

Inception Report and Fifth Reconciliation Report

DRAFT REPORT



19th April 2017

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Report of the Independent Administrator

ABBREVIATIONS AND GLOSSARY

Afghanistan EITI Report 1393 and 1394 (2014 and 2015)

1 INTRODUCTION

This is the Fifth Afghanistan EITI Report, which covers the two fiscal periods 1393 (21st December 2013 - 20th December 2014) and 1394 (21st December 2014 – 20th December 2015).

The report is intended for the use of the AEITI MSG for the purpose of that initiative and is not to be relied upon by other parties.

The report includes its Appendices, which are provided separately.

1.1 CALENDAR

A note on the calendar convention used in this report.

The Afghan fiscal periods run for 12 months from 21st December to 20th December.

For ease of reference, these are referred to throughout the report as

- 1393 (2014); and
- 1394 (2015)

Other dates are quoted in the Gregorian calendar.

1.2 OBJECTIVE

The objectives of the assignment are the production of a scoping study to inform the combined 1393 (2014) and 1394 (2015) AEITI report, provision of training and guidance to reporting entities and production of the Fifth AEITI Report for the fiscal periods 1393 (2014) and 1394 (2015), in accordance with the TOR (see Appendices: 10.1).

1.3 ACKNOWLEDGEMENTS

We would like to express our sincere thanks to the AEITI MSG for their active participation in discussions prior to the reconciliation; and to GIZ for facilitating a training workshop with MSG members, and for provision of logistical support in Kabul; and to the International Secretariat for their assistance and guidance; and to Mr Mahmood Anwari and the AEITI Secretariat, who have assisted us in obtaining replies from the Government and participating companies from the extractive industries, sending and receiving official confirmation letters to/from these parties, and arranging meetings with government and companies in the provinces.

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2 EXECUTIVE SUMMARY

2.1 GOVERNMENT RECEIPTS

Total government receipts from the sector (including companies not reporting for EITI) were reported by government as follows:-

AFS millions	1391 (Mar-Dec 2012)	1392 (2013)	1393 (2014)	1394 (2015)
MOF - Revenue	117.50	280.20	2,221.50	2,197.90
MOF - Customs	9.10	4.80	4.49	4.50
MOF - SOE	1,247.70	383.10		
MOMP	2,567.40	581.30	470.50	483.10
Total	3,941.70	1,249.40	2,696.49	2,685.50

USD equivalent	\$59 million	\$18.5 million	\$40.5 million	\$40 million
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Table 2.1

AFS converted at the rate of exchange on 31 December 2016 (USD 1: AFS 66.7).

2.2 SCOPE OF INDEPENDENT ADMINISTRATOR'S WORK

Hart Nurse Ltd. was required to undertake the work set out in the TOR¹ for the Engagement. The reconciliation has been carried out on a cash accounting basis.

If there are material receipts or payments omitted from the reporting templates by both the paying and receiving entities, our work would not be sufficient to detect them. Any such receipts or payments would not therefore be included in our report. We relied on information provided by government agencies and public sources in connection with advising on the reconciliation scope and did not audit the data or check its completeness.

In conducting our work, we have relied upon the information and explanations obtained from Reporting Entities.

Our report incorporates information received up to 16th April 2017. Any information received after this date is not, therefore, included in our report.

¹ Appendix: 10.1

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2.3 SUMMARY OF RESULTS FROM THE RECONCILIATION

Total receipts, after reconciliation, from reporting entities are set out in Tables 2.2 and 2.3 (see also section 7).

1393 (2014)	Government AFS millions	Companies AFS millions	Difference AFS millions
Initially reported	1,573.80	1,893.30	-319.50
Adjustments	651.20	0.10	651.10
After reconciliation	2,225.00	1,893.40	331.60

Table 2.2

1394 (2015)	Government AFS millions	Companies AFS millions	Difference AFS millions
Initially reported	2,696.50	2,388.90	307.60
Adjustments	-11.00	231.00	-242.00
After reconciliation	2,685.50	2,619.90	65.60

Table 2.3

Comment is made on the unresolved discrepancies in section 7.3.3.

2.4 COMPANY PAYMENTS

Reconciliation results by company are summarised and described in Section 7; and are set out in detail in Appendix 10.2.

2.5 KEY FINDINGS

2.5.1 SELECTION OF COMPANIES TO BE INCLUDED IN THE EITI REPORT

The gathering of information from government sources to assess the scope for the current EITI report, the fifth such report to be produced by Afghanistan, was time consuming and there does not appear yet to be an embedded process for production of the revenue, production and other information which is required. The computerisation of the Cadastre has not been completed and generally, many of the systems used in government departments remain manual and cumbersome.

Significantly more companies have been identified in this scoping process than previously, providing more information on operators in the extractive industries in Afghanistan. However, the data provided is incomplete (e.g. missing TINs) and comparison of information from different sources has revealed inconsistencies.


It is outside the scope of the current exercise to identify the causes of these inconsistencies, details of which have been provided to members of the MSG, or to propose possible solutions. The scoping


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decisions were accordingly based on the information provided by government departments concerning their receipts from the extractive sector in 1393 (2014) and 1394 (2015).

It is noted that the inclusion of receipts reported by the MOMP Provincial Directorate in the total reported figures is an improvement on previous years, and provided the opportunity to extend the coverage of the current reconciliation exercise.


2.5.2 NON REPORTING COMPANIES

It was not possible to distribute templates to four of the companies selected by the AEITI MSG. We were unable to contact three companies using the information provided (*Mohammad Faisal Company*, *Ayzeen Central Mining Services Company*, *Mahmud Shamal*). In the case of *Lajawardeen*, we were informed by the MOMP Cadastre that the company is closed and the responsible person is not in Afghanistan. The Government sent a letter with the reporting templates by email but the email address was invalid. Press reports suggest that disputes between local factions are preventing operations being conducted under the government licence. 

Templates were distributed to four companies, which responded that they are unable to participate. *Dragon Oil Mazar-i-Sharif*, *Dragon Oil Sanduqli* said that their project has been on hold for the last one and a half years and they have closed down their offices in Afghanistan; and added that with no one in country and no operations, Dragon Oil has no data to share at this time. In the case of *Shamsheer Zameer*, we were told by the company that there is a legal dispute between the President and Vice President of the company, which will not respond until the case is settled. *Turkish Petroleum* told us that while they provided data for the previous (1391/1392) EITI Report for Afghanistan, activities have been suspended in the country since mid 2016 and the company has no data to deliver a response to the EITI request. 

Government reported receipts in 1393 (2014) and/or 1394 (2015) from these companies (see section 7.4).

2.5.3 RECORD KEEPING BY GOVERNMENT AND COMPANIES

Records in MOMP are kept manually. Considerable effort was required to produce reports of receipts and other information for the EITI report, and there were differences between information contained in reports which should have been consistent. Records in provincial government offices are also manual and visits by the AEITI Secretariat and our staff noted that the systems did not appear to be robust. 

We noted a number of cases where the licensing records maintained by the central cadastre did not contain information on companies for which other government departments reported activity (production or financial receipts), suggesting that the cadastre information is not complete and/or up to date. We also observe that there was confusion in issue of licences because they are issued both centrally and at sub national level.

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Appropriate administrative and financial systems – whether manual or computerised - are essential for production of reliable and complete information on the extractive sector; and this area needs to be reviewed.

2.5.4 REPORTING ENTITIES FAMILIARITY WITH EITI

Government departments provided information on receipts from extractive companies for the MSG to decide upon the scope of the reconciliation. Separate templates were not subsequently completed for each reporting company, but discrepancies between the initially reported amounts and company templates were investigated and cleared where possible by reference to supporting documentation. We provided assistance in compiling responses by government to reconciliation queries, as well as examining underlying records as part of the reconciliation.

Training and assistance was provided to companies as far as possible. The circumstances in Afghanistan are not conducive to extensive travel outside Kabul, nevertheless visits were made to several provinces and there was much face to face contact with companies. Outside the major companies (MCC/CNPC) and companies represented on the MSG, awareness of EITI requirements was limited and the capacity to produce the basic financial data for EITI reporting was also limited. Considerable assistance was provided in a number of cases. With the exception of the major companies (MCC and CNPCI), company record keeping and accounting systems are manual and extraction of information is laborious.

The inclusion of a greater number of companies in the current EITI report meant that there were participants for whom this was their first contact with EITI.

2.5.5 RESPONSE FROM REPORTING ENTITIES

In general, responses to requests for information and questions concerning reported data were not quick, and as described, required assistance from our staff.

MOF Customs department initially provided no information on total government receipts for the scoping phase, only after follow up. MOF Customs said they were unable to extract information specifically for extractive companies, and requested the TIN for companies for which we needed data; we provided TINs for over 40 companies. Nevertheless, MOF Customs also provided information for some companies for which the TIN was not provided (e.g. Belal Mosazai and Amin Karim Zai). In the case of Belal Mosazai, the company reported payments to MOF Customs but MOF Customs reported no receipt.

During the reconciliation, requests were made to MOF Customs for information to understand differences between amounts reported by the companies, and we found response times to be slow.

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The reported receipts and payments for flows dealt with by MOF Customs, before and after reconciliation, were:-

Unit: AFS	MOF Customs	Companies	(Under)/Over reported by MOF
1393 (2014)	13,912,191	16,818,630	(2,906,439)
1394 (2015)	4,491,434	2,637,705	1,853,729

Table 7.4a

We received little cooperation from some of the companies - Amania, Momand Shamal, Technologist, Hashimi – when requesting information and explanations during the reconciliation.

2.5.6 SOES

Two SOEs were included in the reconciliation, Northern Coal Enterprise and Afghan Gas Enterprise. These two companies provide a large part of the revenues received by government from the extractive sector.

A number of difficulties were encountered in obtaining information relating to Northern Coal and Afghan Gas, both from the companies themselves and also from the departments in MOF and MOMP which deal with the SOEs. These two SOEs provide a large part of the revenues received by government from the extractive sector.

The MOF SOE department was late in providing information and did not use the templates specified by the MSG. We noted that the records maintained by the department are not in good order. MOF LTO reported that payments made by the two companies were frequently round sums and there was no explanation as to what they represented, causing problems in control over amounts due from the companies. We were informed that the SOE tax returns have not been agreed for three or four years.

There is a lack of accounting capacity in both Northern Coal and Afghan Gas, which materially affects their ability to produce the basic financial data required for the EITI report. Accounting records are maintained manually, and the manual systems require improvement. Afghan Gas did not complete the EITI templates fully or correctly.

2.5.7 SHAIR PAWAN


One of the entities included as an extractive company in the reconciliation was found to be a collecting agency rather than an extractive company, and according to the cadastre, did not hold an extraction licence. Instead, it was granted a licence to receive royalties from extractive companies and individuals using two roads in the Bagram District in Parwan province and carrying either stone for construction material (at a rate of AFN 35 per M³) or other construction materials such as gravel

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(at a rate of AFN 45 per M³). The licence was granted on 5th May 2013 for one year, and although it has not been renewed, the company continues to pay MOMP the annual royalty specified (AFN 4.75 million).

MOMP Cadastre said that there are no other similar arrangements.

2.5.8 PRODUCTION REPORTING


Government and companies were required by the  SG to report production for the EITI report. The information reported is set out in section 4.2. There are differences in reported production between government and company figures, and between figures provided by government at different times. The production data is also incomplete.

Section 4.2 also compares production figures with the royalties declared. The correlation between production and royalties paid is not clear in a number of cases.

Inconsistent reporting of production by MOMP suggests there may not be robust systems in place to gather and aggregate production data. Regular and reliable production reporting is an important check on revenue due from the extractive sector, and weaknesses may well lead to reduced control over government revenues.

3 AFGHANISTAN'S EXTRACTIVE INDUSTRIES

3.1 SECTOR OVERVIEW

Afghanistan is considered to have extensive mineral potential, with estimates putting the value of the country's mineral resources at US\$  trillion.

These estimates refer mainly to the value of minerals in the ground, and assume that the minerals are in large enough concentrations to be mined profitably and that development of infrastructure which will link mines to global markets will proceed. The Ministry of Mines and Petroleum has stated that based on the Government of Afghanistan's present economic plan, the annual income of Afghanistan from mining could increase to USD 3.5 billion within the next 15 years.


Unlocking these values from the mineral reserves will be affected by factors such as

- the security situation, which does not allow for stable and safe conditions including access to the deposits under the control of the central authority, and
- the recent end of the commodity super cycle, with world market prices now at lower levels, which does not contribute to the viability of mining projects in a frontier market like Afghanistan

After decades of conflict, and despite considerable reconstruction and investment promotion efforts after the fall of the Taliban administration in 2001, Afghanistan has no industrial-scale mining and a comparative small formal mining sector. The formal revenue base is low, but not insignificant in domestic terms. Estimates state an under collection of Government by at least on third (not counting non-accessible territories).

