tax Law and with Applicable Accounting Standards. (c) As soon as practicable after the annual Financial statements of the Company are available for each Financial Year, but not later than the first financial quarter of the following Financial Year, the Company shall submit to the MoMP an investment report using a format consistent with Good Industry Practice. (d) Each year's financial statements shall be accompanied by a certificate of the chief financial officer of the Company (or, if the Company is incorporated in Afghanistan, its general director) to the effect that during the year then ended the Company was in compliance with the requirements of this Contract and Tax Law. (e) Each year's financial statements shall be accompanied by a listing of all transactions with Affiliates of the Company reflected in such financial statements, identifying the amount of the transaction, the Affiliate involved, and the nature of the transaction. The Company shall maintain contemporaneous documentation of each such transaction with any such Affiliate evidencing the pricing of the transaction, including all documentation required by Tax Law or any regulations issued thereunder. (f) Each year's financial statements shall be accompanied by a certificate of the chief Financial officer of the Company (or, if the Company is incorporated in Afghanistan, its general director) to the effect that with respect to goods or Services covered by any pricing agreement in effect between Company and any Affiliate of the Company during the relevant period, the Company's transfer prices during such year were computed in accordance with the requirements of such pricing agreement and with respect to goods or Services sold or provided in a transaction between the Company and an Affiliate of the Company which are not covered by such pricing agreement, the prices thereof imposed during the relevant period were computed in accordance with Tax Law.

10.2 Withholding tax obligations

The Company shall comply with all Applicable Law in effect from time to time requiring the withholding of taxes on payments or disbursements made to any person, whether or not resident or domiciled in the State including physical persons or entities related to, or employed by, Company or any of its Affiliates.”

Badakhshan project:

“7. SURFACE RENTAL

7.1 Amount of Surface Rights Fees. The Company shall pay to the MoMP an annual surface rights fee in accordance with the Mining Regulations and the

following schedule (the "Surface Rights Fees"): (a) For Exploration Licenses with effect from the grant thereof: (i) For the initial term: USD 5 per hectare of land included in the Mining Area not the subject of an Exploitation License; (ii) For the initial renewal term: USD 10 per hectare of land included in the Mining Area not the subject of an Exploitation License; (iii) For subsequent renewal terms: USD 15 per hectare of land included in the Mining Area not the subject of an Exploitation License. (b) For Exploitation Licenses: (i) For metallic and non-metallic minerals: USD 25 per hectare of land included in the Mining Area the subject of that Exploitation License; (ii) For gemstones: USD 35 per hectare of land included in the Mining Area the subject of that Exploitation License, or, in any such case at such other rates as may from time to time be stipulated under the Minerals Law, the Mining Regulations or Applicable Law.

8. ROYALTIES

8.1 Royalty Rate (a) The Company shall pay to the Government a royalty on all Principal Metal produced from the Mining Area at the fixed rate (the "Royalty Rate") of: (i) 8.5% where the Commercial Product is an ore; (ii) 6% where the Commercial Product is a doré produced by Beneficiation using facilities constructed by or on behalf of the Company in accordance with the Feasibility Study under Clause 6.2(s); or (iii) 4% where the Commercial Product is a refined metal is produced by Beneficiation using facilities constructed by or on behalf of the Company in accordance with the Feasibility Study under Clause 6.2(s).

The royalty shall be calculated as follows: (b) Except as set forth in Clause 8.1(c) the Royalty Rate shall be applied to the total Gross Market Value of all Contained Metal comprising Principal Metal within the Commercial Product. (c) The Royalty Rate in respect of any Commercial Product (i) sold for final Beneficiation (refining) within Afghanistan shall be based on the Net Smelter Return payable to the Company in connection with such sale, and (ii) which is subject to final Beneficiation (refining) within Afghanistan on a Toll Treatment basis shall be based on the Contained Metal before any charge for the Toll. (d) Except in connection with the payment of a royalty calculated in accordance with Clause 8.1(c) no deductions shall be allowed in determining any royalty paid under this Contract. (e) The amount calculated pursuant to clause (b) or clause (c) shall be determined as set forth in Clause 8.3 (Payment and calculation of royalty).

