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**INDEPENDENT JOINT ANTI-CORRUPTION
MONITORING AND EVALUATION COMMITTEE**

REPORT ON THE IMPLEMENTATION OF ANTI-CORRUPTION RELATED ELEMENTS OF PRESIDENTIAL DECREE 45

Kabul, Afghanistan

March 13, 2013

Table of Abbreviations

ADB:	Asian Development Bank
AGO:	Attorney General's Office
ANDS:	Afghanistan National Development Strategy
ARAZI:	Afghanistan Land Authority
ARTF:	Afghanistan Reconstruction Trust Fund
DAB:	Da Afghanistan Bank
FIU:	Financial Intelligence Unit
GIRoA:	Government of the Islamic Republic of Afghanistan
HOO:	High Office of Oversight
IARCSC:	Independent Administrative Reform and Civil Service Commission
IDB:	Islamic Development Bank
IDLG:	Independent Directorate of Local Governance
IEC:	Independent Elections Commission
IMF:	International Monetary Fund
ISAF:	International Security Assistance Force
MAIL:	Ministry of Agriculture, Irrigation and Livestock
MEC:	Independent Joint Anti-Corruption Monitoring & Evaluation Committee
MoCI:	Ministry of Commerce and Industries
MCIT:	Ministry of Communications and Information Technology
MoD:	Ministry of Defense
MoE:	Ministry of Education
MoEc:	Ministry of Economy
MoF:	Ministry of Finance
MoFA:	Ministry of Foreign Affairs
Mol:	Ministry of Interior
MoJ:	Ministry of Justice
MoM:	Ministry of Mines
MoPH:	Ministry of Public Health
MoPW:	Ministry of Public Works
MoRR:	Ministry of Refugees and Repatriation
MoTCA:	Ministry of Transportation and Civil Aviation
NDS:	National Directorate of Security
OAA:	Office of Administrative Affairs and Council of Ministers Secretariat
TMAF:	Tokyo Mutual Accountability Framework
UNAMA:	United Nations Assistance Mission in Afghanistan
UNDP:	United Nations Development Program
USAID:	United States Agency for International Development

Executive Summary

Presidential Decree 45 represents a broad set of initiatives that would have a positive impact on government administration and the prevention, detection, and prosecution of corruption in Afghanistan - if effectively implemented. The decree includes 164 articles directed to 33 government institutions covering a large scope of activity, many of which are consistent with recommendations and benchmarks issued by the MEC. These include benchmarks related to the interference in the recruitment of civil servants, amendments to the procurement law, the verification of high ranking officials' assets, the publication of mining contracts, and land usurpation.

OAA stated in October 2012 that a vast majority of articles have been implemented based on reports it received from implementing institutions. This may technically be true, but many of the articles in Decree 45 are procedural in nature, often requiring the implementing institution to submit a plan or report to the Council of Ministers without the actual requirement to implement the proposed initiative.

OAA has been assigned to monitor the implementation of Presidential Decree 45 on behalf of the government and ministries responsible for implementation must report to OAA regularly on their progress. However, OAA does not have the resources to conduct extensive verification of reports from ministries and to evaluate the overall effectiveness of the initiatives.

MEC identified the need for independent monitoring of the anti-corruption aspects of Decree 45 based on these considerations and the relevance of many articles to the anti-corruption effort. The Committee selected 38 articles that would enhance efforts to fight corruption in Afghanistan, of which 27 had to be implemented within 1 to 3-months (by October 26, 2012), nine within 6-months (by January 26, 2013), and two with no deadline.

In conducting its monitoring activities, MEC was able to make detailed evaluations of a number of anti-corruption articles, while others were limited due to some lack of cooperation in obtaining information. Overall, the Committee's evaluations revealed mixed results with progress been seen in the early stages of many initiatives balanced by a lack of progress in others. Of the 38 articles being monitored, 8 (21 percent) have been implemented, 23 (61 percent) have been partially implemented, and 7 (18 percent) have not been implemented.

I. Introduction

On July 26, 2012, His Excellency the President of GIRoA announced broad-ranging measures to improve government administration and to fight corruption. Presidential Decree 45 includes 164 articles with specific timelines for their implementation including deadlines of 1-month for 19 articles, 2-months for 31 articles, 3-months for 43 articles, and 6-months for 49 articles; and 22 articles are ongoing initiatives.

The decree was hailed by the government as a mechanism to improve governance, fight against corruption, enforce the rule of law and enhance economic self-sufficiency. The initiatives contained in Decree 45, if implemented, would improve the administration of Afghan institutions and help to prevent, detect, and punish corruption. MEC publicly welcomed the measures contained in Decree 45 shortly after they were announced.

However, as with anything else, the key to success will be in the substantive and effective implementation of the articles.

OAA's Monitoring and Evaluation Department has been tasked with monitoring the implementation of Decree 45 and had increased its staff from 17 employees to 35, supplemented by secondments from line ministries and an official from MEC's Secretariat, to do so. Each analyst from the Department is appointed to monitor one government institution and conduct weekly meetings with the relevant minister's chief of staff and the deputy minister to discuss implementation plans and progress. Meetings are held every Monday and status reports are provided in writing on Wednesdays, regardless of whether the article has been implemented or not. The OAA focal point reviews and discusses the reports received with the respective institution and then feeds information into one of four sector leads established within the OAA. These sector leads roll-up the results into a report for a director-level steering committee chaired by the Director of the Monitoring and Evaluation Department. This information is then consolidated into a comprehensive report for the President.

The OAA has indicated that they do not have the capacity to verify all the reports they receive from ministries and do not always know whether they are accurate. They also advised that the security situation does not permit their assessment teams to visit all provinces to conduct evaluations.

MEC conducted numerous interviews and examinations of source documents in monitoring the implementation of Presidential Decree 45. The Committee recognizes that every article of Decree 45 is aimed at addressing a specific problem and MEC evaluated the articles from a qualitative perspective because it is the implementation that will determine whether the government is successful.

In conducting its evaluations, MEC could not obtain all of the reports that ministries submitted to the OAA, nor all of the policies, strategies and reports that they prepared for the Council of Ministers. This limitation affected the depth of some of its evaluations.

The main body of this report provides an evaluation of the articles contained in Decree 45 according to themes, with an article-by-article analysis appearing in Annex II.

II. Monitoring and Evaluation of Anti-Corruption Related Articles

Justice and Impunity

One of MEC's identified priorities is to ensure that justice prevails and to prevent impunity for unlawful activities. Impunity often relates to the inability or the unwillingness of the justice system to prosecute and punish illegal activities and it has a significant effect on corruption levels in Afghanistan. Corruption flourishes in the absence of the deterrence of a strong justice response and when those who may otherwise have feared punishment are emboldened by the lack of accountability.

The questionable detention of individuals is a manifestation of gaps in the timely investigation and prosecution of cases

Article 6 (1) of Decree 45 requires the AGO to study the cases of all detainees, prevent detention without evidence, and provide a complete list of detainees with the descriptions of their accusations to the judicial committee. The AGO provided assurances to the OAA that the decree had been implemented, but MEC met with officials from the Kabul Detention Centre and concluded that this was incorrect.

According to the official reports of the AGO, the number of detainees in the City of Kabul is 101, while the Kabul Detention Centre reports a number of approximately 450¹. MEC also obtained reports that demonstrate that at least 49 – or over 10 percent – of those detainees were in the Kabul Detention Centre contrary to statutory provisions on detention. The fact that over 10 percent of detainees are being held without sufficient grounds is indicative of systemic lapses in the justice system.

Officials of the Kabul Detention Centre advised that the issue of unlawful detention was brought to the attention of the AGO and relevant courts, without the necessary inquiries being carried out. Representatives of the Audit Department at the Supreme Court indicated that they sent a letter to the Kabul Appeals Court after being provided the list of detainees that MEC obtained from the Kabul Detention Centre. According to representatives of the Audit Department most of the people were being detained because their defense lawyers were not responsive or because of delays in the hearing date.

In addition, MEC was assured by the Appeals Court that they would take quick action and make decisions in accordance with the law. In further follow-up, it was revealed that the Appeals Court sent a letter to the appeal prosecution office after finding out about the status of the list of detainees, so that the prosecution office could identify the courts where the cases of the accused are.

After uncovering the extent of unlawful detentions in Kabul, MEC also wrote a letter to the President of Afghanistan advising that people were being held in detention with no clear fate. Soon after, the President issued another decree in December 2012 directing all relevant organizations to look into and rectify the problem. The relevant organizations were quick to respond to this decree by releasing many detainees being held illegally. Of 48 individuals identified at Kabul Detention Centre, 12 were still being detained, 10 had their charges dropped, 24 were transferred to another facility, and two were sentenced by the court.

MEC also made enquiries at the Herat Custody Centre where suspects were regularly held for up to a month despite statutory provisions that allow them to be held for no more than 72 hours. Since the decree has been issued, endeavours by Herat Custody officials have limited this to six days due to a memorandum of understanding between the prosecutor's office and custody centre. The practical result is that as of January 2013, the Herat Custody Centre had 30 inmates in custody, compared to over 100 in the past.

In contrast, Herat's detention centre has faced greater challenges. According to the information provided by the Herat Detention Centre, there are approximately 480 people in Herat's central detention facility whose cases are pending at the Supreme Court. This

¹ This number represents a snapshot taken from the specific date reported. The number of detainees fluctuates day to day.

includes some inmates who have been reportedly detained for over 5 years while awaiting a decision. The lack of resources to process the cases has been identified as one of the main contributing factors for the illegal detentions. A lack of a separate prison has also meant that detainees are being kept together with individuals who have been convicted and sentenced to prison.

The Supreme Court can play a constructive role in processing case back-logs, particularly those related to corruption

Article 1 (2) of the Decree requested the Supreme Court to finalize all open cases and the Supreme Court introduced measures to respond upon the issuance of Presidential Decree 45. Specifically, the Supreme Court assigned a committee led by the Audit Department of the Supreme Court to make sure the provisions in the Decree are met. The Committee is composed of representatives from the Ministry of Justice, the OAA, the AGO, MoI, and NDS.