3.1.1 MINING

Afghanistan's mineral resources include precious metals, rare earth elements, coal, gemstones, copper and iron ore, as well as industrial minerals. These resources are largely undeveloped.

In its latest published report on Afghanistan, UN  reported production figures up to 2013, based on best available information. The report notes that "Aluminium, barite, gold, lapis-lazuli, sand and gravel and talc were produced by artisanal miners, but available information was not sufficient to make reliable estimates of output."

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The production figures reported by U  are shown in the table  which follows.


Commodity	2009	2010	2011	2012	2013
Cement, hydraulic	32,000	36,000	38,000	37,000	40,000
Chromium, chromite ore	7,000	6	6,000	6,000	6,000
Coal, bituminous	500,000	725,000	750,000	780,000	936,000
Fertilizer	--	--	272,000	250,000	242,000
Gas, natural					
gross million cubic meters	142	142	142	161	160
marketed million cubic meters	140	140	142	145	141
Gypsum	46,000	63,000	62,000	57,000	57,000
Lime	128,000	128,000	128,000	130,000	130,000
Marble	27,000	29,000	29,000	45,000	67,000
Nitrogen, N content of ammonia	22,000	27,000	27,000	50,000	76,000
Petroleum, condensate (42 gallon barrels)	104	64,000	70,000	80,000	68,000
Salt, rock	180,000	186,000	186,000	147,000	145,000

3.1.2 OIL AND GAS



The website of the Ministry of Mines and Petroleum contains estimates for reserves, stating that a recent re-assessment by USGS-AGS revealed significant undiscovered petroleum potential. USGS-AGS estimated 1.6 billion barrels (0.2 billion metric tons) of crude oil, 16 trillion cubic feet (0.4 trillion cubic meters) of natural gas, and 0.5 billion barrels (0.8 billion metric tons) of natural gas liquids².

Afghanistan's main hydrocarbon sites are located in two particular areas: the Amu Darya basin and the Afghan-Tajik basin. Additional hydrocarbon resources may exist in the Tirpul Basin (approximate resources of 21.55 barrels of oil and 44.74 billion cubic feet of natural gas), the Helmund Basin and the Katawaz Basin. Of the last two, little exploration has taken place despite favourable geological indications.

3.1.2.1 Oil

There has been some limited development of the country's oil resources, and one PSC  and two summaries of terms of EPSCs have been published by MOMP on its website:-

3.1.2.1.1 Amu Darya PSC

A PSC was signed in December 2011 and production commenced late in 2012. MOMP reported production totalling 33,000  barrels for 201 .

² <http://mom.gov.af/en/page/4713>

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3.1.2.1.2 Sanduqli block

An EPSC was signed on 8th October 2013 with a consortium comprising Dragon Oil, Turkish Petroleum and Ghazanfar, with Dragon Oil as the operator.

3.1.2.1.3 Mazar-i-Sharif block

An EPSC was signed on 8th October 2013 with a consortium comprising Dragon Oil, Turkish Petroleum and Ghazanfar, with Turkish Petroleum as the operator.

Dragon Oil and Turkish Oil have both reported to the Independent Administrator that their operations in Afghanistan have been suspended since 2016.

3.1.2.2 Gas

Afghanistan has proven gas resources, and there are active production operations managed by the Afghan Gas Enterprise. Estimates of production from public sources vary from 140,000 m³ to 576,000 m³ per day. MOMP reported on its website that production was around 450,000 m³ per day, although the period to which this statement relates was not identified. The CIA World Factbook reported estimated gas production for Afghanistan was 157 m³ per day in 2013.

Various projects are under way to exploit the resources. For example, with assistance from USAID, the government is developing gas infrastructure in Sheberghan, and Turkish Petroleum was contracted in December 2013 to carry out drilling to establish the quantities of gas available in the field. Subsequently, in November 2015, MOMP announced the successful conclusion of Hydrocarbon Tender Agreement negotiations with a consortium of energy companies: Turkish Petroleum, Bayat Energy and Calik Enerji Sanayi ve Ticaret A.S. Upon approval of the agreement by Afghanistan's Cabinet, this Consortium will be permitted to commence natural gas exploration and production activities in the Totimaidan Block located within Afghanistan's Faryab and Jawzjan Provinces, long regarded as one of Central Asia's most promising potential sources of natural gas.

3.2 LEGAL AND INSTITUTIONAL FRAMEWORK

The main laws and regulations governing the extractive sector and its fiscal regime during the period 1393 and 1394 (2014 and 2015) are:-

- Minerals Law 2005 - effective up to 16th August 2014
- 2014 Minerals Law – effective from 16th August 2014
- Mining Regulations 2014
- Oil and Gas (Hydrocarbons) Law, 2009
- Hydrocarbon Regulations 2013
- Income Tax Law 2009
- The Customs Law and Customs Code
- Provincial Budget Policy (issued by the Ministry of Finance, General Budget Directorate)

3.2.1 LEGAL FRAMEWORK AND FISCAL REGIME

3.2.1.1 Mining legislation

Mining operations during the period were governed by the Minerals Law 2005 (modified 2009) and the Mining Regulations 2010 up to 16th August 2014, when a new minerals law was passed with immediate effect. This 2014 Minerals Law contains an Article requiring specific compliance with EITI:-

“The Ministry of Mines and Petroleum, the Ministry of Finance, Licence Holder, contractor and other relevant agencies shall, for the purpose of transparent and effective management of mining revenues, comply with the financial reporting requirements and standards of the Extractive Industries Transparency Initiative.” (Article 100, unofficial translation)

3.2.1.1.1 Law on minerals, 2005 (modified 2009) and mining regulation 2010

Afghanistan’s first market-oriented law Mineral Law was issued in 2005, and a modified version was ratified by parliament in 2009. The Law regulates the use, protection, management, and revenue generation of Afghanistan’s mineral resources. It provided a framework for the development of the country’s natural resources industry, inferring that the state, individuals, or private enterprises have an equal right to explore and exploit resources within the provisions of the Law.³

The 2005 Minerals Law states that its purpose, pursuant to the provision of Article nine of the Constitution of Afghanistan, is

- to provide for State ownership and control of Mineral Substances, and
- to provide for the procedures for the protection, management, use, utilisation, and attraction and promotion of private investment in Mineral Activities, and
- to regulate other activities connected with the foregoing.

The ownership, control, prospecting, exploration, exploitation, extraction, concentration, processing, transformation, transportation, marketing, sale, and export of mineral substances in the territory of Afghanistan, whether under or on the surface of the Earth or in its water courses fall under the jurisdiction of the 2005 law.

The law also states that all naturally occurring mineral substances and all artificial deposits of mineral substances on or under the territory of Afghanistan or in its water courses (rivers and streams) are the exclusive property of the State; and that mineral activities may be conducted in Afghanistan only by the State, unless a Person other than the State is the holder of a mineral right validly obtained in accordance with the 2005 Law.

³ http://aeiti.af/site_files/13943504591.pdf

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3.2.1.1.1.1 *Licensing provisions*

Regulation of tenders, approval of mining contracts and “other relevant affairs” are under an inter-ministerial committee comprising:

- The Minister for Mines and Industries, as the chairman
- The Minister of Finance, as the deputy chairperson
- The Minister of Economy, as member
- The Minister of Commerce, as member
- The Minister of Foreign Affairs, as member
- Head of National Agency for Environmental Protection, as member.

The government may appoint other members when needed.

Under the Law, Mining Regulations set out the conditions for

- processing applications and registration of Mineral Rights,
- execution of the technical and environmental evaluation of the applications,
- determining the forms of certifications of applications for Mineral Rights,

and other relevant situations.

Mineral Rights consist of Licences and Authorisations take the form of:-

1. Exploration Licences
2. Exploitation Licences, consisting of
 - ordinary exploitation licences and
 - small-scale exploitation licences.

Exploitation Licences are deemed to be equivalent to small-scale Exploitation Licences unless otherwise specified in the Law or the Mining Regulations.

Authorisations consist of:

1. Authorisations for Quarry Exploration;
2. Authorisations for Temporary Quarry Exploitation;
3. Authorisations for Permanent Quarry Exploitation;
4. Authorisations for Tailings Exploitation;
5. Authorisations for Artisanal Exploitation; and
6. Authorisations for the treatment,

The law explicitly forbids certain persons from obtaining mineral rights, although there is no prohibition on their owning shares in a company which obtains mineral rights. The persons named are:-

- high ranking state officials,
- magistrates,
- members of the Armed Forces,
- the Police and the Security Services,
- other public employees

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Exploration Licences are valid for a period of 3 years from the date of registration by the Mining Cadastre and are renewable for 2 consecutive periods of 3 years.

The maximum term of the validity of Exploitation Licences is thirty years from the date of registration by the Mining Cadastre. Exploitation Licences are renewable as of right for consecutive periods of five years until exhaustion of the Deposits being exploited, except that the term of validity of Small-scale Exploitation Licences shall be established in the Mining Regulations, not to exceed a maximum of ten years from the date of registration by the Mining Cadastre, including renewal period.

3.2.1.1.1.2 Financial provisions

Holders of Mineral Rights and their sub-contractors must pay taxes, customs duty and charges, mineral royalties and other taxes in accordance with the provisions of the 2005 law and the relevant applicable laws.

Holders of Mineral Rights must present their balance sheets based on the income tax law and other applicable laws, in accordance with International Accounting Standards (IAS) as from time to time promulgated by the International Accounting Standards Board, unless provided otherwise in the 2005 law.

The Ministry of Finance is the sole public authority with jurisdiction to collect taxes and customs duty and the Ministry of Mines and Industries is the authority with jurisdiction to collect Mineral Royalties.

Royalty rates are not specified.

The 2010 Mining Regulations contain other fees, charges, penalties and requirements for bonds and other financial securities which are set out in Section 6.2.2 below.

Licence and Authorisation Holders are required to establish and maintain adequate financial assurance to ensure the rehabilitation, management and remediation of adverse environmental impacts associated with mineral activity. Financial assurance must be provided for by one or more of the following methods:

1. A trust fund in a format approved by the Ministry of Mines;
2. An irrevocable letter of credit or financial guarantee from an Afghanistan registered bank or any other bank or financial institution approved by the Ministry of Mines;
3. Insurance in a format and in an amount approved by the Ministry of Mines;
4. A performance bond in a format and in an amount approved by the Ministry of Mines;

3.2.1.1.1.3 Advertisement of tender process and publication of licence information

The 2010 Mining Regulations provide that announcement of bidding is to be published on the Ministry of Mines' website, national and International press and media in Dari, Pashto and English languages by the Department of Cadastre. The announcement is also to be provided to local governmental authorities by letter.

The Regulations require that no later than ten days following the execution of any mining contract, the Ministry of Mines is to publish an announcement on the government website summarising the material terms of the mining contract, including a summary of the minimum work obligations, the

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rate of royalties, and other material revenues and benefits that the Government will derive from the mining contract.



The MOMP has published on its website a database in English and Dari of Mineral contracts (reproduced in the Appendices to this report). Mining contracts are also published on the site in Dari.

The website has a section entitled “Tenders”: there was a Request for Proposals dated 5th March 2017 for the Shekhan Gas Fields Rehabilitation project on the website when we examined it on 22nd March 2017.

3.2.1.2 Law on Mines 2014

3.2.1.2.1 General

The Law on Mines was signed by President Hamid Karzai in August 2014 and was designed to improve the governance of the sector and improve the confidence of potential investors. In particular, it was designed to remedy the stipulation in previous legislation that prevented companies turning exploration licences into production licences. The Law also prohibits elected politicians and senior government officials from acquiring mining contracts.

The Law was delayed by negotiations around the proceeds that local communities would receive from mining in their area,⁴ which subsequently affected progress made on the projects at the Hajigak, Zarakhsan, and Badakhshan projects.⁵ Perceived deficiencies in the Law have been noted, including the absence of

- transparency in the bidding process and allocation of licences,
- the requirement that contracts are published in full,⁶ and
- clear penalties for violations of the Law.⁷

3.2.1.2.2 Licensing provisions

The 2014 Minerals Law provides that no person shall conduct mineral and mining activities unless it has been granted a licence or authorisation by or has entered into a contract with the Ministry of Mines and Petroleum; and that a licence, authorisation or a contract does not entitle its holder to any right of ownership of land.