10. TAXATION

10.1 Taxation - General

(a) The Company shall be subject to all Tax Law in force in the State and shall pay income tax, customs duties and other Taxes in accordance with the Minerals Law and other relevant Applicable Law, except where it is subject to

any relief from the applications of the provisions of a particular Applicable Law pursuant to a validly granted authority under the Minerals Law or under any other Applicable Law. The Parties expressly agree that (except as subsequently elected by the Company in accordance with Applicable Law relating to the imposition of Tax) upon the grant of the Exploitation License the Company shall qualify for treatment as a Qualified Extractive Industries Taxpayer under (and as defined in) the Tax Code (and, for the avoidance of doubt, references in this Contract to the Date of Commencement of Commercial Production shall be solely for the purposes of this Contract and shall not in any way affect the method of determining the commencement of commercial production for purposes of determining the permissible deduction of pre-production costs within the meaning of the Tax Code). (b) The Company shall prepare its balance sheets and other financial statements for each of its Financial Years in accordance with the requirements of Tax Law and with Applicable Accounting Standards. (c) As soon as practicable after the annual Financial statements of the Company are available for each Financial Year, but not later than the First Financial quarter of the following Financial Year, the Company shall submit to the MoMP an investment report using a format consistent with Good Industry Practice. (d) Each year's financial statements shall be accompanied by a certificate of the chief financial officer of the Company (or, if the Company is incorporated in Afghanistan, its general director) to the effect that during the year then ended the Company was in compliance with the requirements of this Contract and Tax Law. (e) Each year's financial statements shall be accompanied by a listing of all transactions with Affiliates of the Company reflected in such financial statements, identifying the amount of the transaction, the Affiliate involved, and the nature of the transaction. The Company shall maintain contemporaneous documentation of each such transaction with any such Affiliate evidencing the pricing of the transaction, including all documentation required by Tax Law or any regulations issued thereunder.”

Colombia

The main features of the Concession contract in Colombia:

1. The Government counterpart is the National Agency of Mining (*Agencia Nacional de Minería*).
The main functions of this Agency are:
 - a. Exercise the functions of mining or licensing authority in the country.
 - b. Manage State mineral resources and grant rights for exploration and exploitation.
 - c. Promote, hold, manage and monitor concession contracts and other mining rights for exploration and exploitation of minerals, delegated by the Ministry of Mines and Energy, in accordance with the Law.

- d. Design, implement and disseminate strategies to promote exploration and exploitation of minerals.
 - e. Administering the National Mining Cadaster and registration.
 - f. Liquidate, collect and transfer royalties and other consideration derived from the exploitation of minerals, under the terms stated in the Law.
 - g. Promote and coordinate mine safety and mining rescue activities without prejudice to the responsibility of individuals in relation to the same.
 - h. Develop support strategies, technical assistance and promoting the mining holders based on the defined policy for the sector and in coordination with the competent authorities.
- ϣ. The contract is for the exploration and exploitation of the total area.
- ϣ. The concessionaire has the property of all the mineral extracted. Employing property right, they can choose the selling price, the production volume and the final market, including export or domestic markets.
- Ϸ. If, because of the exploratory and production activities, the concessionaire found minerals not contained in the original contract, they can request an extension of the concession to cover the exploitation of those minerals.
- ⊖. The contract establishes the duration on the concession, taking into consideration the limits pointed in the Mining Code (Law # 685):
- a. Total length of the contract: 30 years.
 - b. Exploration phase: 3 years.
 - c. Assembly and construction: 3 years.
 - d. Exploitation phase: 30 years minus the exploration, assembly and construction years.
 - e. Extension: Up to 2 years.
- ϣ. The main obligations of the concessionaire are:
- a. Plan, design, operate and close operations in a way that promotes economic and social development, in compliance with the Terms of Reference for Exploration and Work Program and the Environmental Mining Guidelines adopted by the Mining Authority.
 - b. Pay the surface fee, in accordance with the provisions of Article 230 of the Mining Code.
 - c. Present the administrative act²² where the competent authority granted the Environmental License.
 - d. Submit the Works Program, to be developed in the total area of the contract during the Construction and Assembly and Exploitation stages.