The Supreme Court collected statistics on all cases in the courts, identifying 17,570 total cases (10,266 criminal; 6,534 civil; 475 corruption; 283 usurpation of government property; and 12 serial killing). The measures identified by the Supreme Court to reduce the case load include:

1. Collecting statistics on cases before various courts in Afghanistan;
2. Getting reports in regard to sentenced cases and accelerating handling of cases in relevant courts;
3. Identifying underperforming courts;
4. The appointment of professional staff;
5. Taking decisions on the status of suspects and the accused;
6. Gathering information on the interference of influential people and taking measures on avoiding such interference; and
7. Gathering information on the status of the proposed plans and instruction of the appointed committee regarding the decisions made by the courts.

Within seven months after Presidential Decree 45 was issued, the Supreme Court has brought down the number of their open cases from 17,570 to less than 10,000. However, the Court noted that there are obstacles and challenges for courts to bring perpetrators of land usurpation to justice due to the fact that most of those who are accused are land mafia, government officials or their relatives.

The Supreme Court noted that the processing of cases involves all justice sector organizations, including importantly the AGO. The Court reported that most of the cases pending in Kabul are due to the slow performance of the AGO. MEC's interviews with some prosecutors indicate that prosecutors are not being allowed to dismiss cases where there is not sufficient evidence despite having the legal authority to do so. The AGO rejects the assertion that they delay cases and blames the Supreme Court for not having enough human resources.

Despite the contention, it is obvious that both institutions have an important role to play in processing cases efficiently and effectively and enhanced cooperation will ensure that they meet their respective obligations. Case management and coordination mechanisms are the best means to ensure that this is done.

The policy on cash smuggling through Afghan airports has not effectively been implemented and should be strengthened to enhance efforts

Decree 45 includes article 20 (1) which requires DAB to ensure that the policy on the prevention of cash flow through airports is implemented. To implement the policy DAB signed a memorandum of understanding with the border police and Customs Department and has representation with the FIU at the airport.

The Afghan border police at Kabul International Airport - with support from USAID and other international organizations - have received training in relation to anti-money laundering and smuggling techniques. They have also undertaken various measures to familiarize officers with the contents of the policy document to strengthen the abilities of police to track money flows and enhanced investigative procedures.

Although the border police welcomed the adoption of provisions contained in the policy, they also expressed concerns regarding some undefined points, such as the absence of a requirement to verify the origin of money and the \$20,000 limit permitted to be transferred across borders. Information received by the Committee demonstrates that some companies are organizing business travel to Dubai with employees who are each given \$20,000 to carry legally out of the country. The police are unable to identify the source of these funds and cannot identify the real owners, which is of concern.

MEC also observed that money counting machines at the airport are not being properly utilized as they are placed in an inadequately sized and insecure office, are not easily accessible and have no appropriate video surveillance camera. The bulk currency counter was not connected to the internet or any other system which would enable the monitoring and recording of data.

The Committee was informed that in drafting the policy document DAB did not consult those directly involved in the prevention or detection of illicit money being moved through the border. The experiences and perspectives of the border police should be incorporated into the policy to provide a higher degree of effectiveness. DAB should work in close cooperation with a working group consisting of the border police, customs, the National Directorate for Security and other stakeholders who directly or indirectly take part in the implementation of the policy document.

Oversight of prosecutors will reduce vulnerabilities to corruption and enhance the effectiveness of prosecutions

An important factor in the strength of the justice system and ending impunity is the effectiveness of prosecutions conducted by the AGO. Unfortunately, there are some prosecutors reportedly involved in corruption and the abuse of office. Article 6 (4) of Decree 45 requires the AGO to submit a specific plan on the establishment of a prosecution office surveillance department to monitor the activities of prosecutors, similar to one that has been in operation at the Supreme Court, or to delegate such authority to the Audit Department of the Supreme Court.

Another measure related to the oversight of prosecutors is contained in article 6 (7), which requires the AGO to assess all professional and support personnel, identify the corrupt, and

undertake specific measures with a report to the President's Office. To date, progress on the implementation of this article leaves room for improvement.

MEC's monitoring activities reveal that the AGO has assessed its staff and transferred 30 staff members to different locations, but the AGO has not provided any justification and its report does not meet the intention behind article 6 (7) of Presidential Decree 45. MEC also found the measures and processes of identification of corrupt personnel unsatisfactory. It is not only the matter of meeting the deadline but also the measures and mechanisms of these assessments as the reports provided by the AGO lack detail on the criteria of their assessment and reasons for transfer, demotion, or dismissal. At the same time the list provided to MEC has only transfers of junior staff - not high ranking officials. Strong procedures and guarantees for the transferring of staff are required to ensure that prosecutors conducting cases in the public interest are not removed arbitrarily.

The Monitoring Affairs Department of the AGO has indicated that a budget has been approved for the 2013 fiscal year to establish a Surveillance Department, which will carry out the same functions as the Inspection Directorate, but with more authorities and personnel. The budget for the creation of the proposed Surveillance Department has been approved by Parliament and the AGO is planning to assign 50 - 60 professional prosecutors who will be dealing specifically with corruption charges brought against prosecutors throughout the country.

The AGO stressed the importance of the process for increasing the number of support staff for the Inspection Directorate until the new proposed Surveillance Department is established. In response to Decree 45, 10 professional prosecutors are now embedded to expand internal inspection at the AGO. This directorate is now staffed with 32 professional prosecutors who are responsible for inspecting and monitoring AGO personnel. According to their work plan they will perform monitoring and inspection of the central prosecution offices in Kabul and inspection of the prosecution offices in the provinces.

The Inspection Directorate is responsible to report to the Attorney General issues related to internal inspection of the AGO. This unit is responsible for conducting internal monitoring and for reviewing complaints against prosecutors, monitoring and evaluation of the daily activities of staff, and dealing with all criminal charges against prosecutors that include procedural misconduct, corruption and ethical issues.

According to the AGO, this department is working very well, but MEC could not find any progress report or achievements. Additionally the department could not identify its scope of work or mandate.

Organizational restructuring of the AGO will strengthen law enforcement efforts

Article 5 (5) requires that a law on the AGO be developed. In this regard, there appears to be progress as the law was approved by the Wolesi Jirga in October 2012 and is currently being discussed by the Legislative Affairs Commission of the Meshrano Jirga. The law is drafted for the purpose of regulating the structure of the AGO to strengthen the affairs of prosecutors and to regulate disciplinary action.

Better law enforcement will reduce vulnerabilities to corruption

Presidential Decree 45 also aims to improve certain aspects of law enforcement. One important aspect is in the area of traffic police, given the level of contact that traffic police have with the public and the reported level of bribes that are paid. Article 3 (5) requires MoI to prepare a plan on how to improve the activities of the traffic police in Kabul and other major cities. However, MEC has received negative responses from MoI and Kabul Municipality in response to the article, with MoI indicating that they will not be developing such a plan because it would require millions of dollars and would not be feasible to implement.

Better regulatory oversight will reduce vulnerabilities to corruption

Presidential Decree 45 also aims to improve certain aspects of regulatory compliance. In this regard MoPH has made substantial progress on the implementation of article 16 (2), which requires that they assess the process of producing and importing medicine in the country's markets from the perspective of quality and quantity, and present specific suggestions and proposals for reform to the Council of Ministers. MoPH recently reported that of 80 companies assessed that import or produce pharmaceuticals, 15 have been identified as bringing in low quality medicine with nine of those being referred to the AGO.

Land Usurpation

The issue of land usurpation plagues Afghanistan. According to ARAZI and other reports more than 4 million jerib of land (800,000 hectares) has been usurped across Afghanistan in the past 30 years. The usurped lands are not only located in provinces, districts or remote areas, but include thousands of hectares in the centre of Kabul and other cities. Reportedly, some of the largest land usurpers are officials, members of parliament and powerful and influential people who are never pursued. Therefore, land usurpation is strongly linked to corruption and impunity.

Presidential Decree 45 contains many measures to address the problem of land usurpation. A good first step is article 27 (2) which requires MAIL to collect accurate information regarding the confiscation of state and private properties in central and other provinces in collaboration with MoJ, MoI, AGO, and IDLG. The implementation of this article will allow for an understanding of the scope of land usurpation in Afghanistan.

MEC's monitoring activities reveal that MAIL has made some progress. ARAZI has sent its report as required, which was developed with the support of MoJ, MoI, AGO, HOO, and IDLG. However, ARAZI has not shared the identities of the land grabbers nor has the report been shared with MEC on the grounds that it is highly sensitive.

ARAZI has identified the usurped lands and the details of land usurpers in some parts of Afghanistan and has provided a detailed list which is broken down into the following categories:

1. 16 individuals representing the largest land usurpers who account for a total of 138,996 jerib of land;
2. 42 people with more than 1,000 jerib each accounting for a total of 109,631 jerib;
3. 260 people with 100 – 999 jerib each accounting for 65,810 jerib;

4. 693 people with 10 - 99 jerib each for a total of 18,284 jerib;
5. 1,558 individuals who have usurped 1-9 jerib in major cities accounting for 4,384 jerib;
6. 848 people who have usurped less than 1 jerib for a total of 275 jerib;
7. 230,000 jerib in 228 residential towns; and
8. 139 government entities that are using lands and properties without legal authorization.

Knowledge of the scope of the problem is only the start in the process of dealing with land usurpation. MEC has found that the major factors perpetuating land usurpation in Afghanistan include the absence of political will to deal with land usurpation, the lack of security in some areas of the country, impunity, corruption within government bodies, lack of a comprehensive strategy, involvement of some high-ranking government officials in land usurpation, and the weakness of the government to effectively use government lands.

Now that the required information about individuals who have usurped lands has been shared with officials, the response will indicate whether there is real political will to fight this problem. According to the report from MAIL only 60,000 jerib of usurped government land has been reclaimed over the past year.