The licences that may be granted in accordance with the provisions of the Law are:

1. Reconnaissance Licence
2. Exploration Licence
3. Exploitation Licence
4. Small-Scale Mining Licence
5. Artisanal Mining Licence

⁴ <http://www.scmp.com/business/commodities/article/1579556/new-afghan-mining-law-lacks-transparency-say-experts>

⁵ <http://wadsam.com/afghan-business-news/pending-approval-of-afghan-mining-law-delays-4-major-mines-contracts-989/>

⁶ <http://www.globalwitness.org/library/gaps-new-afghan-mining-law-pose-threat-stability>

⁷ <http://www.usip.org/publications/exploitation-of-mineral-resources-in-afghanistan>

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These licences are to be granted from the Ministry of Mines and Petroleum in accordance with the provisions of the Law in the following manner:

1. Reconnaissance Licence is granted based on application.
2. Exploration Licence, Exploitation Licence and Small Scale Mining Licence are granted based on bidding.
3. Artisanal Mining Licence based on application in accordance with the provisions of this Law.
4. The manner of bidding and other licensing related affairs are to be set out in the relevant Regulations.

The Ministry of Mines and Petroleum may, based on justifiable reasons, grant both an Exploration Licence and an Exploitation Licence in a single bidding upon endorsement of the Commission and approval of the Cabinet.

For the purpose of promoting economic development through large-scale investment in the minerals sector in Afghanistan, the Ministry of Mines and Petroleum may, based on bidding and after endorsement of the Commission and approval of the Cabinet, enter into a Minerals Development Contract with an eligible person, which also includes the establishment of main infrastructure outside the contract area.

The holder of a Minerals Development Contract may be granted up to (5) Exploitation Licences in the area of an Exploration Licence covering the area subject to the Contract in accordance with the provisions of this Law. The contractor for the Minerals Development Contract may not transfer or concede any rights and privileges of its Exploration Licence, Exploitation Licence, or the relevant contract to any other person without the written permission of the Ministry of Mines and Petroleum, endorsement of the Commission and with the approval of Cabinet. The transfer and concession can only be made to a person who has all the specifications, capabilities and the requirements that the contractor had at the time of obtaining the licence.

A Minerals Development Contract shall adhere to the following criteria:

1. Establish methods for Government to acquire its portion of the mineral product at a market price;
2. Manage fiscal affairs in accordance with the financial laws of Afghanistan;
3. Include dispute resolution methods;
4. Include a Community Development Plan in accordance with this Law and relevant Regulation;
5. Detail commitment to the development and use of infrastructure; and
6. The period of performance of the Minerals Development Contract.

Within ten (10) days of signing a Minerals Development Contract under the provisions of this Law, the Ministry of Mines and Petroleum shall publish the terms and conditions of that Contract, any related ancillary contracts and other contracts being signed in accordance with the provisions of this Law. Publishing the personal information and information relevant to the security of personnel and

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methods of operations without the written agreement of the Parties to the Contract is excluded from this provision.

The manner of bidding and other affairs related to contracting the Minerals Development Contracts are to be set out in the Regulations.

Holders of licences shall notify the Ministry of Mines and Petroleum of any change in the authority of controlling body, person in charge or the shareholders of the licence who holds a share of more than ten per cent (10%). Any such change shall have legal effect upon its approval by the Ministry of Mines and Petroleum and when the following conditions are met:

1. That the holder adheres to the conditions and obligations of the licence including implementing the work program and budget, submitting expenditure documents, reporting and a written notice of transfer of ownership or power to the Ministry of Mines and Petroleum; and
2. That the holder ensures that the transferee, has all the specifications, capabilities and the requirements that the holder had at the time of obtaining the licence.

3.2.1.3 Oil and Gas (Hydrocarbons) Law, 2008

The Hydrocarbons Law was written specifically to encourage private investment in the oil and gas sector, and contains the types of contracts that the Ministry of Mines may enter into for hydrocarbons operations, as well as the legal, safety, and environmental obligations that contractors must follow. The Law states that contracts must be awarded subject to the completion of a public, transparent, and competitive tender process managed by the Ministry of Mines & Petroleum.⁸ The Law also states that, in the event of a tie between two bidding companies on the basis of their proposed royalty rate and exploration programme, the contract will be awarded to the bidder with an Afghan partner.⁹

3.2.1.3.1 General

The Hydrocarbons Law regulates the affairs related to determining the ownership and control of the State over oil and gas (Hydrocarbons), preservation, utilisation, granting concession rights, execution of contracts, exploration activities, development and production of oil and gas.

The law provides that all Hydrocarbons located on or underground are the exclusive property of the State. A Contractor under an Exploration and Production Sharing Contract or a Service and Production Sharing Contract shall acquire title to a share of extracted Hydrocarbons as set out in such Contract. The residual share of extracted Hydrocarbons shall remain the property of the State, to be disposed of as appropriate. The Contractor may take, sell or export his share of produced Hydrocarbons, in accordance with the conditions laid down in the respective Contract.

The Ministry of Mines is responsible for granting a licence for oil and gas operations.

⁸ <http://www.curtis.com/sitecontent.cfm?pageid=15&itemid=956>

⁹ <http://www.nortonrosefulbright.com/files/us/images/publications/20121022GERBeyondtheConflict.pdf>

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An Inter-ministerial Commission is responsible for the regulation of affairs related to monitoring, supervision, endorsement and rejection of oil and gas contracts and other relevant issues, comprising:

- The Minister of Mines, as Chairman
- The Minister of Finance, as vice – chairman
- The Minister of Foreign Affairs, as member
- The Minister of Economy, as member
- The Minister of Commerce, as member
- The President of National Environmental Protection Agency, as member

The Government may include other members in the composition of the Inter-ministerial Commission, whenever needed.

The Inter-ministerial Commission is responsible for:

- i. Monitoring the bidding process and award of the Contract.
- ii. Evaluating the draft contracts developed by the Ministry of Mines.
- iii. Making decisions on the signing of contracts by the minister of mines in accordance with this Law.

Responsibilities of the Ministry of Mines and Petroleum include:-

- Monitoring Hydrocarbon Operations conducted by the State administrations or any other agencies and Contractors.
- Organising proposals for participation of persons in bidding rounds.
- Concluding contracts for oil and gas operations and proposing them to the Inter-ministerial Commission for endorsement.
- Supervising the fulfilment of the terms and conditions of the Contracts for Hydrocarbon Operations and certifying the implementation thereof.
- Stipulating surface rentals and ensuring their collection.
- Determining the initial royalty rate of the Hydrocarbons and ensuring the collection of the royalties fixed as a result of the bidding.
- Awarding or cancelling oil and gas operation Licences and determine the rights and obligations attached thereto, in accordance with the provisions of this Law.
- Proposing Regulations for better implementation of this Law.
- Making announcements and arranging the bidding process.

There are two types of contracts established for the exploitation of hydrocarbons:

1. Exploration and Production Sharing Contracts

Under an Exploration and Production Sharing Contract, the Contractor is granted the exclusive right to explore for Hydrocarbons and, in the event of a Commercial Discovery, to develop and produce Hydrocarbons, and is entitled to the specified share from the products.

2. Service and Production Sharing Contracts

Under a Service and Production Sharing Contract, the Contractor is granted the exclusive right of operation to upgrade and rehabilitate Hydrocarbon production facilities including well servicing operations, providing services and Hydrocarbon production and is entitled to the specified share from the products.

Contract Bidding

- All Hydrocarbon Operation Contracts are to be awarded through public tenders.
- Bidding can be done for an exploration Contract covering one or more than one blocks or part(s) of one or more than one blocks or services for a specific oil and gas project.
- Bidding terms and fees payable by bidders for participation are determined by the Ministry of Mines.
- If there is a tie between two bidders after evaluation of their bids, the Hydrocarbon Operation Contract shall be granted to the one with an Afghan partner.

As is the case with minerals contracts, certain persons are not permitted to be granted contracts:-

- High ranking State officials mentioned in article no. 151 of the constitution,
- members of the National Assembly,
- judges and prosecutors,
- officials of the Ministries of Mines, National Defence, Interior Affairs, Foreign Affairs, General Department of National Security, working in above rank three.

Similarly to the minerals law, there is no provision that such persons may not hold shares in companies which are granted hydrocarbons contracts.

The term of an exploration contract shall be divided into two phases: an Exploration–Production phase and a Development-Production phase, as following:

1. The Exploration phase shall not exceed 10 years unless there has been a discovery of Hydrocarbon in the contract area and additional time is considered necessary for completion of the operation and assessment of the discovery. In this case, the term of the contract may be extended.
2. Where no commercial discovery is made during the exploration phase, the contract shall be terminated.
3. Wherever a commercial discovery is made, its relevant development–production phase shall not exceed 25 years from the date the discovery was made.


3.2.1.3.2 Financial provisions

1. Accounts

Contractors shall maintain their related accounts in accordance with the International Accounting Standards (IAS).

2. *Payment of Taxes*

Contractors shall be required to pay their income taxes, levies and customs duties in accordance with the provisions of applicable laws.

In order to protect contractors, the Ministry of Mines and stries may consider financial assurances on the stability of taxes, levies, and charges, in accordance with the provisions of enforced laws of Afghanistan, in coordination with the Ministry of Finance.

3. *Royalties*


Contractors shall be required to pay royalties upon production of Liquid Hydrocarbons and Natural Gas in accordance with the Hydrocarbon Regulations and as set out in the applicable Contracts.

The royalty rate for the quantities of Liquid Hydrocarbons and Natural Gas, after deducting the amounts consumed in the conduct of production operations, shall be determined by the Inter-ministerial Commission as per the proposal of the Ministry of Mines.

3.2.1.3.3 *Advertisement of tenders and publication of contracts*

Under Article 2 paragraph 19 of the Hydrocarbons Law, the Ministry of Mines is responsible for making announcements and arrange the bidding process when new blocks are to be developed. No further specifics are given.

The Hydrocarbons Law provides (Article 7) that subject to the prevailing laws of Afghanistan prohibiting disclosure of State records (public registered documents), the Ministry of Mines, in compliance with the contractual conditions, may, upon request, authorise the public access to the Hydrocarbon Register without any charge and may also authorise the provision of copies of the information entered in the Hydrocarbon Register upon request and payment of a prescribed fee.

The wte of the MOMP contains a copy of the Amu Darya contract in English and Dari, and a report in English entitled “Public Disclosure of the Tender Process” for the Amu Darya contract. There are also summaries in English of the Exploration and Production Sharing Contract for the Sanduqli Block and the Mazar-I-Sharif Block, both dated 8th October 2013.

The website has a section entitled “Tenders”, which (on 21st March 2017) contained a Request for Proposals for the Sheberghan Gas Fields Rehabilitation Project.

3.2.1.4 *Tax legislation*

3.2.1.4.1 *Income Tax Law 2009*

Income taxes are governed by the Income Tax Law 2009. This Law is established under the authority of Article 42 of the Constitution of Afghanistan for the purpose of tax determination and tax payment, and states that tax is a compulsory payment collected from natural and legal persons for the purposes of financing of government and social welfare without the taxpayer receiving any direct goods or services from the government.

Any tax deducted or collected by the government or non-government agencies in accordance with the provisions of this Law is to be paid to a specific government (Ministry of Finance) bank account.

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The tax year is the solar (Hejiri Shamsi) year which starts on the first day of Hamal (21 March) and ends on the last day of Hoot (20 March) of that year. With the permission of the Ministry of Finance, it is permissible for a taxable person to use another period as their tax year.

Tax is calculated in Afghani: income in foreign currency is to be converted to Afghani for purposes of taxation. The rate of conversion shall be the average of open (current) rates used by Da Afghanistan Bank to purchase such foreign money at the end of each month.

There is a section in the Income Tax Law applying to “qualifying extractive industry taxpayers” (QEIT), defined as a person that holds a mining Licence or mining authorisation or is party to a hydrocarbons contract. Amongst other provisions, this exempts from Business Receipts Tax

1. receipts of a QEIT from the sale of mineral substances (as defined in the Minerals Law, 2005) that are subject to a mining Licence or mining authorisation;
2. receipts of a QEIT from the sale of hydrocarbons that are subject to a hydrocarbons Contract; or
3. receipts of a QEIT from the sale or transfer of a mining Licence or mining authorisation or a hydrocarbons contract

The section on QEIT also provides for tax stability for a period of:

1. 5 years, in the case of a QEIT holding a mining Authorisation, commencing with the year in which the QEIT begins to hold the Authorisation;
2. 8 years, in the case of a QEIT holding a mining Licence, commencing with the year in which the QEIT begins to hold the Licence; or
3. the period of the hydrocarbons contract, in the case of a QEIT that is party to a hydrocarbons contract.

adding that the Ministry of Finance shall only apply the provisions to a QEIT where the QEIT has agreed in writing that taxable income of the QEIT shall be subject to an income tax rate of 30 per cent for the years in which the provisions of this Law are applied by the Ministry of Finance on the basis of Article 85 of the Law without regard to subsequent changes.

