



Independent Joint Anti-Corruption
Monitoring and Evaluation Committee

October 20, 2013

1542

Commission on Natural Resources
National Assembly
Islamic Republic of Afghanistan

Dear Esteemed Members of the Commission:

Re: Improving Transparency and Accountability in the Draft Minerals Law

As you are aware, the Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC) is responsible for monitoring and evaluating national and international efforts to fight corruption in Afghanistan and to provide independent reports to the President, Parliament, the people of Afghanistan, and the international community.

In line with its mandate, MEC has been monitoring the progress of the draft *Minerals Law* currently being considered by the Commission. Given the importance of the *Minerals Law* for the economic development of Afghanistan and its significance for the sound management of the country's natural resources, MEC requests that the Commission on Natural Resources and the National Assembly ensure that the law contains sufficient provisions to protect the mining sector from corruption.

Specifically, MEC recommends the following amendments:

Some provisions need to be strengthened to be effective

- The confidentiality of documents should be limited to those that would truly undermine a company's competitiveness;
- The law should explicitly require contracts to be published in full;
- The restrictions on transfers of and changes to licenses and contracts should be expanded;
- The publication of ownership information for license holders should be expressly required;
- Decisions taken by the Inter-Ministerial Commission for mining should be null and void where undisclosed conflicts of interest are discovered;
- Bidding procedures should be outlined in detail while maintaining provisions allowing for a combined exploration and exploitation license bidding process; and
- The method for setting royalties and the basis on which they are to be calculated should be elaborated.

Measures to strengthen accountability in the draft Minerals Law

- The law should include anti-corruption clauses in contracts and subcontracts signed with the Ministry of Mines and Petroleum;



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- The Ministry of Mines and Petroleum should be required to submit regular reports to the National Assembly to balance the need for parliamentary oversight with expedient contracting; and
- Strengthening the rights of affected communities at the contracting stage and giving them role in monitoring mining activities.

The law should be structured to clarify provisions dealing with transparency and accountability

- The provisions relevant to transparency, accountability and anti-corruption should be compiled in a single chapter, and consolidate the various provisions relevant to the publication of information in a single article;
- References to this chapter should be included in the other chapters and articles of the law; and
- A provision that indicates to what extent the existing *Mining Regulations* will remain in force, be changed or replaced needs to be included.

MEC welcomes the opportunity to present its suggestions in greater detail to the Commission.

Yours Sincerely,

M.Y. Osmani
Chair

Independent Joint Anti-Corruption Monitoring
and Evaluation Committee