The presidential decree directs the attention of officials towards looking into government and private properties being usurped, but unfortunately, sufficient attention has not been given to private properties. Despite some achievements, an important limitation in ARAZI's efforts is the exclusive focus on public lands that have been usurped despite the decree's explicit inclusion of private lands. It is hoped that once this aspect is completed then measures can be developed to address the other aspect of the problem.

Another step in dealing with land usurpation is the enforcement of court decisions. Article 3 (1) of the decree states that MoI is to act on judgments of the Court delivered against usurpation of public and private property and provide a written report to the OAA. As per reports from law enforcement agencies, many cases of land usurpation have been referred to the courts without decisions.

MEC is currently in the process of verifying how many cases the courts have initiated in this regard, but there is conflicting information from different ministries. MoI reports that approximately 191 cases of land usurpation were sent to the AGO for investigation without response from the AGO or the Court. However, the AGO denies having received these cases. It is also unclear how many judgments of the Court have been issued on land usurpation as the Committee has faced difficulty securing the cooperation of the courts in this regard. The Committee will continue to try and engage the Court in identifying all relevant cases so that their implementation can be evaluated.

Finally, article 31 (1) of the decree requires MoRR to report on the fair distribution of land to refugees in the 34 provinces of the country. According to information received, five provincial missions have been completed and a director-level committee under the management of the Policy and Planning Deputy was created to evaluate the reports and take measures to solve problems. However, there are a number of reports indicating interference in land distribution to returnees, the payment of bribes and the distribution of land to the warlords and government officials. The problems identified require effective strategies to be implemented if there is to be any change on the ground.

Elections

Free and fair elections are central to democracy and provide a vital means of empowering citizens to hold politicians accountable, but election fraud often undermines this critical function in young democracies largely due to weak electoral institutions and reforms. The Afghan electoral system suffers from structural issues related to voter registration, candidate vetting, vote administration and complaint resolution.

The government has attempted to address the structural aspects of the elections through proposed amendments to the elections law, which article 5 (4) of Decree 45 requires to be sent to the Council of Ministers. The draft law was approved by the Council of Ministers on December 3, 2012 and is now before parliament for consideration. The proposed law would abolish the role of the Electoral Complaints Commission in dealing with complaints, replacing it with Central and Provincial Appeal Courts, but this appears to be in contradiction with the Independent Elections Commission structural law, which is also currently before parliament. Reportedly the Supreme Court has already begun to develop a regulation to implement the new complaint process despite the status of the proposed reforms.

The proposed amendments also include provisions for the vetting of candidates based on background checks for crimes, involvement in armed groups, and resignation from government positions. The vetting process also includes the verification of educational documents and management experience required to meet the qualification standards to be a candidate for presidential and parliamentary elections. However, it remains unclear how these areas will be effectively vetted. Provisions of the law are explicit and substantive about the candidates being acceptable based on aptitude and competency, but the concern about the mechanisms and methods to be used still persists.

Of great importance to the voting process is the creation of a reliable and comprehensive voters list. Reports from the last Afghan election indicate that millions of additional voting cards may have been issued due to the lack of verification of registered voters. Article 12 (1) of the decree requires IEC to prepare a voter registration plan for the 2014 Presidential elections and submit it to the Council of Ministers. The IEC completed the concept of voter registration, but it was rejected due to cost, security concerns and the timing of the electronic identification cards process.

The IEC recently announced that it would allow the use of voter registration cards used in the previous elections, while at the same time indicating that new electronic identifications that are in the process of being issued will also be accepted. The Head of the IEC acknowledged that the Commission would not be able to identify counterfeit voter cards. The scope of fraud in the previous election and the inability to verify voter registration cards leaves a huge vulnerability to corruption in the upcoming elections.

Another election related article that the Committee is monitoring is article 12 (2). This article relates to the design of transparent electoral programs that provide a comprehensive electoral schedule for the presidential, national and provincial council elections. According to the elections law the IEC is obliged to prepare and announce the elections schedule 120 days before voting day. The IEC announced their comprehensive electoral schedule for presidential and provincial council elections to be held on April 5, 2014. The parliamentary and district elections will not be held until 2015, so the IEC has time to announce the schedule according the law.

On- and Off-Budget Financing

The implementation of Tokyo Conference commitments is essential for mutual accountability

MoF is directed under article 17 (3) of the decree to prepare and implement a follow-up plan from the Tokyo Conference commitments and report progress to the Council of Ministers. The *Concept Paper on Implementing the Tokyo Framework* has been completed by MoF and includes specific measures in a variety of areas including elections, governance and rule of law, banking integrity, government budget, growth and development, and aid effectiveness. Institutions responsible for implementation and follow-up of the Tokyo commitments have been identified and therefore, precise monitoring is required to ensure that institutions fulfil their obligations within the timeframe specified.

The proposed governance of the Tokyo Framework includes a Standing Committee and Joint Coordination and Monitoring Board to review progress regularly and a Senior Officials Meeting to be held in 2013 and every second year following to update indicators where needed. Finally, a Ministerial level meeting will be held in 2014 and every second year following to assess resource requirements and renew international commitments. A Secretariat for the Tokyo Framework has been established under the Policy Unit of MoF, which includes the Deputy Minister, the General Director of Strategic Plans, and the Executive Director for the ANDS Secretariat. The proposal suggests that UNAMA should convene coordination meetings on a weekly basis in which donors or ambassadors shall participate to evaluate progress. To date, there have been several initial technical and operational meetings between MoF and the donors.

To be able to achieve the objectives of the Tokyo Framework and Paris Declaration the Afghan government and its international partners must increase their capacity in managing development, especially in monitoring and tracking aid effectiveness. MoF has drafted an Aid Management Policy, which was recently approved by the Joint Coordination and Monitoring Board in February 2013. The Policy represents a significant attempt to bring the commitments from the Tokyo Mutual Accountability Framework, the National Priorities Program and other government strategies together in one consolidated operational policy. However, there are some limitations and weaknesses in that the policy currently only calls for best efforts on behalf of the parties as opposed to using firmer and more committed language.

Publishing government contracts will increase transparency and accountability and allow the public to more fully scrutinize government activities

Article 19 (2) of the decree requires MoEc to publish all details of government contracts entered into with companies and national and international institutions online in collaboration with MoF and MCIT. It has been reported that over 1,200 contracts have been published and all government institutions have been asked to submit their contracts for publication, but MoFA, MoCI, and Kabul Municipality have not complied with the request. Additionally, it appears that many contracts that have been published do not include full details as required by the article.

Article 21 (5) of the decree also requires MoM to develop a specific plan to ensure transparency in mining contracts based on agreed international principles and to publish all

details of contracts – not just summaries – on the web. MoM has published over 200 mining contracts and 16 policies on its website, excluding the important Aynak contract. The absence of the Aynak contract is purportedly due to confidential issues related to complementary agreements that are still being negotiated, but the Ministry has committed to publish the contract after those agreements are completed. MEC will continue to engage the ministry to ensure that this is done in a timely manner.

Transparency in the public procurement can reduce opportunities for corruption

The government has also included several procurement related articles in Decree 45 that would have the effect of increasing transparency and reducing conflicts of interest and nepotism in procurement. Article 1 (15) prohibits government organizations from signing contracts and protocols of construction, procurement and services with high-ranking government officials and their associates. Such acts are to be considered corruption and the perpetrators are to be prosecuted by the AGO. Although government institutions generally indicate that they do not sign contracts with high ranking state officials, there have been some reports to the contrary. The Committee is currently attempting to acquire details of these cases to evaluate whether this article is being breached and whether the cases have been referred to or prosecuted as required by the AGO.

The decree also includes structural reforms related to procurement including direction for a revised procurement law (article 5 (3)); a revised procurement mechanism for MoD (article 2 (1)); and a requirement for the effective monitoring of development projects (article 19 (1)). The new procurement law was sent to the Council of Ministers several times and is being studied by the appointed commission within MoJ. MoF has conducted a workshop to further refine the law, with participation from government experts. MoD has prepared new procedures for its procurement processes and submitted them to the OAA.

The area of defense procurement is an important area for preventing and reducing corruption. Transparency International recently released the results of its evaluation of transparency in the budgets of international defense sectors, scoring Afghanistan in the fifth of six rankings. Currently, much defense spending is done by international organizations, but there will be a substantial increase of defense spending implemented by MoD as international forces draw down over the next year. This fact increases the importance of ensuring that there are effective procurement methods in place and vulnerabilities to corruption are reduced.

Enhanced government revenue structures will decrease the dependency on foreign aid and the loss of government income to corruption

During the past decade Afghanistan has relied on foreign assistance to fund its activities. Although Afghanistan has a number of revenue generating opportunities, challenges including the lack of security, long borders, low capacity, weak institutions, and corrupt practices have meant that the government has been unable to fully collect revenues. As a result, Presidential Decree 45 includes articles directed to improve revenue collection and prevent their misdirection. Article 17 (7) requires MoF to prepare a mechanism to improve government revenue and the capacity of ministries to expand and execute accountable budget practices. Accordingly, MoF has prepared a draft version of a plan to improve the revenue and capacity of governmental agencies, which has been shared with the Committee. The plan includes three sources: tax collection; revenue generated by government

institutions; and customs revenue. The plan provides 40 recommendations for all three areas, but does not explain the current status, objectives and short and long term outputs and outcomes. Regardless, enhanced revenue streams are at risk of being diverted if strengthened integrity systems are not in place in MoF.

Similarly, article 25 (1) of the decree requires that a transparent and comprehensive mechanism for collection of land transport revenue be prepared by MoTCA, as many transportation revenues have reportedly been diverted from the government. A mechanism of collection of transportation revenues was prepared and sent to the OAA, but MEC has not been able to access the strategy to evaluate its effectiveness. MEC will continue following-up with the Ministry and will provide additional evaluation when possible.