There is also an Income Tax Manual which contains detailed provisions relating to calculation and reporting of tax, and other matters.

3.2.1.4.2 Customs duties

The Customs Law and Customs Code set out the tariffs and procedures relating to customs duties.

3.2.1.4.3 Other taxes

No taxes specific to extractive companies are collected by government at a sub national level.

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3.2.2 LICENCE ALLOCATIONS

Information on licences awarded or transferred during 1393 (2014) and 1394 (2015) has been provided by MOMP Cadastre, and is included at Appendix 10.3.

The provisions governing allocation of licences under the Minerals Laws of 2005 and 2014 are described in sections 3.2.1.1.1 and 3.2.1.2.2 respectively.

3.2.3 REGISTER OF LICENCES

The MOMP website¹⁰ contains information on contracts as follows:-

- Small Mines Contracts
 - First database (Dari) – 302 contracts
 - Second database (Dari) – 867 contracts
 - All contracts database (Dari) – 491 contracts
 - Copies of contracts (Dari) – 488 contracts
- Copies of documentation associated with the Aynak Copper contract

1	Aynak Copper Contract	April 8, 2008
a	Mineral Agreement	June 28, 2009
b	Power Supply Agreement	Feb-09
c	Security Agreement	Nov 28, 2009
d	Water Supply Agreement	Feb 23, 2009
e	Railway Agreement	July 1, 2010

- Copies of documentation associated with Amu Darya, Sanduqli and Mazar-i-Sharif Hydrocarbons contracts

No	Contract	Signed
1	MOM Amu Darya Process and Transparency Review Amu Darya Contract (English) Amu Darya Contract - 1 (Dari) Amu Darya Contract - 2 (Dari) Abstract of Amu Darya	26 Dec. 2011
2	Sanduqli Block of Afghan-Tajik Basin	08 Oct. 2013
3	Mazar-i-sharif Block of Afghan-Tajik Basin	08 Oct. 2013

Copies of the Small Mines contract information downloaded from the website on 21st March 2017 are included in Appendices 10.6, 10.7 and 10.8. The Independent Administrator has not reviewed or validated this information.

During the scoping and inception phase, an English database was downloaded from the MOMP website (Appendix 10.4) and a Dari database was also downloaded (Appendix 10.5). The data in

¹⁰ <http://mom.gov.af/en/page/momp-contracts>

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these listings was compared during the scoping phase with other information on extractive companies, revealing a number of apparent anomalies (see further Sections 6.4.1 and 6.4.3). These two databases were not available on the website on 21st March 2017.

3.2.4 CONTRACTS



At the Brussels Conference on Afghanistan held on 4th and 5th October 2016, the government set out twenty four actions in its Self-Reliance Through Mutual Accountability Framework - SMART Deliverables 2017/2018 to be implemented over the next four years. These included a firm statement of commitment to the EITI implementation, including the publication of contracts for mining, with a stated policy (paragraph 12):-

“To operationalise the government’s commitment to the Extractive Industries Transparency Initiative (EITI), amendments to the Mining Law submitted to the parliament include measures such as **publication of mining contracts**, identification of the mining contracts beneficial ownership, assignment of mineral rights for funding of mining projects, suspension for Force Majeure, rights of private land owners' enforcement of mining contracts being linked to their publication, by first half 2018 and the mineral fiscal regime developed by 2018.”



3.2.5 STATE PARTICIPATION

Two State Owned Enterprises (SOEs) are active in the extractive sector:-

- Northern Coal Enterprise
- Afghan Gas Enterprise

Further details of their activities are included in section 5.8.

3.3 BENEFICIAL OWNERSHIP


Another priority for the MSG has been preparation for reporting of beneficial ownership. This initiative, adopted by EITI in the 2016 Standard, will require disclosure of the ultimate beneficial owners of companies which bid for, operate or invest in extractive projects in Afghanistan.


This requirement was very closely observed by the MSG during the year 2016; workshops and trainings were held for the MSG members to raise awareness and build their capacity on the requirement, including training provided during a workshop at Istanbul, Turkey and an introduction to beneficial ownership provided by the EITI Secretariat in Kabul. Civil society members of the MSG then informed and debated the beneficial ownership disclosure project in the media and within Government circles, highlighting its importance to curbing corruption within the country.

An “Access to Information” Act was signed into law in December 2014 by H.E. the President of Afghanistan. The law gives the country’s citizens the right to access information from government institutions, increasing their transparency and accountability to ordinary people. Although Article 50 of the Afghan Constitution guarantees citizens the right to access information from state departments and Article 34 provides for freedom of expression, Afghanistan previously did not have a law on access to information. The law follows the internationally accepted principle of maximum





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disclosure of information. That is, all information held by the government should be presumed to be public with minimal exceptions. In Afghanistan's new law, limitations on access to information are restricted to situations where disclosure poses legitimate harm to public or private interests. This include cases where national security is concerned, where a citizen's rights may be violated, where the release of information would obstruct the detection or investigation of a crime, or where the life, property, honour, or stige of a person would be endangered.

These developments and continuous efforts by the civil society members are a product of EITI implementation in the country, which has acted as a tool to create awareness about curbing corruption in the country and also enabling the citizens of the country to their right to the information.

In accordance with the EITI Standard, AEITI published a beneficial ownership disclosure roadmap in February 2017. The roadmap was developed by an AEITI working group with support from a GIZ-funded consultant and finalised in January 2017 through consultation with stakeholders in Kabul. The revised roadmap was discussed at the January 2017 meeting of the MSG and then approved by members. The roadmap targets the collection and publication of beneficial ownership information by 1 January 2018, then the finalisation of assurance process for the data by 1 January 2019, ahead of EITI beneficial ownership requirements coming into force in 2020.

The MSG's activities build on policy commitments made by the Government of Afghanistan at conferences in Tokyo  and in London, including a commitment to creating a public register of beneficial ownership at the anti-corruption summit in London in May 2016. [Afghanistan's National Peace and Development Framework](#) for 2017 to 2021 includes a commitment to "introduce new requirements for the disclosure of beneficial ownership and ensure that revenues from licensed exploitation are collected" as part of a broader aim of ensuring mining and hydrocarbon development play their role as a driver of economic growth. The [Self-Reliance Through Mutual Accountability Framework-SMART Deliverables 2017/2018](#) contains a deliverable to "operationalise the government's commitment" to the EITI, including identifying beneficial ownership in the context of mining contracts.

Article 100 of the  Mining and Hydrocarbons law contains an explicit ban certain politically exposed persons from holding mineral rights, although there are inconsistencies between the definitions of "politically exposed person" in other laws. Over 2016 and 2017, civil society stakeholders have been in discussions with the Ministry of Mines and Petroleum with a view to defining "beneficial ownership" and "politically exposed person" in a revised mining law or through bespoke legislation. In coordination with AEITI (and as documented in the beneficial ownership roadmap), the Afghanistan Central Business Registry and the Ministry of Mines and Petroleum are exploring the collection and publication of the beneficial ownership information for extractive companies via their respective ACBR and FMIS data portals, with a view to this information being publicly available from January 2018.

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3.4 REVENUE ALLOCATIONS

The National Budget for each year is published on the website of the MOF General Budget Directorate¹¹. The revenue budget for 1393 (2014) and 1394 (2015) is shown as follows:-

	AFS millions	AFS millions
Taxes on income, profit, property and capital gains	39,883	32,582
Taxes on international trades and transactions	34,707	31,058
Domestic taxes on goods and services	26,687	20,518
Other taxes	3,867	7,319
Tax revenue	105,144	91,477
Revenue from oil and gas	3,000	2,389
Revenue from railways	1,708	1,794
Other non tax revenue	22,535	27,340
Revenue from mining and petroleum	1,450	2,000
Revenue from Ministry of Urban Development		456
Revenue from Independent New Board of Kabul		57
Non tax revenue	28,693	34,036
Total domestic revenue	133,837	125,513

Table 3.1

(N.B. this is the revenue budget, not the actual revenue collections.)

¹¹ <http://www.budgetmof.gov.af/index.php/en/2012-12-06-22-51-13/national-budget>

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3.5 ECONOMIC CONTRIBUTION

Figures from various sources summarise the extractive sector's contribution to the economy in 1393 (2014) and 1394 (2015), with comparatives shown for 2012 and 2013:

US Dollars		2012	2013	2014	2015
1	Total Income from Oil, Gas, and Mining Sectors	Not published			
2	Total Profit from Oil, Gas, and Mining Sectors	Not published			
3	Ministry of Mines and Petroleum Profit from SOEs	36.52 mn	34.4 mn	32.8 mn	32.5 mn
4	Total Government Revenue (including grants)	5.1 bn	4.9 bn		
5	Mining sector contribution to GDP at market prices	198 mn	183 mn	146 mn	135 mn
6	Nominal GDP at market prices	20.3 bn	20.2 bn	20.6 bn	18.4 bn
7	Percentage of Afghanistan GDP from Oil, Gas, and Mining Sectors	Not published			

Data sources

3		IMF	IMF	ACSO	ACSO
4		IMF	IMF		
5		ADB	ADB	ADB	ADB
6		IMF	IMF	ACSO	CIA WFB

Table 3.2

Exchange rates used are based on the average for the period:-

	Afghanis	US Dollar
2012	50.92	
2013	55.38	
2014	59.77	1
2015	63.65	1

Table 3.3

The Fiscal Policy Unit of the MOF states that in 1394, there were 42 “mining points” and 44 “extractive and value added processing plants” and that “proceeds from mining” in the year amounted to AFS 2079 bn. It estimates that the contribution of the mining sector to GDP during the period 1390 - 1394 as follows:-

Contribution of the mining sector to GDP

1390	1391	1392	1393	1394
1.16%	0.93%	0.78%	0.72%	0.72%

Source: Fiscal Policy Unit of MOF

Table 3.4

4 EXPLORATION AND PRODUCTION

4.1 EXPLORATION



Published data on exploration licences is included in the Appendices to this report.

USAID is financing a programme to develop mineral resources in Afghanistan, the Mining Investment and Development for Afghanistan Sustainability (MIDAS) project. MIDAS assists the Afghan Government to responsibly develop the nation's mining industry by improving its ability to plan, design and implement mining concessions through transparent tender processes. MIDAS goal is to make Afghanistan's mining industry a key source of government revenues and expand the skilled labour force to include women playing a role in the mineral development.

The programme runs from 2014 to 2017, and reported achievements include

- Carrying out the first mineral drilling exploration program for granite in Shirbatu, Bamyan Province.
- Deploying seven mineral exploration expedition teams of up to 35 geologists and engineers from the Afghanistan Geological Survey (AGS) to search for mineral deposits.
- Providing technical trainings for Afghan Geologists in standardizing maps and seismic methods.
- Preparing information packages for six minerals: Barite, Gypsum, Talc, Sulphur, Fluorspar and Granite.

4.2 PRODUCTION

MOMP and the companies were required by the MSG to report production in 1393 (2014) and 1394 (2015). The quantities reported are shown in **Table 4.1**: it can be seen that reporting was incomplete and that there are differences between government and company returns.

The production reported has been compared to the royalty reported by government from each company, or from the company where government reported a nil receipt. The results are shown in **Table 4.2**. It can be seen that in a number of cases, production is reported but no royalty – and vice versa. This suggests the production and/or the royalty amounts reported may be inaccurate.