- e. Comply with the characteristics, dimensions and qualities indicated in the approved Work Program.
 - f. The concessionaire may, during the construction and assembly stage, begin the exploitation of the contracted area, in advance. The anticipated exploitation will be subject to the same conditions, obligations and rights, of the exploitation stage.
 - g. Start the exploitation stage, once the Construction and Assembly stage is finished.
 - h. Return the retained areas not selected for exploitation, in accordance with the procedure established for the purpose in the Mining Code.
 - i. Always keep records and inventories to establish the volumes of the raw minerals and those delivered to the processing facilities and, if applicable, to those of transformation.
 - j. Implement rules, methods and technical procedures of mining, that prevent damage to the materials exploited or removed or that deteriorate or sterilize the reserves that may be exploited.
 - k. Pay the royalties established in the Law.
 - l. Pay taxes or encumbrances of the National, Departmental or Municipal order that your activity causes, when applicable.
 - m. Present all the information required by the National Agency of Mining.
 - n. Present to the National Agency of Mining a Social Management Plan with the community of the area of influence of the project, which includes programs for the benefit of the communities.
- Y. After the signatures of the mining concession contract, the concessionaire should establish a guarantee fee that covers the compliance of mining and environmental obligations. The value of the fee is calculated based on the following criteria: a) For the exploration stage, 5% of yearly value of the planned investment in exploration; b) For the construction and assembly stage, 5% of the annual investment for these concepts; c) For the exploitation stage, it will be 10% of the production value.
- Λ. Annexes to the contract are:
- a. Topographic map.
 - b. Terms of Reference for exploration works, works program and the environmental mining guidelines
 - c. Approved Work and works program.
 - d. Administrative.

9. The small-scale mining can have access to concession contracts under differential requirements (*requisitos diferenciales*) that can be tailor made to their needs.⁵ Small-scale miners are those whom:

- a. Require a maximum concession up to 100 hectares.
- b. A maximum annual production of:

Minerals group	Underground mining	Open pit
Coal	Up to 20,000 Tons/year	Up to 24,000 Tons/year
Construction materials	-	Up to 9,000 m3/year
Precious Metals and Precious and Semiprecious Stones	Up to 20,000 m3/year	Up to 150,000 m3/year
Non-Metallic	Up to 16,000 Tons/year	Up to 20,000 Tons/year
Metallic	Up to 25,000 Tons/year	Up to 35,000 Tons/year

10. The general aspects of the fiscal system in Colombia are:

- a. Royalties between 1% and 12% of production (at mine) production
- b. Corporate Income Tax 33%
- c. VAT on imports 0% - 16%
- d. Annual surface fee: 0-2,000 ha: 1 minimum wage (240.3 USD/ha); 2,000-5,000 ha: 2 minimum wage (480.6 USD/ha); 5,000-10,000 ha: 3 minimum wage (720.9 USD/ha).

Peru

1. Concession contracts in Peru are issued by the Government institution called INGEMMET, the Mining and Metallurgic Geological Institute⁶. The main functions of this institution are:

⁵ But still with some obligations: present a Works Plan and an environmental instrument to develop the activity, allow for inspections, among others.

⁶ Instituto Geológico Minero y Metalúrgico.

- a. Accomplish the ordinary mining procedure in accordance with the provisions by the General Mining Law and its regulations, including the reception of requests, granting of concessions and their extinction.
 - b. Have systematized information and georeferenced through the National Mining Cadaster.
 - c. Administration and distribution of terms and penalties.
 - d. Process, administer and communicate geoscience information.
- ϣ. According the general mining law the mining concessions are granted from 100 to 1,000 hectares in land domain and 100 to 10,000 hectares in maritime domain.
- ϣ. The Central Government, through INGEMMET processes and grants concessions for medium-sized mining and large mining. Regional Governments process and grant mining concessions for artisanal mining and small mining within its territorial constituency.
- ξ. The contract is for the exploration and exploitation of the total area.
- ο. The concessionaire has the property of all the minerals extracted. Employing that property right, the concessionaire can choose the selling price, the production volume and the final market, (export or domestic markets).
- ϛ. The main obligations of the concessionaire are:
- a. In the case of metallic substances, production may not be less than the equivalent to one Tax Unit per year and per granted hectare and in the case of nonmetallic substances not less than an equivalent of 10% of the Tax Unit per year and per granted hectare. In the case of small-scale miners, production may not be less than the equivalent to 10% of the Tax Unit per year and per granted hectare for metallic substances and to 5% of the Tax Unit [UIT] per year and per granted hectare for nonmetallic substances. In the case of artisanal miners, production may not be less than 5% of the Tax Unit per year and per granted hectare, regardless of the substance.
 - b. Production must be obtained no later than the expiration date of the tenth year, counted as from the year after the concession title was awarded. The production must be accredited with sales vouchers. In the case of internal sales, vouchers must be issued by commercialization or beneficiation companies duly registered in the Public Records Office. The referred sales vouchers must be produced before the mining authority in the form provided by it, until June 30 of the following year, for the sales of the previous year.
 - c. Perform works in accordance with systems, methods and techniques that promote the best development of the activity with respect to safety and hygiene standards and environmental.