Infrastructure

The implementation of infrastructure projects in Afghanistan presents a major concern due to the susceptibility to corruption. There are many problems that have caused projects to be delayed, postponed, stopped, or completed with low quality craftsmanship and materials. Many of the contracts have been awarded to companies that are not capable of implementing the projects, resulting in several levels of subcontracting and the exhaustion of project funds through inefficiencies and misappropriation.

According to the *Procurement Law* contractors are bound to implement projects within their specific timeline. Article 24 (3) of the Decree requires MoPW to prepare a list of all partially completed projects with reasons for the delay, stoppage, or postponement and present it to the Council of Ministers, which has notionally been completed. The list only includes 35 projects funded by the Afghan government, ADB, IDB, and ARTF, but does not include projects implemented by other important donors such as USAID, United States Army Corps of Engineers, and provincial reconstruction teams due to a lack of cooperation from these agencies. The problems identified resulting in delay include insecurity, severe weather, a lack of required materials, land acquisition issues, re-contracting, inadequate design, and a lack of cooperation.

Although some contractors that have failed to complete projects within the specified timeline have been fined or referred to law enforcement, the Ministry must move beyond simply naming these projects to develop and implement strategies to overcome the challenges associated with their inadequacies. MoPW will also need to pursue information from other donors and agencies that have infrastructure projects to ensure that all causes are considered.

Government Appointments

The appointment process in a variety of government institutions has been a concern for many years. Appointments are often based on nepotism, without consideration of merit, resulting in incompetent and ineffective officials in key positions and greater vulnerability to corruption. The decree has provided a strong focus on the appointment and promotion process in various Afghan institutions.

Government wide reform will help to strengthen merit based appointments and reduce incentives to solicit bribes

Article 11 (2) of the decree requires IARCSC to develop an internal reform plan in line with high standards and recruitment and article 17 (6) requires a plan for the consistent salaries of civil service personnel. Information received by MEC indicates that IARCSC has initiated a proposal for reform or for the appointment of civil service personnel, which has been provided to the Council of Ministers. The plan calls for research to be conducted on civil service salaries and for reforms to salary administration.

Appointment processes in several key institutions needs to be performed based on merit and competencies

Additionally, article 1 (17) of Decree 45 requires IDLG to introduce candidates for mayoral appointments to the special board of the appointment of high ranking officials until municipal elections can be held so that the board may decide on the appointment of mayors. Article 8 (2) requires IDLG to take measures to recruit qualified deputy governors through open and fair competition with assistance from IARCSC.

Information received indicates that the appointments of mayors are taking place as per the article of the decree, with IDLG recommending candidates to the special board of appointments of high ranking officials. MEC has found that IARCSC – in coordination with IDLG – has filled the positions of the deputy governors that were vacant through exams and videotaped interviews. It is reported that 17 of the 34 deputy governor positions have been filled by merit-based recruitment and another 17 are shortlisted for examinations. However, in most cases the same deputy governor that was already serving has been appointed, calling into question the veracity of the process.

Based on article 6 (2), the appointment of heads in the Attorney General's provincial offices are required to be proposed to the Office of the President and obtain approval. Information received by the Committee indicates that the AGO has proposed the appointment of 13 provincial Attorney Generals, which were approved by the OAA. However, those 13 appointees were already working in the AGO meaning that there were no changes or replacement of Attorneys in the provinces. Information received by the Committee also indicates that a further 15 proposed Attorneys were subsequently rejected by the President, reportedly because appointees were being recycled.

The decree also directs specific ministries to take measures related to appointment and recruitment within their organizations. Article 4 (2) of the decree requires MoFA to review and propose reforms of the recruitment mechanism of diplomats and their capacities; article 3 (7) requires MoI to carry-out and process the promotions of eligible officers; and article 18 (1) requires MoCI to report on the number of commercial attachés in different countries and their appointment mechanism.

The monitoring activities of MEC have revealed mixed results in this regard. MoFA has established committees to reassess all diplomats based on their qualifications, experience, and language. According to the internal procedures, the ministry must convene an entrance exam for candidates and individuals hired rotate through Kabul and diplomatic missions abroad. A successful interview and a good evaluation will provide the opportunity for the individual to get an approval for appointment in a diplomatic mission.

MEC interviewed employees from the ministry, including people who had been on diplomatic missions, some who had not been on a diplomatic mission after several years of work at the Ministry and one who was just appointed. According to these interviews, the hiring of diplomats was influenced by high ranking officials and members of Parliament. In one case the younger brother of a prominent political figure in Afghanistan was reportedly appointed in the United Arab Emirates as a Secretary for 7-years and is now in Australia as a diplomat.

Since some people lacking diplomatic knowledge are appointed to diplomatic positions, embassies, MoFA and overall the government of Afghanistan is affected as such people - due to weak linguistic skills and a lack of understanding of diplomatic protocols - cannot participate in meetings and conferences. One of the other officials of the ministry indicated that during the past three years, the Ministry has conducted only one entrance exam.

There has also been some progress reported in the appointments of commercial attachés with the appointment mechanism reportedly drafted based on the needs and volume of commerce with the host country. MoCI indicates that there has been a commission appointed consisting of representatives from the OAA, MoFA, MoF, and IACSC. The commission has evaluated the activities of commerce attachés and has reduced the number by 18 for the 2013 fiscal year.

Article 13 (5) requires MoE to take measures to recruit 11,000 teachers through open competition and merit-based examinations, which MoE indicated has already been completed. Furthermore, the Ministry has informed MEC that they are in the process of recruiting 40,000 more teachers that are needed.

The identification of corrupt officials in key ministries will help to reduce administrative corruption

Finally, the Decree requires MoTCA and HOO to review their personnel and organizational structures to identify corrupt officials and take measures against them (Article 25 (5) and article 7 (3) respectively). MoTCA indicated that it has taken the necessary steps by establishing a committee to deal with the issue and has punished and replaced some corrupt employees. HOO has completed the assessment and sent the report to the OAA, but refused to share the report with MEC for verification.

Monitoring and Governance

The Committee has identified three articles in the decree that speak to the government's efforts in governing and monitoring its anti-corruption efforts. Article 7 (1) requires HOO to monitor the implementation of the anti-corruption strategy within the government and private sector. HOO did not provide MEC with information to determine whether this has been completed, but the OAA has indicated that working groups have been established for the monitoring of the implementation of the anti-corruption strategy.

The established working groups include a representative of the High Office and generally meet every month or two, but some do not meet at all. Anti-corruption training has been provided to working group members by HOO, with support from the international community.

The second article (9 (2)) requires the OAA to prepare a list of all unimplemented Presidential decrees and resolutions of the Council of Ministers. The OAA has a Monitoring and Evaluation Department that was established in 2006 to monitor all decrees, resolutions

and orders; it also maintains a database that stores all decisions since the creation of the department. However, the department does not have data before 2006 as it resides with the Council of Ministers Secretariat. The Secretariat did not have an electronic system at that time and they have not carried out a review of existing documents.

According to the statistics provided by the Monitoring and Evaluation Department, 57 percent of decrees and orders were implemented in 2011, 25 percent were in progress and the remaining 18 percent were unimplemented. Also, out of all decrees, orders and resolutions from 2006 to 2011, 73 percent have been implemented, 15 percent are in progress and 12 percent have not been implemented.

The reasons that some decrees and orders have not been implemented have not been provided to MEC. Nor did the Monitoring and Evaluation Department provide details about the nature of the unimplemented articles, making it impossible for the Committee to evaluate whether there are systemic issues at play, or whether anti-corruption efforts are being hampered.

Finally, article 7 (2) requires HOO to investigate and forward the results of suspicious assets of government officials and private organizations and report to the President's Office every two months.

HOO indicated that they completed the investigation and sent the report to the OAA, but would not share a copy with MEC. MEC's monitoring of this article indicates that HOO has signed memoranda of understanding with some ministries, including the National Directorate for Security, to enhance efforts to verify assets. However, information that has been published by HOO regarding assets was ambiguous and did not provide details of the origin of the assets and appears not to have satisfied constitutional requirements. Subsequently, HOO stopped publishing high ranking officials' assets. The latest information indicates that HOO is verifying the assets of 75 individuals.

III. Conclusion

Decree 45 represents an important initiative in the fight against corruption. Its success depends on the effective planning and implementation of the initiatives contemplated by the Decree's articles. Although most institutions are responsive to the direction provided by the decree and there have been some success, there are several proposals that have not been implemented, or have been implemented in an insufficient manner. The implementation of Decree 45 should not be about simply doing enough to tick a box; rather it should be embraced by ministries as solid direction for their better functionality.

While the OAA has established the infrastructure to monitor Decree 45, and they are making a genuine effort to do so, it is clear that their capacity in terms of resources to effectively monitor and ability to provide critical analysis mitigates the effectiveness of their efforts. Given the importance of Presidential Decree measures, and the length of time required before the effectiveness of the decree can be assessed, the Committee has determined that it will continue to monitor and evaluate the decree's implementation and the effectiveness of the measures well after the timelines of the decree have expired.