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Company Name	Commodity	Unit of measure	MOMP		Company		Difference	
			Quantity produced		Quantity produced		Quantity produced	
			1393	1394	1393	1394	1393	1394
North Coal Enterprise	Coal	Tonnes	1,517,345	1,441,239	1,517,345	1,441,239	0	0
Kushak Brothers Company	Coal	Tonnes	0	0	44,543	45,118	-44,543	-45,118
Hashimy Group	Coal	Tonnes	154,314	5,677	0	0	154,314	5,677
Mesaq - e - Sharq Company	Coal	Tonnes	0	0	97,192	53,846	-97,192	-53,846
Afghanistan Coal LLC	Coal	Tonnes	38,022	32,422	37,421	32,422	601	0
Mahmand Shamal	Coal	Tonnes	10,998	2,828	0	0	10,998	2,828
Wisco International	Gold	Gram	0	0	0	0	0	0
West Land General Trading (Norabah)	Gold	Gram	7,573	4,877	0	0	7,573	4,877
MMC - JCL Aynak Minerals Company Ltd.	Copper	Tonnes	0	0	0	0	0	0
Technologist	Gravel & Stone	Tonnes	125,120	125,120	0	0	125,120	125,120
Afghanistan Cement LLC	Cement	Tonnes	62,469	158,883	62,469	158,883	0	0
Amaniya Mining	Fluorite	Tonnes	4,700	4,108	0	0	4,700	4,108
Belal Mosazai Company			0	0	0	0	0	0
Amin Karimzai	Marble/talc		0	0	0	0	0	0
Shamsheer Zameer	Talc		0	0	0	0	0	0
Marajuding Shamse			0	0	0	0	0	0
Mohammad Faisal Company			0	0	0	0	0	0
Humayon Company			0	0	11,980	0	-11,980	0
Pameer Khorasan	Salt	Tonnes	53,869	0	0	0	53,869	0
Afghan Investment Company			0	0	0	0	0	0
Shair Pawan Company	NA	NA	NA	NA	NA	NA	NA	NA
Lajawardeen			0	0	0	0	0	0
Ayzeen			0	0	0	0	0	0
CNPCI Watan Oil and Gas Afghanistan Ltd.	Crude Oil	Barrels	372,304	267,974	372,326	266,875	-22	1,099
Dragon Oil (Mazar - i - Sharif) Limited	Crude Oil	Barrels	0	0	0	0	0	0
Dragon Oil (Sanduqli) Limited	Crude Oil	Barrels	0	0	0	0	0	0
Turkish Petroleum	Crude Oil	Barrels	0	0	0	0	0	0
Afghan Gas Enterprise	Gas	000 m³	0	0	278,612	330,593	-278,612	-330,593

Table 4.1

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Company Name	Commodity	Unit of measure	Production				Royalty reported	
			MOMP		Company		AFS 000	
			Quantity produced	Quantity produced	Quantity produced	Quantity produced	1393	1394
			1393	1394	1393	1394		
North Coal Enterprise	Coal	Tonnes	1,517,345	1,441,239	1,517,345	1,441,239	0	0
Kushak Brothers Company	Coal	Tonnes	0	0	44,543	45,118	15,000	25,364
Hashimi Group	Coal	Tonnes	154,314	5,677	0	0	59,000	13,005
Mesaq-e-Sharq Company	Coal	Tonnes	0	0	97,192	53,846	63,708	60,240
Afghanistan Coal LLC	Coal	Tonnes	38,022	32,422	37,421	32,422		32,315
Mahmand Shamal	Coal	Tonnes	10,998	2,828	0	0	4,959	
Wisco International	Gold	Gram	0	0	0	0	3,101	12,861
West Land General Trading (Norabah)	Gold	Gram	7,573	4,877	0	0		13,901
MMC - JCL Avnak Minerals Company Ltd.	Copper	Tonnes	0	0	0	0		
Technolog	Gravel & Stone	Tonnes	125,120	125,120	0	0	3,004	4,088
Afghanistan Cement LLC	Cement	Tonnes	62,469	158,883	62,469	158,883		14,656
Amaniya Mining	Fluorite	Tonnes	4,700	4,108	0	0	2,089	4,491
Belal Mosazai Company			0	0	0	0	60,107	8,378
Amin Karimzai	Marble/talc		0	0	0	0	72,261	13,000
Shamsheer Zameer	Talc		0	0	0	0	44,756	3,003
Marajuding Shamse			0	0	0	0	15,610	
Mohammad Faisal Company			0	0	0	0	9,497	
Humayon Company			0	0	11,980	0	8,890	
Pameer Khorasan	Salt	Tonnes	53,869	0	0	0	12,200	9,150
Afghan Investment Company			0	0	0	0		
Shair Pawan Company	NA	NA	NA	NA	NA	NA	6,294	7,363
Lajawardeen			0	0	0	0	35,291	
Ayzeen			0	0	0	0		
CNPCI Watan Oil and Gas Afghanistan Ltd.	Crude Oil	Barrels	372,304	267,974	372,326	266,875	202,138	124,711
Dragon Oil (Mazar-i-Sharif) Limited	Crude Oil	Barrels	0	0	0	0	0	0
Dragon Oil (Sanduqli) Limited	Crude Oil	Barrels	0	0	0	0	0	0
Turkish Petroleum	Crude Oil	Barrels	0	0	0	0	0	0
Afghan Gas Enterprise	Gas	000 m³	0	0	278,612	330,593	0	0


Table 4.2

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In November 2016, MOMP Cadastre Department provided figures for annual production by mining companies during the reconciliation period in preparation for the report. There are differences between these amounts reported in November 2016 and the amounts reported by MOMP in Q1 2017.

Inconsistent reporting of production suggests there may not be robust systems to gather and aggregate production data. Regular and reliable production reporting is an important check on revenue due from the extractive sector, and weaknesses may well lead to weaker control over government revenues.

4.3 EXPORTS

The MOF (Macro Fiscal Performance Directorate) reported that information on exports from the extractive sector is not currently available. 

The World Bank reports that exports in 2015 totalled US\$ 571 million, with major items being:- 

Carpets and other textile floor coverings	US\$ 90 million
Other vegetable saps and extracts	US\$ 81 million
Dried grapes	US\$ 80 million
Cumin seeds	US\$ 26 million
Sesame seeds	US\$ 25 million

5 OVERVIEW OF FLOWS REPORTED AND REPORTING ENTITIES

Following a meeting on 23rd January 2017 at which the scope of the reconciliation was discussed, the MSG decided to include the flows set out in Section 5.1 below, and to request other information as set out in Section 5.2 below. The MSG decided that the entities required to report were as set out in sections 5.6 (government) and 5.7 (companies).

5.1 RECONCILED FLOWS

5.1.1 MINISTRY OF FINANCE – REVENUE DEPARTMENT

1. Income Tax
2. Business Receipts Tax
3. Withholding tax on
 - a. Salaries
 - b. Rents
 - c. Contracts
 - d. Other items
4. Penalties
5. Others
 - a. Transferable Share
 - b. Shares
 - c. Other
 - d. Dividends from S



5.1.2 MINISTRY OF FINANCE – CUSTOMS DEPARTMENT

6. Customs Duty
7. Fixed Tax
8. BRT
9. Other Charges



5.1.3 MINISTRY OF MINES AND PETROLEUM

10. Royalty
11. Premium and Bonuses
12. Bid Fee
13. Penalties and fines
14. Land Fee
15. Licence Fee
16. Permitting Fee
17. Bid and other security
18. Lease of Government Land
19. Land Fee Building
20. Miscellaneous Revenues

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5.1.4 PAYMENTS TO AND FROM STATE OWNED ENTERPRISES

Having considered information on total flows from SOEs provided by MOMP and MOF for 1393/94 (2014/15), the MSG decided that the flows listed below should be reported.

- 21. Dividends
- 22. Loan repayments
- 23. Interest on loans
- 24. Core & non-core revenue
- 25. Payment of expenditure
- 26. BRT
- 27. Income tax

5.2 OTHER FLOWS AND INFORMATION REPORTED

5.2.1 SHARE OF PRODUCTION AND OTHER REVENUES COLLECTED IN KIND

The law, and the contracts we have reviewed, provide for the state to receive revenues in kind.

5.2.1.1 *Hydrocarbons Law*

Article 47 provides that when the State needs oil and gas to meet its internal consumption requirements, contractors shall be obliged to provide and supply to the State such quantities as are required, in addition to the quantity which the state is entitled to as a proportion of the volume of the contractors production, for a fair market value mutually accepted.

If this right has been exercised during the period of the report, we propose that details of quantities supplied and price paid should be disclosed.

The Petroleum Directorate & Cadastre Directorate  stated that the State took no production in 1393 (2014) or 1394 (2015).

5.2.1.2 *Amu Darya*

The Amu Darya PSC provides (Article 10) that the first 15% of hydrocarbons produced shall be allocated to the ministry as the royalty payable under the Hydrocarbon Law.

The PSC also provides (Article 10) that after royalty and cost recovery, the Ministry is allocated a share of hydrocarbons produced according to a formula in the PSC. The Ministry may elect to take these entitlements in kind.

5.2.1.3 *Conclusion*

The Petroleum Directorate & Cadastre Directorate stated that the State took no production in 1393 (2014) or 1394 (2015).

The MSG decided that there are no flows to be included in respect of the sale of the state's share of production or other revenues collected in-kind.

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5.2.2 INFRASTRUCTURE PAYMENTS AND BARTER ARRANGEMENTS

The Petroleum Directorate & Cadastre Directorate stated that there have been no contracts in Afghanistan in 1393 (2014) or 1394 (2015) involving the provision of goods and services in full or partial exchange for oil, gas or mining exploration or production (barter agreement). The MSG decided that there are no flows to be included in respect of these items.

5.2.3 TRANSPORTATION REVENUES

The 1394 Qatia include revenue of AFS 2.388 million described as “Revenue from oil transit”. Upon enquiry, we were informed that this is collected by the Ministry of Commerce and relates to the transit of vegetable oils through Afghanistan, or exported from the country. As such, it is not relevant to the EITI report.

5.2.4 SOCIAL EXPENDITURES

Article 87 of the Mining Regulations requires that a licensee “should produce a Development Plan establishing appropriate sustainable development and social protection programs and structures, taking into account international best practice. The Development Plan should propose approaches for ensuring adequate housing, sanitation, roads, medical facilities, power and water supply, educational facilities, religious facilities and recreational opportunities; and should also address economic development, employment and job creation in local communities, taking into account employment requirements established under the Minerals Law.” Finally, the Plan must establish funding and implementation commitments.

The Petroleum Directorate & Cadastre Directorate stated that there has been no such expenditure in 1393 (2014) or 1394 (2015).

The MSG decided that there are no flows to be included in respect of social expenditures required by law or contracts, but that companies should be requested to provide information on any voluntary social expenditures. Any such information under this heading would not be reconciled but would be a voluntary declaration.

5.3 SUB NATIONAL PAYMENTS

No sub national  payments specific to the extractive sector have been identified by stakeholders.

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5.4 SUB NATIONAL TRANSFERS

Article 84 of the 2014 Minerals Law provides for the allocation of a portion of State Revenue to Provincial Development, stating that *“The Ministry of Finance shall, in addition to its annual national budget allocation, allocate 5 % of the overall revenue from a mine or mines, in a special code [budget code] or wealth fund, to the economic, social and environmental development purpose of the province or provinces where the mines are located.”*.

The law came into effect in 1393 (2014), the first period covered by this report. The MOMP Cadastre Directorate stated that its provisions have not yet been implemented.

No other provisions relating to sub national transfers for the period of the report have been identified.

The MSG decided that there are no sub national transfers to be included in the Fifth AEIT Report.

5.5 LEVEL AND TYPE OF DISAGGREGATION OF REPORTING

The MSG decided to follow the procedure adopted in previous reports for disaggregation, namely that the report should include information on each flow by each company and government entity.

5.6 GOVERNMENT ENTITIES INCLUDED

5.6.1 NATIONAL GOVERNMENT

The national government entities identified as recipients of revenues from the extractive sector are:-

1. Ministry of Finance - Revenue
 - a. Large Taxpayers Office
 - b. Medium Taxpayers Office
 - c. Small Taxpayers office
2. Ministry of Finance – Customs Authority
3. Ministry of Finance – SOE department
4. Ministry of Mines and Petroleum
 - a. Revenue department
 - b. Cadastre department
 - c. SOE department

Revenues for these ministries are collected centrally and also via regional offices.

The MSG decided that these departments be required to report receipts from reporting companies for the periods 1393 (2014) and 1394 (2015).

5.6.2 SUB NATIONAL GOVERNMENT

Since no flows relating specifically to the extractive sector were identified as paid to any sub national government bodies, no sub national government bodies are required to report in the reconciliation.

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5.7 COMPANIES INCLUDED

Government provided information on licences, production and receipts from extractive companies. The detailed information was considered by the MSG during the scoping phase, and the entities reported by government as making the largest payments were summarised, together with the values of the receipts by government (see Table 5.1 below).

The MSG noted that receipts from the two SOEs and CNPCI comprised between 68% (1393/2014) and 76% (1394/2015) of receipts reported by government.

After discussion, the MSG decided that any company which made a payment of AFS 6 million or more in either 1393 (2014) or 1394 (2015) would be required to report payments to government made in each year.

Receipts and payments are reported by government and companies on a cash basis.