- d. The Mining Concession Fee is US\$ 3,00 or its equivalent in local currency per year and per hectare requested or awarded. For small-scale miners, the Mining Concession Fee is US\$ 1.00 or its equivalent in local currency per year and per hectare requested or granted. For artisanal miners the Standing Fee is US\$ 0.50 or its equivalent in local currency per year and per hectare requested or awarded.
 - e. Annual legal declarations.
 - f. Allow internships.
 - g. Obligation to pay all Government taxes, royalties, fees and other.
- ∪. Mining concessions are granted on a “first come, first served” basis, with provisions for an auction if simultaneous claims are made. A separate concession is available, granting the right to concentrate, smelt or refine minerals already mined.
- ∧. Mining concessions have an indefinite term provided that: a) a minimum annual level or production or investment is met; b) an annual concession fee is paid.
- ∩. According to the law, small-scale miners are those whom:
- a. Individually or as a group of natural or legal persons comprised by individuals or mining cooperatives or mining cooperative centers, regularly engage in the direct exploitation and/or beneficiation of minerals; and
 - b. Possess, by any title, up to two thousand (2,000) hectares of mining rights, claims and concessions; and who also
 - c. Possess, by any title, an installed production and/or beneficiation capacity of not more than three hundred and fifty (350) metric tons per day. In the case of producers of non-metallic minerals and construction materials, the maximum installed production and/or beneficiation capacity shall be one thousand two hundred (1,200) metric tons per day. In the case of placer deposits, the maximum installed production and/or beneficiation capacity shall be three thousand (3,000) cubic meters per day.

Artisanal miners are those whom:

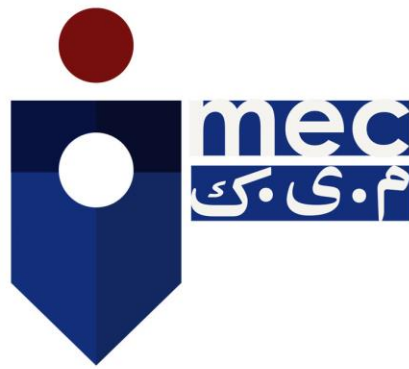
- a. Individually or as a group of natural or legal persons comprised by individuals or mining cooperatives or mining cooperative centers, regularly engage and as a means of their livelihood, in the direct exploitation and/or beneficiation of minerals, executing their activities manually and/or with rudimentary equipment; and who
- b. Possess, by any title, a maximum of one thousand (1,000) hectares, among mining rights, claims and concessions, or who have adopted agreements or contracts with the holders of mining operations, as established in the regulations of this Act; and who also;
- c. Possess, by any title, an installed production and/or processing capacity of not more than twenty-five (25) metric tons per day. In the case of the producers of nonmetallic ores and construction materials, the maximum installed production and/or

beneficiation capacity shall be one hundred (100) metric tons per day. In the case of metallic placer deposits, the maximum installed production and/or beneficiation capacity shall be two hundred (200) cubic meters per day.

The condition or small-scale or artisanal miner shall be accredited before the General Mining Bureau, by a biannual affidavit.

10. The general aspects of the fiscal system in Peru are:

- a. Royalties between 1% and 12% of production (at mine) production
- b. Special Mining Tax: Progressive 2% - 8.4% Mining income
- c. Corporate Income Tax 29.5%
- d. VAT on imports 18%
- e. Remittance dividends 5.0%
- f. Surface fees: General: 3.0 USD/ha; Small mining: 1.0 USD/ha; Artisanal mining: 0.5 USD/ha



Independent Joint Anti-Corruption
Monitoring and Evaluation Committee



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