Appendix I: Anti-Corruption Related Articles Being Monitored

Timeframe	Article	Institution
Ongoing	1 (15) All government organizations are advised to refrain from signing contracts and protocols of construction, procurement and services with high-ranking government officials, agents and individuals carrying their support. Such acts will be considered corruption crimes and the perpetrators will be prosecuted by the AGO.	All organizations and agencies
	8 (2) Take measures to recruit patriotic, sincere, intelligent and qualified deputy governors through open and fair competition, with the assistance of IARCSC.	IDLG
1-month	3 (7) Carry-out and process the promotions of eligible officers, as high as the rank of a Colonel.	MoI
	6 (1) Study the cases of all detainees through relevant prosecution offices, prevent detention without evidence, and provide a complete list of detainees with the descriptions of their accusations to the judicial committee.	AGO
	6 (2) The appointment of provincial Attorney Generals shall, as the heads of ministries and other administrations, be proposed to the Office of the President.	
	11 (2) Review the structure of the Commission and appointments of all personnel including that of the board of appointments and the general directorate for civil services and submit an internal reform plan in line with high standards and recruitment to the President's Office.	IARCSC
	12 (1) Prepare a voter registration plan for the 2014 Presidential elections and submit it to the Council of Ministers.	IEC
	18 (1) Report on the number of commercial attachés in different countries and their appointment mechanism based on requirements and volume of state's commerce to the Council of Ministers.	MoCI
	19 (1) Present a specific mechanism to monitor development projects including municipal projects to the Council of Ministers.	MoEc
	20 (1) The policy for exchange exit via state's foreign currency outflow via airports shall be implemented, continuously observed and its outcomes shall be reported to the President.	DAB
24 (3) Prepare a list of all partially completed projects with reasons for the delay, stoppage, or postponement and present it to the Council of Ministers.	MoPW	
2-months	2 (1) Prepare and provide a revised, transparent and complete procurement mechanism for the ministry with the assistance of the MoF, MoEc and MoJ.	MoD
	3 (1) Act on all final decisions of the Court specifically on those that were taken against usurpation of public or private property, and provide a written report to OAA and the Secretariat of the Council of Ministers.	MoI
	5 (3) Process an amended plan for the procurement law.	MoJ
	5 (4) Finalize and send the electoral law to the Council of Ministers.	
6 (4) Study and submit a plan to the Council of Ministers on the establishment of a prosecution office surveillance department or the delegation of surveillance to the Supreme Court's department of surveillance.	AGO	

Timeframe	Article	Institution
2-months	7 (1) Monitor the implementation of the anti-corruption strategy within the government and private sector and forward the results to the President's Office.	HOO
	9 (2) Prepare a list of all unimplemented decrees and provisions of the President's Office and approvals of the Council of Ministers, and submit it to the Council of Ministers accompanied with analysis of ministries and related administration.	OAA
	17 (3) Prepare and implement a follow-up plan from Tokyo Conference commitments and report progress to the President.	MoF
3-months	1 (17) In order to organize and provide services that are in the public interest, until the facilitation of means of municipal elections, the process of appointing a mayor will be administered by the special board of appointing high ranking officials of the President and by the recommendations of IDLG. The Directorate shall introduce and through the special board of appointments, appoint provincial mayors and mayors in some major districts.	IDLG
	4 (2) Review and propose reforms on the recruitment mechanism of diplomats and their working capacities to the President's Office in order to aid in decision making.	MoFA
	12 (2) Design transparent and orderly electoral programs that, by ensuring public participation, provide a comprehensive electoral schedule for the Presidency, and national and provincial councils.	IEC
	17 (6) In collaboration with IARCSC, prepare a scheme for the consistent salaries of civil services personnel and present it to the Council of Ministers.	MoF
	17 (7) Prepare a mechanism to improve government revenue and the capacity of involved ministries for expanding and executing accountable budget and modulator requirements and national preferences and introduce it with identification of new revenue sources.	
	19 (2) In collaboration with MoF and MoCIT; all government contracts entered into with companies, national and international institutions with all details (should not be confined to summary of contracts) shall be published via internet websites and related institutions.	MoEc with MoF and MoCIT
	21 (5) A specific plan to ensure transparency in mining contracts shall be finalized and presented to the Council of Ministers. Ensuring transparency in the contracts based on the agreed international principles and according to the future of the country shall be put at the top of their work and all details of contracts (should not be confined to summary of contracts) shall be published via websites of MoM, MoF and MoEc.	MoM
	25 (1) A transparent, comprehensive and revised mechanism for collection of land transport revenue shall be prepared and presented to the Council of Ministers.	MoTCA
	27 (2) Collect accurate information regarding the confiscation of government and personal properties at the national level (in the first step in first-rate provinces then in other provinces) in collaboration with MOJ, Mol, and AGO, Anti-Corruption Administration and IDLG and present it to the Council of Ministers.	MAIL / ARAZI
	31 (1) A report on fair distribution of land in towns to refugees in 34 provinces of the country shall be given to the Council of Ministers.	MoRR

Timeframe	Article	Institution
6-months	1 (2) The Supreme Court of Afghanistan is requested to decide and finalize all running cases, especially those of corruption, land usurpation, and serial killing.	Supreme Court
	3 (5) Prepare a plan on how to improve the activities of traffic police in Kabul and other major cities, with the assistance of Kabul and other relevant municipalities, and provide it to the Council of Ministers.	MoI
	5 (5) Finalize and submit laws on municipalities and the AGO.	MoJ
	6 (7) Assess all professional and support personnel, identify corrupt cadres, undertake specific measures, and submit a report to the President's Office.	AGO
	7 (2) Investigate and forward the results of suspicious assets of government officials and private organizations and report to the President's Office every two months.	HOO
	7 (3) Assess all professional and support personnel of HOO, identify corrupt cadres, undertake specific measures, and submit a report to the President's Office.	
	13 (5) Take measures regarding the recruitment of eligible teachers in the capital and provinces of the country, and the recruitment of 11,000 new teachers and employees through open competition and merit based examinations and report monthly to the Council of Ministers.	MoE
	16 (2) Assess the process of producing and importing medicine in the country's markets from the perspective of quality and quantity, and present opinions and proposals for reform to the Council of Ministers.	MoPH
25 (5) All personnel and organizational structure of the ministry shall be reviewed, corrupted cadres shall be identified, specific measures shall be taken and reported to the President.	MoTCA	

Appendix II: Detailed Evaluation of Anti-Corruption Related Articles Being Monitored

1 (2) The Supreme Court of Afghanistan is requested to decide and finalize all running cases, especially those of corruption, land usurpation, and serial killing. (6-months) (Supreme Court)

Status and Evaluation: Partially implemented. Upon the issuance of Presidential Decree 45, the Supreme Court introduced measures to respond. Specifically, the Supreme Court assigned a committee led by the Audit Directorate of the Supreme Court to make sure the provisions in Decree 45 are met. The Committee is composed of representatives from MoJ, the OAA, the AGO, Mol, and NDS.

The Supreme Court collected statistics of all cases in the courts, identifying 17,570 total cases (10,266 criminal; 6,534 civil; 475 corruption; 283 usurpation of government property; and 12 serial killing). The Supreme Court identified the following measures to reduce the case load:

1. Collecting statistics of cases before various courts in Afghanistan;
2. Getting reports in regard to sentenced cases and accelerating handling of cases in relevant courts;
3. Identifying underperforming courts in Afghanistan;
4. Appointing professional staff;
5. Taking decisions on the status of suspects and the accused;
6. Gathering information on the interference of influential people and taking measures on avoiding such interference;
7. Following procedure on recruitment of employees and avoiding interference in their appointment; and
8. Gathering information on the status of the proposed plans and instruction of the appointed committee regarding the decisions made by the courts.

Within the seven months since Presidential Decree 45 was issued, the Supreme Court has brought down the number of their cases from 17,570 to less than 10,000. However, the Court noted that there are obstacles and challenges for courts to bring perpetrators of land usurpation to justice due to the fact that most of those who are accused of land grabbing are land mafia, government officials or their relatives.

The Supreme Court noted that the processing of cases involves all justice sector organizations, including importantly the AGO. The Court felt that most of the cases pending in Kabul are due to the late performance of the AGO. MEC's interviews with some prosecutors indicate that prosecutors are not being allowed to dismiss cases where there is not sufficient evidence despite having the legal authority to do so. The AGO rejects the assertion that they delay cases and blames the Supreme Court for not having enough human resources.

Despite the contention, it is obvious that both institutions have an important role to play in processing cases efficiently and effectively and enhanced cooperation will ensure that they meet their respective obligations. Case management and coordination mechanisms are the best way to ensure that this is done.

1 (15) All government organizations are advised to refrain from signing contracts and protocols of construction, procurement and services with high-ranking government officials, agents and individuals carrying their support. Such acts will be considered corruption crimes and the perpetrators will be prosecuted by the AGO. (Ongoing) (All)

Status and Evaluation: Not implemented. MEC has visited a number of government institutions, including MoRR, the Ministry of Haj and Religious Affairs, MoF, MoM and the OAA, most of whom advised that they had complied with the provision of this article. Reports from other ministries provided to the OAA indicates that there is a general intention to comply with such orders and they will not sign contracts for provisions of services with the high ranking government officials or those appointed and supported by them. Contracts are also given to companies having close links and connections with these officials. To date, MEC has not had access to data that considers such acts as a crime and there is no report from the AGO to determine whether it has arrested anyone based on such allegations.

1 (17) In order to organize and provide services that are in the public interest, until the facilitation of means of municipal elections, the process of appointing a mayor will be administered by the special board of appointing high ranking officials of the President and by the recommendations of IDLG. The Directorate shall introduce and through the special board of appointments, appoint provincial mayors and mayors in some major districts. (3-months) (IDLG)

Status and Evaluation: Fully implemented. Information received indicates that IDLG has evaluated the performance of 33 municipalities and sent its report to the OAA. Currently, the appointments of mayors are taking place as per the article of the decree. IDLG recommends candidates to the special board of appointments of high ranking officials and then the board decides on their appointment.

2 (1) Prepare and provide a revised, transparent and complete procurement mechanism for the ministry with the assistance of MoF, MoEc and MoJ. (2-months) (MoD)

Status and Evaluation: Not implemented. Recent reports have indicated that there is little transparency in the anti-corruption mechanisms and controls of Afghanistan's defense budget and it is at a very high risk of corruption. This is of great importance as the defense budget of Afghanistan increases as international forces draw down and procurement is increasingly handled through the ministry.

3 (1) Act on all final decisions of the Court specifically on those that were taken against usurpation of public or private property, and provide a written report to OAA and the Secretariat of the Council of Ministers (2-months) (Mol)

Status and Evaluation: Not implemented. Mol reports that about 191 cases of land usurpation were sent to the OAA and the AGO for investigation, but the AGO and Courts have not responded. MEC was unable to determine how many court decisions have been issued in relation to usurpation of property and was therefore unable to assess whether these decisions were being acted upon. This article will be monitored in more depth in the coming months.