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	Company Name	TIN	Mineral	1393			1394		
				Receipts	Co as %	Cumulative	Receipts	Co as %	Cumulative
				AFS	of total	%age	AFS	of total	%age
1	Afghan Gas Enterprise	9000454091	Gas	632,085,831	30.2%	30.2%	895,190,717	55.6%	55.6%
2	Northern Coal Enterprise	9000453812	Coal	447,942,533	21.4%	51.5%	4,386,332	0.3%	55.9%
3	CNPCI-Watan Oil & Gas Afghanistan Ltd	9000525965	Oil	349,274,583	16.7%	68.2%	312,819,730	19.4%	75.3%
4	Amin Karimzai	1009060011		77,260,804	3.7%	71.9%	13,000,000	0.8%	76.1%
5	Belal Mosazai Company	1009592088		55,716,900	2.7%	74.5%	8,377,500	0.5%	76.6%
6	Khushak Brothers Company (Herat)	1034744019	Coal	52,058,367	2.5%	77.0%	52,649,170	3.3%	79.9%
7	Misaque Sharq	1050765013	Coal	50,669,059	2.4%	79.4%	60,773,410	3.8%	83.7%
8	Lajaward	9000603820		46,996,705	2.2%	81.7%	32,142	0.0%	83.7%
9	Hashimy Group	1052485016	Chromite	46,011,500	2.2%	83.9%	36,712,032	2.3%	86.0%
10	Shamsheer Zameer	1001595089		43,116,359	2.1%	85.9%	0	0.0%	86.0%
11	Technologist	1043879012		22,939,956	1.1%	87.0%	8,773,795	0.5%	86.5%
12	AIC (Afghan Coal)	1029975016	Coal	18,656,333	0.9%	87.9%	9,331,731	0.6%	87.1%
13	MCC-JCL Aynak Mineral Company	1052271010	Copper	17,882,063	0.9%	88.8%	20,301,361	1.3%	88.3%
14	Dragon Oil	TIN not given by MOMP	Oil	17,523,519	0.8%	89.6%	20,565,684	1.3%	89.6%
15	Dragon Oil LTD (Mazar-e-Sharif)		Oil		0.0%	89.6%	2,100	0.0%	89.6%
16	Marajuding Shamse	1005245087		17,053,725	0.8%	90.4%	0	0.0%	89.6%
17	Turkish Petroleum	9001465609	Oil	15,634,560	0.7%	91.2%	17,543,254	1.1%	90.7%
18	AIC (Cement Ghory)	1029973011		15,349,966	0.7%	91.9%	12,994,880	0.8%	91.5%
19	Pameer Khorasan	1012398010		14,026,800	0.7%	92.6%	9,253,884	0.6%	92.1%
20	Ayzeen Central Mining Services company	9000580028		10,380,533	0.5%	93.1%	0	0.0%	92.1%
21	Mohammad Faisal Company			9,497,183	0.5%	93.5%	0	0.0%	92.1%
22	Afghan Investment Company	1029671011		8,407,444	0.4%	93.9%	0	0.0%	92.1%
23	Amaniya Mining	9000197187	Fluoride	7,956,030	0.4%	94.3%	12,989,208	0.8%	92.9%
24	Humayon Company			7,787,000	0.4%	94.7%	0	0.0%	92.9%
25	Shair Pawan Company			6,306,359	0.3%	95.0%	7,418,398	0.5%	93.4%
26	Mahmand Shamal	1045746011		6,200,012	0.3%	95.3%	2,400,000	0.1%	93.5%
27	Wisco International			3,101,987	0.1%	96.0%	12,861,391	0.8%	95.8%
28	West Land General Trading (Norabah)	1030413015	Gold	1,027,444	0.0%	96.2%	16,506,191	1.0%	95.8%
29	Asad Habeeb Company			5,239,000	0.2%	95.7%	2,082,600	0.1%	95.5%
30	Noram Al...			5,049,275	0.2%	96.0%	5,166,700	0.3%	95.8%
31	Khalid Az...	1019984010		2,461,717	0.1%	96.1%	0	0.0%	95.8%
32	Muhammad Rahman Baba	1034131019		2,388,623	0.1%	96.2%	617,580	0.0%	95.8%
33				788,460	0.0%	96.2%	5,055,000	0.3%	96.1%
34	Afghan Gold and Minerals Company Ltd	9000300724	Gold	576,617	0.0%	96.3%	7,810	0.0%	96.1%
Sub total				2,017,367,247			1,547,812,599		
				96.3%			96.1%		
Total reported receipts				2,095,899,852			1,610,049,776		

Table 5.1

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In the light of the MSG's materiality decision (Section 6.4.3.3), the companies to be included in the 1393/1394 (2014/2015) AEITI reconciliation are:-

<u>Company Name</u>		<u>TIN</u>	<u>Company Name</u>		<u>TIN</u>
1	Afghan Gas Enterprise	9000454091	16	Marajuding Shamse	1005245087
2	Northern Coal Enterprise	9000453812	17	Turkish Petroleum	9001465609
3	CNPCI-Watan Oil & Gas Afghanistan Ltd	9000525965	18	AIC (Cement Ghory)	1029973011
4	Amin Karimzai	1009060011	19	Pameer Khorasan	1012398010
5	Belal Mosazai Company	1009592088	20	Ayzeen Central Mining Services Company	9000580028
6	Khushak Brothers Company (Herat)	1034744019	21	Mohammad Faisal Company	
7	Misaque Sharq	1050765013	22	Afghan Investment Company	1029671011
8	Lajaward	9000603820	23	Amaniya Minning	9000197187
9	Hashimy Group	1052485016	24	Humayon Company	
10	Shamsheer Zameer	1001595089	25	Shair Pawan Company	
11	Technologist	1043870012	26	Mahmand Shamal	1045746011
12	AIC (Afghan Coal)	1029975016	27	Wisco International	
13	MCC-JCL Aynak Mineral Company	1052271010	28	West Land General Trading (Norabah)	1030413015
14	Dragon Oil	TIN not given MOMP			
15	Dragon Oil LTD (Mazar-i-Sharif)				

Table 5.2

5.8 STATE OWNED ENTERPRISES

Two companies have been identified by government as being state owned companies operating in the extractive sector:

- i. Northern Coal Enterprise
- ii. Afghan Gas Enterprise

Government has stated that aside from these enterprises, the state has no other ownership of assets in the extractive industries in Afghanistan.

5.8.1 NORTHERN COAL COMPANY

The Northern Coal Enterprise is listed as a Public Enterprise of the Ministry of Mines and Petroleum by the Central Statistics Organisation of Afghanistan.¹²

It is established by Charter and the assets of the Enterprise are owned by the State according to the English translation of the Charter). The Enterprise is managed by a Supreme Council, chaired by the Minister of Mines and Petroleum, with a Deputy Director from the Ministry of Finance and with five other members. There is an Operations Board with executive responsibilities.

¹² <http://cso.gov.af/en/page/economy-statistics/economy/mining-and-energy>

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The Central Statistics Organisation quotes revenues of AFS 2.3 million and profits of AFS 2.0 million in 1393 (2014) and AFS 2.1 million and profits of AFS 1.8 million in 1394 (2015).

5.8.2 AFGHAN GAS ENTERPRISE

The Afghan Gas Enterprise is listed as a Public Enterprise of the Ministry of Mines and Petroleum by the Central Statistics Organization of Afghanistan.¹³

The assets of the Enterprise are owned by the government (according to the English translation of the Charter).

It is the country's national gas utility agency and operates wells in four gas fields producing a combined 576,000 cubic metres of gas each day, currently distributing gas through a small network of pipelines in Jowzjan province¹⁴ almost all of which is supplied to the Northern Fertilizer and Power Plant.¹⁵ The Enterprise also acts as the Government of Afghanistan's representative in the international consortium created with Turkmenistan, Pakistan, and India to own and construct the TAPI pipeline.¹⁶

The Central Statistics Organisation quotes revenues of AFS 0.3 million and profits of AFS 0.1 million in 1393 (2014) and 1394 (2015).

¹³ <http://cso.gov.af/en/page/economy-statistics/economy/mining-and-energy>

¹⁴ <http://www.wsj.com/articles/SB10001424127887324439804578115023494349946>

¹⁵ http://adb.org/projects/details?page=details&proj_id=47018-001

¹⁶ http://www.gtreview.com/trade-finance/global-trade-review-news/2014/November/Tapi-gas-pipeline-company-launched_12085.shtml

6 APPROACH, METHODOLOGY AND WORK DONE

This chapter presents a summary of our approach and methodology, and findings during the scoping phase of the assignment, under the following headings.

- 6.1 Determination of Scope: General
- 6.2 Determination of scope: Flows
- 6.3 Determination of scope: Government entities
- 6.4 Determination of scope: Companies
- 6.5 Legislation in force during the reconciliation period
- 6.6 Assurance
- 6.7 Templates and training
- 6.8 Materiality
- 6.9 Elements of the reconciliation work

6.1 DETERMINATION OF SCOPE: GENERAL

In order to examine the size and nature of receipts by government from the extractive sector, and the government entities receiving taxes and other revenues from the sector, and companies carrying out extractive activities and making payments to government, we:-

- reviewed legislation and contracts applicable to the extractive sector
- reviewed publicly available statistics on production and the contribution of the sector to the country's revenues
- examined information on licensed companies from MOMP
- reviewed information from MOMP, MOF Revenue and MOF Customs on amounts received from all extractive companies, with major companies and SOEs shown separately
- reviewed information from other public sources, including the Baseline Study commissioned by AEITI and previous Afghanistan EITI reports
- met with stakeholders, including MOF, MOMP, companies, civil society and donors

We did not carry out any procedures to determine that information provided was complete or accurate, and comment elsewhere on the information provided by government bodies.

6.2 DETERMINATION OF SCOPE: FLOWS

In preparation for determination of the scope of the EITI Report, government ministries were requested to report total receipts from the extractive sector, under the categories shown in section 5.1 above, and to identify any other types of flow from the sector. No additional flows were reported, and for certain of the flows, government reported no receipts in either year, or in one of the years (1393/4 – 2014/15).

The process of preparing the data, and review of the information provided, indicated that reporting systems were not robust and the MSG accordingly decided that all the flows listed in Section 5.1 – including those where government reported no receipts in one or both years – should be included in the Fifth AEITI Report.

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6.3 DETERMINATION OF SCOPE: GOVERNMENT ENTITIES

The MSG decided that the government entities listed in section 5.6 should be included.

6.4 DETERMINATION OF SCOPE: COMPANIES

6.4.1 COMPILATION OF LIST OF EXTRACTIVE COMPANIES

Information was obtained from government and other public sources with a view to increasing the knowledge base of companies operating in the extractive sector in Afghanistan.

Cadastre records would normally be a starting point for the identification of extractive companies, but in the case of Afghanistan they do not appear to be comprehensive. We produced a list of companies said to be operating in Afghanistan, using government and public sources, and requested government bodies to identify the licences and Taxpayer Identification Numbers (TIN) for these companies, and to report all receipts from them. In addition, we requested government bodies to produce a comprehensive list of extractive companies operating in Afghanistan, together with details of their licences, TIN, revenue receipts and production in 1393 (2014) and 1394 (2015).

Difficulties were encountered in obtaining certain basic identification data (licence information and TINs) for companies on the lists from different departments. For example, MOF Revenue departments were not immediately able to provide TINs for companies identified by MOMP; equally, MOMP cadastre was not able to provide licence details for certain companies identified by MOF.



6.4.2 INFORMATION FROM NATIONAL GOVERNMENT

6.4.2.1 MOF – Revenue

We issued templates to MOF Revenue, who provided details of receipts recorded by the LTO, MTO and STO. Extractive companies report into each of these three departments.

The process was iterative, because MOF Revenue does not separately identify extractive companies, and is only able to respond to requests for information on specific companies, identified by other means. Accordingly, as other departments identified companies, these were passed to MOF Revenue so that they could add TINs and report receipts from these companies. TINs were not provided for a number of companies where government has reported material receipts.

We note that the process for consolidating revenue paid to regional branch offices with revenue paid centrally is cumbersome and open to error, and is not timely.

6.4.2.2 MOF – Customs

MOF Customs initially reported nil receipts from the companies which had been included in the Fourth EITI Report. However, having completed a further examination of their records, they reported receipts against the list of companies provided to them.

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Similarly to MOF Revenue, MOF Customs does not identify extractive companies separately from other companies, and responds only to those companies for which information is requested.

6.4.2.3 MOMP – revenue

Revenue information was provided by both the MOMP National Revenue Department and also by the MOMP Provincial Directorate (MOMP PD). The latter body was not asked to report receipts for previous EITI reports, and inclusion of information from this department represents an improvement in the EITI process.

Some companies recorded as holding valid exploitation licences for more valuable minerals extracted (gold, chromite, fluorite, coal) have no receipts reported by MOMP Revenue. No revenue was reported by MOMP for the companies for which MOMP reported production in the period covered by the report.

6.4.2.4 MOMP – licensing

The MOMP-PD reported that licence information for regional companies should be available in the main cadastre. There were nevertheless some difficulties in obtaining licence information from the Cadastre for the companies identified by MOMP as making material payments during 1393 (2014) and 1394 (2015). Licence information was not given for all companies for which payments and/or production were reported by other departments.

6.4.2.5 MOMP – production

MOMP provided information on production for the period covered by the report.

Some companies for which receipts (including royalties) were reported by MOMP/MOF were either not included on the list or were reported as nil production in the year. Some companies with valid exploitation licences for the more valuable minerals were either not included on the list or were reported as nil production in the year.

6.4.3 SELECTION OF COMPANIES TO BE INCLUDED IN THE EITI REPORT

The gathering of information from government sources to assess the scope for the current EITI report, the fifth such report to be produced by Afghanistan, was time consuming and there does not appear yet to be an embedded process for production of the revenue, production and other information which is required. The computerisation of the Cadastre has not been completed and generally, many of the systems used in government departments remain manual and cumbersome.

Significantly more companies have been identified in this scoping process than previously, providing more information on operators in the extractive industries in Afghanistan. However, the data provided is incomplete (e.g. missing TINs) and comparison of information from different sources has revealed inconsistencies.

It is outside the scope of the current exercise to identify the causes of these inconsistencies, details of which have been provided to members of the MSG, or to propose possible solutions. The scoping

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decisions were accordingly based on the information provided by government departments concerning their receipts from the extractive sector in 1393 (2014) and 1394 (2015).

It is noted that the inclusion of receipts reported by the MOMP Provincial Directorate in the total reported figures is an improvement on previous years, and provides the opportunity to improve the coverage of the current reconciliation exercise.

6.4.3.1 Review of receipts reported by government

Government reported receipts for 1393 (2014) and 1394 (2015) as shown in the table below (and in more detail in section 2.2 above).

	<u>1393</u>	<u>1394</u>
	<u>AFS</u>	<u>AFS</u>
Total Government receipts reported	<u>2,095,899,852</u>	<u>1,610,049,776</u>

Receipts for the major companies reported by government are set out in Table 6.1 below.

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				1393			1394		
				Receipts	Co as %	Cumulative	Receipts	Co as %	Cumulative
	Company Name	TIN	Mineral	AFS	of total	%age	AFS	of total	%age
1	Afghan Gas Enterprise	9000454091	Gas	632,085,831	30.2%	30.2%	895,190,717	55.6%	55.6%
2	Northern Coal Enterprise	9000453812	Coal	447,942,533	21.4%	51.5%	4,386,332	0.3%	55.9%
3	CNPCI-Watan Oil & Gas Afghanistan Ltd	9000525965		349,274,583	16.7%	68.2%	312,819,730	19.4%	75.3%
4	Amin Karimzai	1009060011		77,260,804	3.7%	71.9%	13,000,000	0.8%	76.1%
5	Belal Mosazai Company	1009592088		55,716,900	2.7%	74.5%	8,377,500	0.5%	76.6%
6	Khushak Brothers Company (Herat)	1034744019	Coal	52,058,367	2.5%	77.0%	52,649,170	3.3%	79.9%
7	Misaque Sharq	1050765013	Coal	50,669,059	2.4%	79.4%	60,773,410	3.8%	83.7%
8	Lajaward	9000603820		46,996,705	2.2%	81.7%	32,142	0.0%	83.7%
9	Hashimy Group	1052485016	Chromite	46,011,500	2.2%	83.9%	36,712,032	2.3%	86.0%
10	Shamsheer Zameer	1001595089		43,116,359	2.1%	85.9%	0	0.0%	86.0%
11	Technologist	1043879012		22,939,956	1.1%	87.0%	8,773,795	0.5%	86.5%
12	AIC (Afghan Coal)	1029975016	Coal	18,656,333	0.9%	87.9%	9,331,731	0.6%	87.1%
13	MCC-JCL Aynak Mineral Company	1052271010	Copper	17,882,063	0.9%	88.8%	20,301,361	1.3%	88.3%
14	Dragon Oil	TIN not given by MOMP	Oil	17,523,519	0.8%	89.6%	20,565,684	1.3%	89.6%
15	Dragon Oil LTD (Mazar-e-Sharif)		Oil		0.0%	89.6%	2,100	0.0%	89.6%
16	Marajuding Shamse			17,053,725	0.8%	90.4%	0	0.0%	89.6%
17	Turkish Petroleum	9001465609	Oil	15,634,560	0.7%	91.2%	17,543,254	1.1%	90.7%
18	AIC (Cement Ghory)	1029973011		15,349,966	0.7%	91.9%	12,994,880	0.8%	91.5%
19	Pameer Khorasan	1012398010		14,026,800	0.7%	92.6%	9,253,884	0.6%	92.1%
20	Ayzeen Central Mining Services company	9000580028		10,380,533	0.5%	93.1%	0	0.0%	92.1%
21	Mohammad Faisal Company			9,497,183	0.5%	93.5%	0	0.0%	92.1%
22	Afghan Investment Company	1029671011		8,407,444	0.4%	93.9%	0	0.0%	92.1%
23	Amaniya Mining	9000197187	Fluoride	7,956,030	0.4%	94.3%	12,989,208	0.8%	92.9%
24	Humayon Company			7,787,000	0.4%	94.7%	0	0.0%	92.9%
25	Shair Pawan Company			6,306,359	0.3%	95.0%	7,418,398	0.5%	93.4%
26	Mahmand Shamal	1045746011		6,200,012	0.3%	95.3%	2,400,000	0.1%	93.5%
27	Wisco International			3,101,987	0.1%	96.0%	12,861,391	0.8%	95.8%
28	West Land General Trading (Norabah)	1030413015	Gold	1,027,444	0.0%	96.2%	16,506,191	1.0%	95.8%
29	Asad Habeeb Company			5,239,000	0.2%	95.7%	2,082,600	0.1%	95.5%
30	Noram Albelad			5,049,275	0.2%	96.0%	5,166,700	0.3%	95.8%
31	Khalid Aziz	1019984010		2,461,717	0.1%	96.1%	0	0.0%	95.8%
32	Abdul Rahman Baba	1034131019		2,388,623	0.1%	96.2%	617,580	0.0%	95.8%
33	TI			788,460	0.0%	96.2%	5,055,000	0.3%	96.1%
34	Afghan Gold and Minerals Company Ltd	9000300724	Gold	576,617	0.0%	96.3%	7,810	0.0%	96.1%
	Sub total			2,017,367,247			1,547,812,599		
				96.3%			96.1%		
	Total reported receipts			2,095,899,852			1,610,049,776		

Table 6.1

Afghanistan EITI Report 1393 and 1394 (2014 and 2015)

6.4.3.2 Comparison with Fourth Report

The following table compares, by way of information, the list of all companies initially reported by government as making significant payments in 1393 (2014) or 1394 (2015) with the companies included in the Fourth Report. Upon further review, the MSG decided to include only 28 of these companies (see section 5.7).

Company Name	1393/94	Included in 4th Report
Afghan Gas Enterprise	√	√
Northern Coal Enterprise	√	√
CNPCI-Watan Oil and Gas Afghanistan Limited	√	√
Amin Karimzai	√	
Belal Mosazai Company	√	
Khushak Brothers Company	√	√
Misaque Sharq	√	√
Lajaward	√	
Hashimy Group	√	√
Shamsheer Zameer	√	
Technologist	√	
AIC (Afghan Coal)	√	√
MCC-JCL Aynak Mineral Company	√	√
Dragon Oil	√	√
Dragon Oil LTD (Mazar-e-Sharif)	√	√
Marajuding Shamse	√	
Turkish Petroleum	√	√
AIC (Cement Ghory)	√	√
Pameer Khorasan	√	
Ayzeen Central Mining Services company	√	
Mohammad Faisal Company	√	
Afghan Investment Company	√	
Amaniya Minning	√	
Humayon Company	√	
Shair Pawan Company	√	
Mahmand Shamal	√	
Wisco International	√	
West Land General Traiding (Norabah)	√	
Asad Habeeb Company	√	
Noram Albelad	√	
Khalid Aziz	√	
Abdul Rahman Baba	√	
TI	√	
Afghan Gold and Minerals Company Ltd	√	

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The Fourth Report identified other companies, whose payments were deemed to be not material, as shown in the table below.

<u>Company Name</u>	<u>4th report</u>
Afghan Brothers	√
Afghan Korea	√
Arja Popal	√
Hevad Bradarz	√
Hewadwal	√
Pameer Badakhshan	√
Yasmeen Mining Company	√
Aks Mining Company	√
Aryana Sazah	√
Esterlink Mining Company	√

Three of these companies were not reported by government as part of the total receipts - Aks Mining Company, Aryana Sazah, Esterlink Mining Company. Government reported that the remaining companies made no significant payments in 1393 (2014) or 1394 (2015).

N.B. The fourth report only identified the companies listed in the two tables above, while the current scoping exercise has identified some 374 companies.

6.4.3.3 *Materiality threshold*

Initial reported government receipts show that over 80% of receipts come from eight companies, including the two SOEs.

The summary of major companies in Table 6.1 in section 6.4.3.1 above shows that selection of companies making payments of more than AFS 6 million in either year would mean that 96.2% of receipts in 1393 (2014) would be reconciled, and that 95.8% of receipts in 1394 (2015) would be reconciled. This was considered reasonable by the MSG, which decided to require reporting from the companies making payments to government exceeding AFS 6 million in either 1393 (2014) or 1394 (2015).

The MSG also decided that where total receipts reported by government for any company differ by less than AFS 1.0 million from the total payments reported by that company, the difference should be deemed immaterial for purposes of the EITI reconciliation.

6.5 LEGISLATION IN FORCE DURING THE RECONCILIATION PERIOD

An overview of the legislation applying to the extractive sector is set out in Section 3.2.

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6.6 ASSURANCE

The assurance environment in Afghanistan is weak. Steps have been taken to improve government audit capability, but further work is needed. There is no standard setting body in Afghanistan for either audit or accountancy, and there are few qualified staff at present to implement any standards. Capability and practice in the private sector are weak and there are serious challenges to the achievement of transparency.

6.6.1 GOVERNMENT AUDIT

The Transitional Government of Afghanistan has awarded a project to an international firm of accountants and auditors to rebuild the capacity of staff. This project is funded by the World Bank and provides technical support to the SAO to enable it to carry out audit functions in accordance with international auditing standards.

6.6.2 COMPANY AUDITS

Audit capability is severely limited at national level and audit to international standards is currently effectively inaccessible to medium and smaller scale companies, on grounds of cost, financial management capability and linguistic constraints. With the exception of large companies, operators in Afghanistan do not have qualified accounting input to their business, and in smaller companies, financial records are basic.

There is no requirement under Afghan law for extractive companies to produce audited accounts. The PSCs do not specify the basis for any independent audit (in particular the use of International Standards on Auditing).

6.6.3 ASSURANCE PROVISIONS FOR EITI DATA SUBMISSIONS

In view of the accounting and assurance environment, the MSG decided to require three steps to be taken to provide assurance on the information provided for the reconciliation:-

- i. Every reporting entity should provide a letter from senior government or company representative (see below)
- ii. Copy of audited financial statements were to be provided by major reporting companies¹⁷ covering the fiscal periods 1393 (2014) and 1394 (2015)
- iii. Supporting documentation was to be provided by all reporting entities for any amendments to original data submissions

¹⁷ As discussed with the AEITI Secretariat, major companies are deemed to be the oil companies and MMC-Aynak

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For the first step, a declaration is to be signed by a senior government official or a board level company manager be presented with the templates. The declaration will state:-

Company declaration

In connection with the Reconciliation being carried out for the Afghanistan Extractive Industries Transparency Initiative Multi-stakeholder Group concerning benefit flows received by Government in Afghanistan during the fiscal period 1391, we confirm that

1. the information contained in these templates has been properly and diligently prepared from the company's records after extensive enquiries of management and staff with the relevant knowledge and experience; and the templates are a complete declaration of all amounts required to be declared under the Afghanistan EITI report
2. all the amounts paid/received are supported by genuine receipts and substantiated by documentary evidence, and do not include amounts paid / received on behalf of other entities
3. Audited financial statements (delete as applicable)
EITHER
 - a. a copy of the company's audited financial statements, including the audit opinion, covering the fiscal period 1391 is included with these templatesOR
 - b. the company did not prepare audited financial statements

The government declaration is similar.

Each reporting entity will put a tick/cross in a box against each section of the declaration to indicate compliance or non-compliance (this allows companies which do not produce audited accounts to say so).