3 (5) Prepare a plan on how to improve the activities of traffic police in Kabul and other major cities, with the assistance of Kabul and other relevant municipalities, and provide it to the Council of Ministers. (3-months) (Mol)

Status and Evaluation: *Not implemented.* In order to monitor the implementation of this article, MEC has met the Plans and Policy Directorate of Kabul Municipality, which provided a negative response on the implementation of this article. Mol responded that it has prepared a response. However, the Ministry stated that it will not be developing a plan because it would require millions of dollars and basic infrastructure to be put in place.

3 (7) Carry-out and process the promotions of eligible officers, as high as the rank of a Colonel. (1-month) (Mol)

Status and Evaluation: *Fully implemented.* Based on Presidential Decree 45, Mol has promoted 2,395 eligible officers and promoted 154 extraordinary promotions.

4 (2) Review and propose reforms on the recruitment mechanism of diplomats and their working capacities to the President's Office in order to aid in decision making. (MoFA) (3 months)

Status and Evaluation: *Not implemented.* MoFA has reported to the Office of the President with the proposal for appointing diplomats. The Ministry has appointed a Commission to hire and appoint employees based on the period of their service, command of a foreign language and their effectiveness in diplomatic missions.

Individuals hired will work for three years within the Ministry in Kabul and will undergo evaluations on a yearly basis. After three years of work, an interview is conducted to determine suitability for a foreign posting. Appointments are as 3rd Secretary of the Embassy for three years, after which they return to the Ministry to work for another 3 years. The evaluation and assessment process is conducted again and based on a good evaluation the individual is appointed as a 2nd Secretary for three years and will return to Kabul and will work for another 3 years and will be eligible to be appointed as 1st Secretary.

MEC met employees of MoFA to monitor and evaluate the implementation of these procedures. The individuals included people who had been on diplomatic missions and some who had not been on a diplomatic mission even after several years of work at the Ministry. The general view was that hiring procedures were not being transparently administered and involved external influences, including high ranking government officials, members of the parliament, and ministers. The result is that some individuals lack diplomatic knowledge and face problems in diplomatic protocol and cannot attend diplomatic functions. Another Ministry official indicated that during the past three years, the Ministry has conducted only one entrance exam.

5 (3) Process an amended plan for the procurement law. (2-months) (MoJ)

Status and Evaluation: *Partially implemented.* The Public Procurement Act has been revised and sent to MoJ for review. MoJ finalized the law in consultation with several institutions and sent it to the Council of Ministers in September 2012. The Economic Committee of the Council of Ministers reviewed the law in December 2012 and passed it to the Council of Ministers general session, which then rejected the law and requested that MoJ consult more broadly on the contents.

MoJ has sent letters to various institutions for their comments and the Procurement Policy Unit held a workshop in late January 2013 to discuss all changes with relevant institutions. The Unit had many meetings with members of the international community, including the World Bank, IMF, ADB, the African Bank, ISAF, and USAID.

5 (4) Finalize and send the electoral law to the Council of Ministers. (2-months) (MoJ)

Status and Evaluation: *Partially implemented.* The *Election Law* was reviewed and approved by the Council of Ministers and is currently before Parliament. The Law has 13 chapters and 72 articles and would abolish the role of the Electoral Complaints Commission in dealing with complaints, replacing it with Central and Provincial Appeal Courts. This appears to be in contradiction with the IEC structural law, which is also currently before Parliament. Reportedly the Supreme Court has already begun to develop a regulation to implement the new complaint process despite the status of the proposed reforms.

The proposed amendments also include provisions for the vetting of candidates based on background checks for crimes, involvement in armed groups, and resignation from government positions. The vetting process also includes the verification of educational documents and management experience required to meet the qualification standards to be a candidate for presidential and parliamentary elections. However, it remains unclear how these areas will be effectively vetted. Provisions of the law are explicit and substantive about the aptitude and competency requirements to participate in the elections, but the concern with regards to what sort of mechanisms and methods will be used remains.

5 (5) Finalize and submit laws on municipalities and the AGO. (6-months) (MoJ)

Status and Evaluation: *Partially implemented.* The current *Municipalities Law* in Afghanistan was developed and instituted during the Taliban regime. In the past few years, Afghan officials have been working on revising and updating the law. Most importantly, the new law would be vetted by citizens across Afghanistan before being institutionalized.

The current draft *Municipalities Law* has been finalized by the Legislation Department of MoJ and will soon be sent to the Law Committee of the Council of Ministers. The draft has been shared with IDLG and Kabul Municipality for comment after consultation with different stakeholders. IDLG in coordination with UNDP and the International City / County Management Association / Regional Afghan Municipalities Program for Urban Populations, facilitated public workshops with more than 1,200 people in different provinces participating.

The *AGO Law* has been already drafted and sent to Parliament for review and approval.

6 (1) Study the cases of all detainees through relevant prosecution offices, prevent detention without evidence, and provide a complete list of detainees with the descriptions of their accusations to the judicial committee. (1-month) (AGO)

Status and Evaluation: *Partially implemented.* Article 6 (1) of Decree 45 requires the AGO to study the cases of all detainees, prevent detention without evidence, and provide a complete list of detainees with the descriptions of their accusations to the judicial committee. The AGO provided assurances that the decree had been implemented. However, MEC met with officials from the Independent Human Rights Commission and the Kabul Detention Centre, and concluded that reports from the AGO were inaccurate.

According to the official reports of the AGO, the number of detainees in the City of Kabul is 101, while the Kabul Detention Centre reports a number of approximately 450. The Committee also obtained reports that demonstrate that at least 49 – or over 10 percent – of those detainees were in the Kabul Detention Centre contrary to statutory provisions on detention. The fact that over 10 percent of detainees are being held without sufficient grounds is indicative of systemic issues in the justice system.

Officials of the Kabul Detention Centre advised that the issue of unlawful detention was brought to the attention of the AGO and relevant courts, without the necessary inquiries being carried out. Representatives of the Audit Department at the Supreme Court indicated that they sent a letter to the Kabul Appeals Court after being provided the list of detainees that the Committee obtained from the Kabul Detention Centre. According to representatives of the Audit Department most of the people were being detained because their defense lawyers were not responsive or because of delays in the hearing date.

MEC was assured by the Appeals Court that they would take quick action and make decisions in accordance with the law. In further follow-up, the Committee revealed that the Appeal Court sent a letter to the appeal prosecution office after finding out about the status of the list of detainees, so that the prosecution office could identify the courts where the accused are.

After uncovering the extent of unlawful detentions in Kabul, MEC wrote a letter to the President of Afghanistan advising that people were being held in detention with no clear destiny. Soon after, the President issued another decree in December 2012 directing all relevant organizations to look into and rectify the problem. The relevant organizations were quick to respond to this decree by releasing many detainees being held illegally. Of 48 individuals identified at the Kabul Detention Centre, 12 were still being detained, 10 had their charges dropped, 24 were transferred to another facility, and two were sentenced by the court.

MEC also made enquiries at the Herat Custody Centre where suspects were regularly held for up to a month despite statutory provisions that allow them to be held for no more than 72 hours. Since the decree has been issued, endeavours by Herat Custody officials have limited this to six days due to a memorandum of understanding between the prosecutor's office and custody centre. The practical result is that as of January 2013, the Herat Custody Centre had 30 inmates in custody, compared to over 100 in the past.

In contrast, Herat's detention centre has faced greater challenges. Currently there are approximately 480 people detained in Herat's central detention facility whose cases are pending at the Supreme Court. This includes some inmates who have been detained for over 5 years while awaiting a decision from the Supreme Court. The lack of resources at the Supreme Court to process the cases has been identified as one of the main contributing factors for the illegal detentions. A lack of a separate prison has also meant that detainees are being kept together with individuals who have been convicted and sentenced to prison.

6 (2) The appointment of provincial Attorney Generals shall, as the heads of ministries and other administrations, be proposed to the Office of the President. (1-month) (AGO)

Status and Evaluation: Not implemented. The appointment of officers in the AGO is to be proposed to the Office of the President for approval. Information received by the Committee

indicates that the AGO proposed the appointment of 13 provincial Attorney Generals, which were all approved by the President. However, those 13 appointees were already working in the AGO meaning that there were no changes or replacement of Attorneys in the provinces. Information received by the Committee also indicates that an additional 15 proposed Attorneys were rejected by the President reportedly because appointees were being recycled.

6 (4) Study and submit a plan to the Council of Ministers on the establishment of a prosecution office surveillance department or the delegation of surveillance to the Supreme Court's department of surveillance. (2-months) (AGO)

Status and Evaluation: Partially implemented. The Monitoring Affairs Department of the AGO has indicated that a budget has been approved for the next fiscal year to establish a Surveillance Department, which will carry out the same functions as the Inspection Directorate, but with more authorities and personnel. The budget for the creation of the proposed Surveillance Department has been approved by Parliament and the AGO is planning to assign 50-60 professional prosecutors who will be dealing specifically with corruption charges brought against the prosecutors throughout the country.

The AGO stressed the importance of the process for increasing the number of support staff for the Inspection Directorate until the new proposed Surveillance Department is established. In response to Decree 45, 10 new prosecutors were added to expand internal inspection at the AGO. This directorate is now staffed with 32 professional prosecutors who are responsible for inspecting and monitoring AGO personnel. According to their work plan they will perform monitoring and inspection of the central prosecution offices in Kabul and prosecution offices in the provinces.

The Inspection Directorate is responsible to report to the Attorney General on issues related to internal inspection of the AGO. This unit is responsible for conducting internal monitoring and for reviewing complaints against the prosecutors, monitoring and evaluation of the daily activities of administrative and professional staff, and dealing with all criminal charges against prosecutors that include procedural misconduct, corruption and ethical issues.

According to the AGO, this department is working very well, but MEC could not find any progress report or achievements. Additionally the department has not identified a specific scope of work or mandate.

6 (7) Assess all professional and support personnel, identify corrupt cadres, undertake specific measures, and submit a report to the President's Office. (6-months) (AGO)

Status and Evaluation: Partially implemented. MEC's monitoring activities reveal that the AGO has assessed its staff and transferred 30 staff members to different locations, but the AGO has not provided justification and its report does not meet the intention behind article 6 (7) of Presidential Decree 45. MEC is not satisfied with measures and processes of identification of corrupt personnel. It is not only a matter of meeting the deadline but also the measures and mechanisms of these assessments. At the same time the list provided to MEC has only transfers of junior staff, not high-ranking officials.

7 (1) Monitor the implementation of the anti-corruption strategy within the government and private sector and forward the results to the President's Office. (2-months) (HOO)

Status and Evaluation: Partially implemented. HOO did not provide MEC with information to determine whether this has been completed, but the OAA has indicated that working groups have been established for the monitoring of the implementation of the anti-corruption strategy.

The established working groups include a representative of HOO and generally meet every month or two, but some do not meet at all. The effective functioning of these working groups requires qualified and competent officials. To this end, anti-corruption training has been provided by HOO, with support from the international community. Working groups that are effective appear to have the commitment of senior management within the relevant organization.

7 (2) Investigate and forward the results of suspicious assets of government officials and private organizations and report to the President's Office every two months. (6-months) (HOO)

Status and Evaluation: Partially implemented. HOO indicated that they completed the investigation and sent the report to the OAA, but would not share a copy with MEC. MEC's monitoring of asset verification more generally indicates that HOO has signed memoranda of understanding with some ministries, including NDS, to enhance efforts to verify assets. However, information that has been published by HOO regarding assets was ambiguous and did not provide details of the origin of the assets and appears not to have satisfied constitutional requirements. Subsequently, HOO stopped publishing high ranking officials' assets.

7 (3) Assess all professional and support personnel of HOO, identify corrupt cadres, undertake specific measures, and submit a report to the President's Office. (6-months) (HOO)

Status and Evaluation: Partially implemented. HOO completed the assessment of professional and support staff and sent the report to the OAA. During an unofficial meeting with HOO, MEC requested a copy or details of the report, but unfortunately the request was refused. Informal responses from officials at HOO indicate that the Internal Audit Office has been given more power to investigate cases of internal corruption and has initiated several internal investigations which have been supported by high-ranking officials.

8 (2) Take measures to recruit patriotic, sincere, intelligent and qualified deputy governors through open and fair competition, with the assistance of IARCSC. (Ongoing) (IDLG)

Status and Evaluation: Partially implemented. MEC has found that IARCSC – in coordination with IDLG – has filled the deputy governor positions that were vacant through open and competitive exams and videotaped interviews. Based on IARCSC's report, 17 deputy governor positions have been filled by merit-based recruitment and another 17 are shortlisted for examination. However, in most cases the same deputy governor has been appointed, indicating that the process is simply a formality.

9 (2) Prepare a list of all unimplemented decrees and provisions of the President's Office and approvals of the Council of Ministers, and submit it to the Council of Ministers accompanied with analysis of ministries and related administration. (2-months) (OAA)

Status and Evaluation: Partially implemented. The OAA has a Monitoring and Evaluation Department that was established in 2006 to monitor all decrees, resolutions and orders, and which maintains a database that stores all decisions since the creation of the department. However, the Department does not have data before 2006 as it resides with the Council of Ministers Secretariat. The Secretariat did not have an electronic system at that time and they have not carried out a review of existing documents.

According to the statistics provided by the Monitoring and Evaluation Department, 57 percent of decrees and orders were implemented in 2011, 25 percent were in progress and the remaining 18 percent were unimplemented. Also, out of all decrees, orders and resolutions from 2006 to 2011, 73 percent have been implemented, 15 percent are in progress and 12 percent have not been implemented.

The reason that some decrees and orders have not been implemented is not described and the committee has not received any explanation. Nor did the Monitoring and Evaluation Department provide details about the nature of the unimplemented articles, making it impossible for the Committee to evaluate whether there are systemic issues at play, or whether anti-corruption efforts are being hampered.

11 (2) Review the structure of the Commission and appointments of all personnel including that of the board of appointments and the general directorate for civil services and submit an internal reform plan in line with high standards and recruitment to the President's Office. (1-month) (IARCSC)

Status and Evaluation: Not implemented. The issue of reassessment of the Independent Commission was given to the director general of the oversight committee of the IARCSC to implement. A six-page plan to reduce discrepancies within the commission has been developed. The IARCSC suggested the following four reforms, which will be implemented if approved by the President:

1. The IARCSC should be divided into an Independent Civil Service Commission responsible for recruitment of high-level officials and monitoring the process of lower staff recruitment and an Institute of Reform and Capacity Building responsible for policy, strategies and capacity building of employees;
2. Review all personnel, including appointment board experts, civil service experts and commissioners to help recruit experts and board members with high standards;
3. Implement a higher degree of civil service regulation and monitoring through improvement in management of human resources and capacity building;
4. Introduce job security and entrance exams for civil servants. Invest in capacity building in all institutions.

12 (1) Prepare a voter registration plan for the 2014 Presidential elections and submit it to the Council of Ministers. (1-month) (IEC)

Status and Evaluation: Partially implemented. Reports from the last Afghan election indicate that millions of additional voting cards may have been issued due to the lack of verification of registered voters. The IEC completed the concept of voter registration, but it was rejected due to cost, security concerns and the timing of the electronic identification cards process.

The IEC recently announced that it would allow the use of voter registration cards used in the previous elections, while at the same time indicating that new electronic identifications that are in the process of being issued will also be accepted. The Head of the IEC acknowledged that the Commission would not be able to identify the counterfeit voter cards. The scope of fraud in the previous election and the inability to verify voter registration cards leaves a huge vulnerability to corruption in the upcoming elections.

MEC is concerned that one registration centre per district and sub-district will not be sufficient to cover all verification of cards and to issue new cards to internally displaced people and those who have lost their voting cards. Also, different logistical and security issues will prevent people from travelling to centres to verify their cards.

12 (2) Design transparent and orderly electoral programs that, by ensuring public participation, provide a comprehensive electoral schedule for the Presidency, and national and provincial councils. (3-months) (IEC)

Status and Evaluation: Fully implemented. According to the elections law the IEC is obliged to prepare and announce the elections schedule 120 days before voting day. The IEC announced their comprehensive electoral schedule for the presidential and provincial council elections to be held on April 5, 2014. The parliamentary and district elections will not be held until 2015, so the IEC has time to announce the schedule according to the law.

13 (5) Take measures regarding the recruitment of eligible teachers in the capital and provinces of the country, and the recruitment of 11,000 new teachers and employees through open competition and merit based examinations and report monthly to the Council of Ministers (6-months) (MoE)

Status and Evaluation: Partially implemented. MoE states that it has already recruited more than 11,000 teachers in 2012 based on the provision of Presidential Decree 45, and indicated that they need 40,000 more, which they are in the process of recruiting. MoE has a policy that it will only recruit teachers with a Bachelor of Arts or who have completed grade 14, not recent graduates of grade 12. In addition, the Ministry has started to train teachers on anti-corruption issues.

16 (2) Assess the process of producing and importing medicine in the country's markets from the perspective of quality and quantity, and present opinions and proposals for reform to the Council of Ministers. (6-months) (MoPH)

Status and Evaluation: Fully implemented. MoPH recently reported that of 80 companies that import pharmaceuticals, 15 have been identified as bringing in low quality medicine and nine of those have been referred to the AGO.

17 (3) Prepare and implement a follow-up plan from Tokyo Conference commitments and report progress to the Council of Ministers. (2-months) (MoF)

Status and Evaluation: Fully implemented. MoF sent the proposal on the Implementation of the Tokyo Framework to the Secretariat of the Council of the Ministers in August 2012. In general the proposal is designed to provide a mechanism for the implementation of the Tokyo Framework. The proposal provides three main elements for better implementation of the Tokyo Framework: 1) Independent coordination boards and committees to oversee the implementation of the process; 2) A high-ranking officials meeting to be convened in 2013 to evaluate the progress of Tokyo Framework; 3) A meeting at the Minister level to be convened in 2014 to evaluate the progress of the Tokyo Framework and review the benchmarks.

Based on the proposal, a Secretariat for Tokyo Framework has been established under the Policy Unit of MoF, which includes the Deputy Minister, the General Director of Strategic Plans, and the Executive Director for the ANDS Secretariat. The relevant ministries have to report to this Secretariat on progress made and the Policy Unit of MoF is responsible to report this information to the Afghan Government and international community. The proposal also suggests that the international community will develop similar structures led by UNAMA. To date, there have been several initial operational and technical level meetings between MoF and donors.

17 (6) In collaboration with IARCSC, prepare a scheme for the consistent salary of civil services personnel and present it to the Council of Ministers. (3-months) (MoF)

Status and Evaluation: Fully implemented. MoF in coordination with IARCSC has conducted several meetings and has developed a scheme for the equalization of salaries for civil servants. It has proposed three recommendations: bringing reforms and changing salaries; preparing similar regulations; and establishing a research unit to research salaries of civil servants. The scheme has been sent to the Council of Ministers for approval and a copy has been shared with MEC.

17 (7) Prepare a mechanism to improve government revenue and the capacity of involved ministries for expanding and executing accountable budget and modulator requirements and national preferences and introduce it with identification of new revenue sources. (3-months) (MoF)

Status and Evaluation: Partially implemented. MoF has prepared a draft version of a plan to improve the revenue and capacity of governmental agencies, which has been shared with MEC. The plan includes three types of sources that will generate revenue for the future: 1) tax collection; 2) revenue from governmental institution (untaxed revenue); and 3) customs revenue. The plan explains the problems that exist in the system and provides 40 recommendations for all three areas, which will ensure the revenue is collected. Regardless, enhanced revenue streams are at risk of being diverted if strengthened integrity systems are not in place in the MoF.

18 (1) Report on the number of commercial attachés in different countries and their appointment mechanism based on requirements and volume of state's commerce to the Council of Ministers. (1-month) (MoCI)

Status and Evaluation: *Partially implemented.* The Appointment mechanism of commerce attachés has been drafted based on the needs and volume of commerce of each specific country and has been sent to the OAA. MoCI has reported that to implement this article there is a commission appointed consisting of representatives from the OAA, the MoFA, MoF, and IARCSC. The commission has evaluated the activities of these commerce attachés and has reduced the number of attachés by 18 for the fiscal year 2013.

19 (1) Present a specific mechanism to monitor development projects including municipal projects to the Council of Ministers. (1-month) (MoEc)

Status and Evaluation: *Fully implemented.* MoEc has prepared a comprehensive mechanism for the monitoring and evaluation of all development projects including those of municipalities and has submitted the plan to the OAA. The plan has been approved by the Council of Ministers and a copy has been shared with MEC. The mechanism has been prepared in four chapters and if properly implemented will have positive impact on the implementation of development projects. The mechanism includes monitoring of projects in various phases as well as assigning the responsibilities of the project owner, contractors, and monitoring and oversight bodies. The mechanism requires the Minister of Economy to monitor the implementation of development projects. It has also prepared and shared a monitoring work plan for 2012-2013 to monitor the implementation of projects in various locations of the country.

19 (2) In collaboration with MoF and MoCIT, all government contracts entered into with companies and national and international institutions shall be published via internet websites and related institutions with all details (should not be confined to summary of contracts). (3-months) (MoEc with MoF and MoCIT)

Status and Evaluation: *Partially implemented.* The Afghanistan Reconstruction and Development Services is publishing all contracts after sending letters to all institutions requesting their contracts. Only MoFA, MoCI, and Kabul Municipality have not agreed to share their contracts and MoD and MoI promised to send their contracts as soon as possible, but have not.

The Afghanistan Reconstruction and Development Services has published over 1,200 contracts on their website, which seems to be a positive move towards transparency and accountability. However, most of these contracts do not have adequate information and some of them are even missing text. In addition, some of the contract documents are not fully published, but contain only a synopsis, summary or general conditions. Similarly, a large number of the contracts do not have attachments and only include names with contract amounts.

20 (1) The policy for exchange exit via state's foreign currency outflow via airports shall be implemented and continuously observed and have its outcomes reported to the President. (1-month) (DAB)

Status and Evaluation: Partially implemented. To implement the policy DAB signed a memorandum of understanding with the border police and customs service and has representation with the FIU at the airport.

The Afghan border police at Kabul International Airport - with support of USAID and other international organizations - have received training in relation to anti-money laundering and smuggling techniques and have undertaken various measures to familiarize officers with the contents of the policy document to strengthen the abilities of police to track money flows and conduct investigations.

Although the border police welcomed the adoption of provisions contained in the policy to regulate the transfer of money, they also expressed concerns regarding some undefined points, such as the absence of a requirement to verify the origin of money and the \$20,000 limit permitted to be transferred across borders. Information received by the Committee demonstrates that some companies are organizing business travel to Dubai with employees who are each given \$20,000 to carry legally out of the country. The police are unable to identify the source of these funds and cannot identify the real owners, which is of concern and requires serious attention.

MEC also observed that money counting machines at the airport are not being properly utilized as they are placed in an inadequately sized and unsecured office, are not easily accessible, and have no appropriate video surveillance camera. The bulk currency counter was not connected to the internet or any other system which would enable the monitoring and recording of data.

The Committee was informed that in drafting the policy document DAB did not consult those directly involved in the prevention or detection of illicit money being moved through the border. The experiences and perspectives of the border police should be incorporated into the policy to provide a higher degree of effectiveness. DAB should work in close cooperation with a working group consisting of the border police, customs, NDS and other stakeholders who directly or indirectly take part in the implementation of the policy document.

21 (5) A specific plan to ensure transparency in mining contracts shall be finalized and presented to the Council of Ministers. Ensuring transparency in the contracts based on agreed international principles and according to the future of the country shall be put at the top of their work and all details of contracts (should not be confined to summaries of contracts) shall be published via websites of MoM, MoF and MoEc. (3-months) (MoM)

Status and Evaluation: Partially implemented. The National Policy on the Exploitation of Mineral Resources - which contains clauses on transparency and accountability - is in place and has been accepted by the Council of Ministers. MoM has procured the services of a number of respected firms specializing in mining sector transactions and has established a Legal Department with two sections, each with four legal experts and one manager. Currently, the Legal Department has 11 staff, including the Director. Also, the World Bank has recruited two lawyers for this department and MoM has plans to recruit one more

international lawyer. MoM includes anti-corruption requirements for contractors and sub-contractors in all of its mining contracts. All contracts since 2010 also include a clause that requires contractors to report to AEITI Secretariat.

The Ministry has also published over 200 mining contracts on its website, which represents all but one contract in Afghanistan. The remaining contract is the Aynak copper mine contract, which the Ministry has committed to publish once negotiations for the companion agreements are completed. However, some of the contracts published on the Ministry's website reveal deficiencies. For instance, some of the contract documents do not fulfil the needs of a standard contract, being only three or four pages long without adequate provisions, terms and conditions for both parties.

24 (3) Prepare a list of all partially completed projects with reasons for the delay, stoppage, or postponement and present it to the Council of Ministers. (1-month) (MoPW)

Status and Evaluation: *Partially implemented.* A detailed list of incomplete projects has been prepared by MoPW and sent to the OAA. The list includes 35 projects that are funded by the Afghan government, ADB, IDB, International Development Association (World Bank), ARTF, and others, but does not include projects implemented by other donors such as USAID, United States Army Corps of Engineers, and provincial reconstruction teams. The problems related to delayed projects include insecurity, severe weather, a lack of required materials, land acquisition issues, re-contracting of some projects, inadequate design, and a lack of cooperation from the people.

MoPW was only able to provide a detailed list of projects related to their Ministry as they faced a lack of cooperation from other relevant parties to provide a full picture for the current status of projects in the country.

25 (1) A transparent, comprehensive and revised mechanism for collection of land transport revenue shall be prepared and presented to the Council of Ministers. (3-months) (MoTCA)

Status and Evaluation: *Partially implemented.* In order to reduce corruption and increase governmental revenue from land transportation, MoTCA has prepared a mechanism that, if properly implemented, will have positive impacts on the level of corruption and revenue. The aim of the mechanism is to reduce corruption and increase government revenue. The mechanism has been sent to the OAA, but is yet to be approved by the Council of Ministers.

25 (5) All personnel and the organizational structure of the ministry shall be reviewed, corrupt cadres shall be identified, and specific measures shall be taken and reported to the President. (6-months) (MoTCA)

Status and Evaluation: *Fully implemented.* MoTCA reported that it has assigned a committee to implement the decree, including this article. According to the report, the committee has visited different provinces as well as Kabul and monitored the activities of its personnel. The committee has identified gaps and reforms required. It also removed and replaced officials that were involved in wrong doing. It has promised to share a report with MEC, but has not to date.

27 (2) Collect accurate information regarding the confiscation of government and personal properties at the national level (in the first step in first-rate provinces then in other provinces) in collaboration with MoJ, Mol, the AGO, the Anti-Corruption Administration and the IDLG and present it to the Council of Ministers. (3-months) (MAIL / ARAZI)

Status and Evaluation: Partially implemented. ARAZI has sent its report as required, which was developed with the support of MoJ, Mol, AGO, HOO, and IDLG. However, ARAZI has not shared the identities of the land grabbers nor has the report been shared with MEC on the grounds of being highly sensitive.

ARAZI has identified the usurped lands and the details of land usurpers in some parts of Afghanistan and has provided a detailed list which is broken down into the following categories:

1. 16 individuals representing the largest land usurpers who account for a total of 138,996 jerib of land;
2. 42 people with more than 1,000 jerib each accounting for a total of 109,631 jerib;
3. 260 people with 100-999 jerib each accounting for 65,810 jerib;
4. 693 people with 10-99 jerib each for a total 18,284 jerib;
5. 1,558 individuals who have usurped 1-9 jerib in major cities accounting for 4,384 jerib;
6. 848 people who have usurped less than 1 jerib for a total of 275 jerib;
7. 230,000 jerib in 228 residential towns; and
8. 139 government entities that are using lands and properties without legal authorization.

Knowledge of the scope of the problem is simply a start in the process of dealing with the land usurpation. MEC has found that the most important factors perpetuating land usurpation in Afghanistan include the absence of political will, the lack of security in some areas of the country, impunity, corruption within government bodies, the lack of a comprehensive strategy, involvement of some high ranking government officials in land usurpation, and the weakness of the government to effectively use government lands.

Now that the required information about individuals who have usurped lands has been shared with officials, the response will indicate whether there is real political will to fight against this problem. According to the report from MAIL only 60,000 jerib of government land that has been usurped has been reclaimed over the past year.

The presidential decree directs the attention of officials towards looking into governmental and private properties being usurped, but unfortunately, sufficient attention has not been given to private usurped properties. Despite some achievements, an important limitation in ARAZI's efforts is the exclusive focus on public lands that have been usurped despite the decree's explicit inclusions of private lands. It is hoped that this aspect will be completed so that measures can be developed to address that aspect of the problem.

31 (1) A report on fair distribution of land in towns to refugees in 34 provinces of the country shall be given to the Council of Ministers. (3-months) (MoRR)

Status and Evaluation: Partially implemented. The Ministry has prepared a report for the OAA, but has not shared it with MEC. Informal reports of the Ministry of Refugees and Repatriation indicate that it has tasked a committee to visit provinces of Afghanistan and monitor the distribution of land to the refugees and returnees. So far, a number of missions have visited several provinces to prepare a report about land distribution at refugee townships. A committee composed of directors under management of the Policy and Planning Deputy has been created in Kabul to evaluate the reports and take measures to solve problems. However, a number of problems continue to be noted. For example the provincial chiefs, governors, and other influential people still have influence on the distribution of land to returnees; they accept bribes and also distribute lands to the warlords and governmental officials. In general, there should be an independent verification of the distribution of land to the returnees.