6.7 TEMPLATES AND TRAINING

The MSG approved data collection templates which were subsequently translated into Dari by the AEITI Secretariat. Copies of the templates are attached in Appendix 10.9 (English) and 10.10 (Dari).

Training in completion of the templates and the supporting information required was provided to reporting entities.

6.8 ELEMENTS OF THE RECONCILIATION WORK

In carrying out the reconciliation, we:

- Relied upon the assurances given by senior officials In accordance with the decision of the AEITI MSG that templates should be signed by such an individual
- Requested a copy of the audited financial statements from the major companies
- Collated the templates returned by reporting entities and established a database, identifying discrepancies between receipts reported by government and payments reported by companies

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- Liaised with reporting government agencies and companies to understand the reasons for discrepancies, including visits to site to obtain information from the extractive companies and government agencies
- Analysed and reconciled data submitted by extractive companies and Government agencies in the reporting templates for the 1393 (2014) and 1394 (2015)
 - Meetings were held with government agencies and reporting companies to investigate reported differences
 - All reporting extractive companies and government agencies were requested to support their reported figures with supporting documents and vouchers; including evidence of payments and receipts
 - All reconciling items produced by all parties were scrutinised and examined for authenticity, ownership, accuracy, validity, occurrence in terms of the reporting periods and other relevant attributes
 - All reconciliations and non-reconciled differences were notified to the reporting entities as evidence and proof of the work done
 - Reporting templates were signed off by senior management officials
 - Reporting schedules were amended as appropriate and summaries prepared
- Prepared this report on government receipts and company payments,
 - highlighting the reconciled discrepancies and the unresolved discrepancies;
 - making recommendations on action to be taken on the unresolved discrepancies, and for improvement of the implementation of EITI in Afghanistan more generally;
 - reporting on the total oil, gas and minerals produced for which payments were made and revenue collected for the fiscal period;
 - including a list of all licensed or registered companies according to published MOMP information, noting which companies participated in the EITI reporting process and those that did not; and
 - containing other information as required under the Terms of Reference and the EITI Standard.

7 RESULTS OF THE RECONCILIATION

7.1 SUMMARY OF REPORTED FLOWS

Summary of flows initially reported

The flows initially reported were:-

<u>1393 (2014)</u>	Government (AFS 000)	Extractive Companies (AFS 000)	Net Initial Differences (AFS 000)	%
Total payments declared initially by reporting entities	1,573,817.2	1,893,323.8	-319,506.6	-20.3%

Table 7.1

<u>1394 (2015)</u>	Government (AFS 000)	Extractive Companies (AFS 000)	Net Initial Differences (AFS 000)	%
Total payments declared initially by reporting entities	2,696,470.8	2,388,882.7	307,588.1	11.4%

Table 7.2

The process of reconciliation highlighted three main areas in the initial differences above where discrepancies arose:-

1. Amounts reported in the wrong category
2. Errors or omissions in the amounts reported, successfully resolved during the reconciliation
3. Discrepancies which have not yet been resolved

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Summary of flows after reconciliation

The flows after reconciliation were as follows:-

<u>1393 (2014)</u>	Government (AFS 000)	Extractive Companies (AFS 000)	Unresolved Differences (AFS 000)	%
Total payments declared by reporting entities after reconciliation	2,224,992.7	1,893,361.7	331,631.0	14.9%

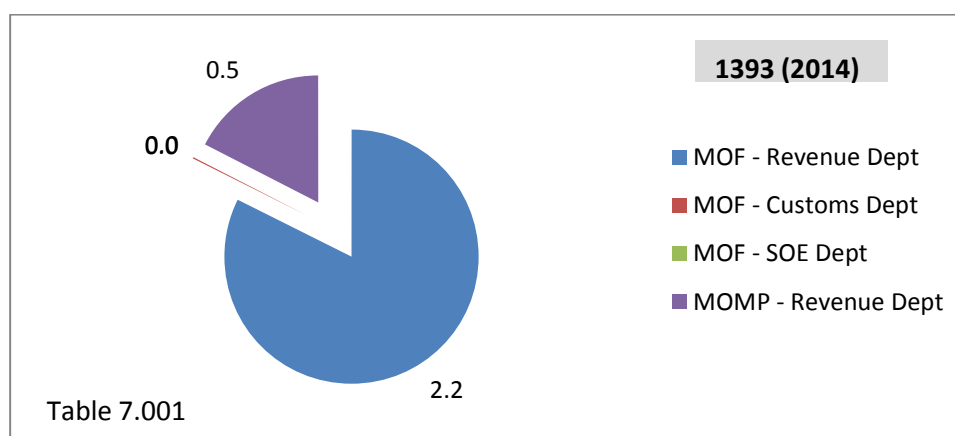
Table 7.3

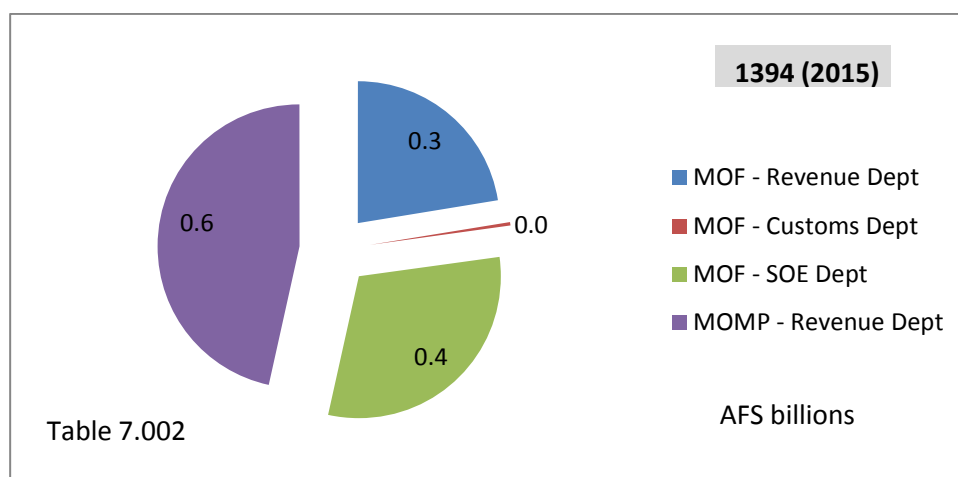
<u>1394 (2015)</u>	Government (AFS 000)	Extractive Companies (AFS 000)	Unresolved Differences (AFS 000)	
Total payments declared by reporting entities after reconciliation	2,685,489.8	2,619,940.2	65,549.7	2.4%

Table 7.4

7.1.1 RECEIPTS REPORTED – GOVERNMENT TOTAL

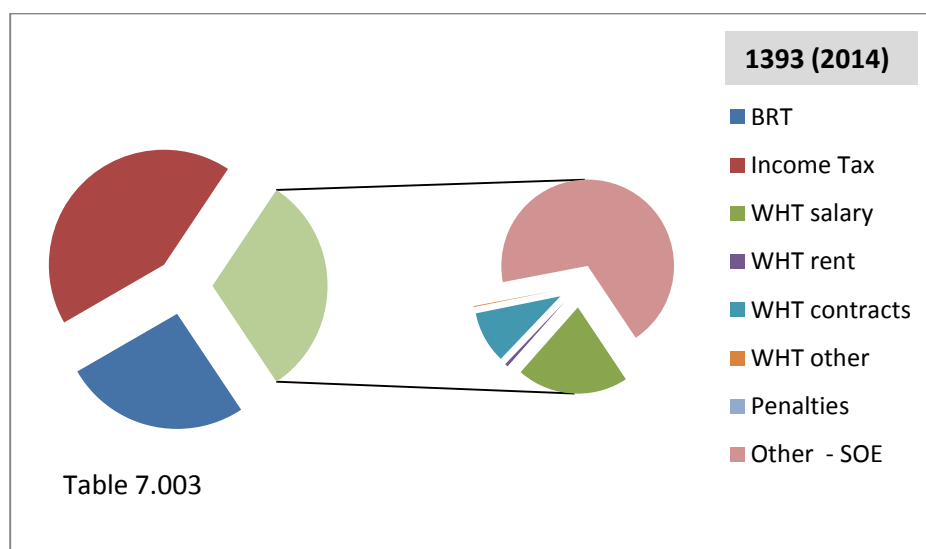
Government receipts, after reconciliation, from reporting companies may be expressed graphically for the two fiscal periods included in this report (AFS billions):-



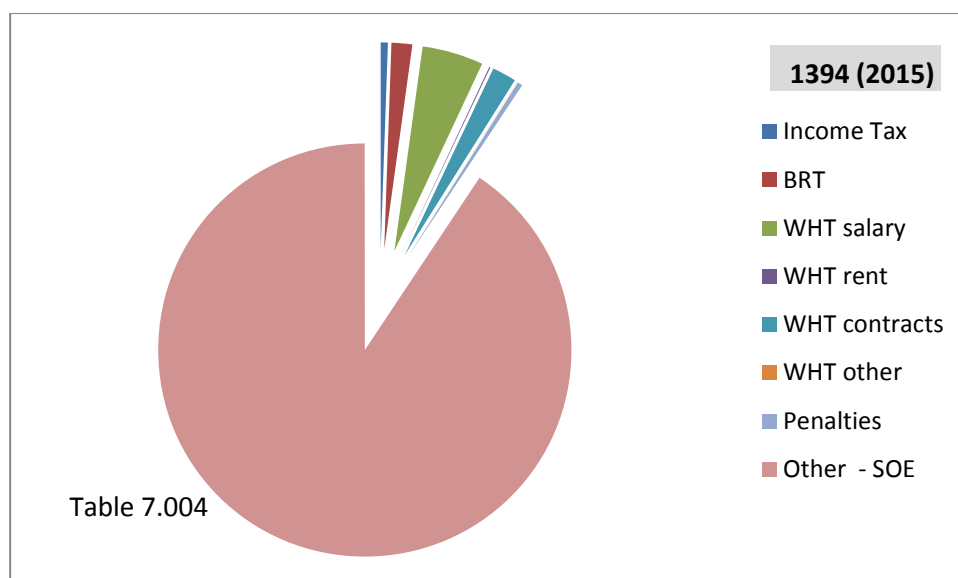


7.1.2 RECEIPTS REPORTED – MOF

The MOF receipts reported for 1393 (2014) and 1394 (2015), after reconciliation, may be expressed graphically for the two fiscal periods as follows (AFS millions):-

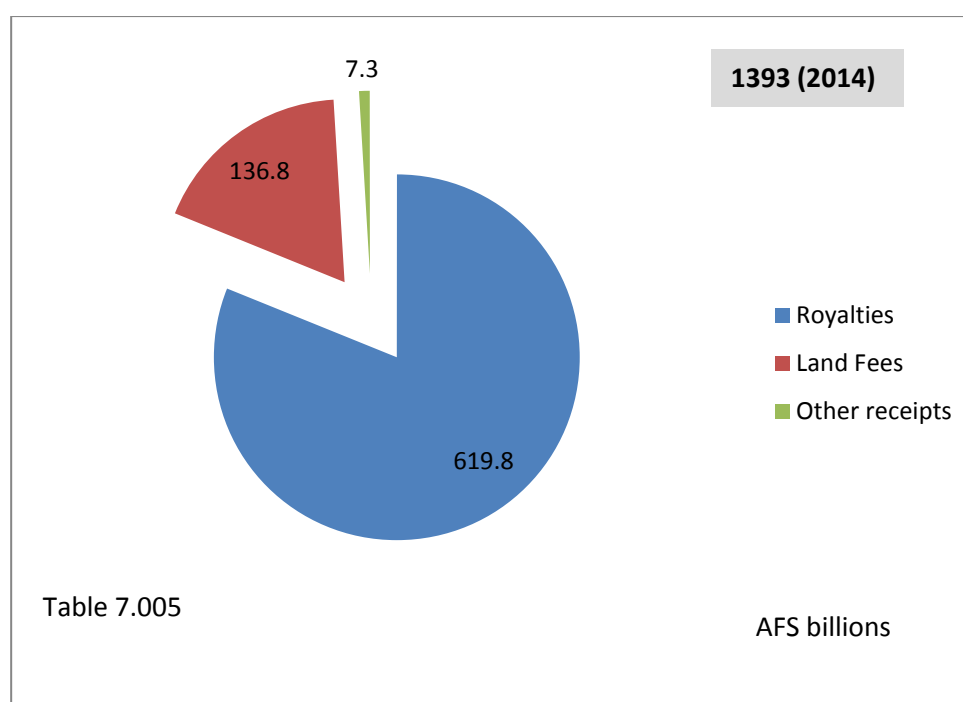


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7.1.3 RECEIPTS REPORTED – MOMP

The MOF receipts reported for 1393 (2014) and 1394 (2015), after reconciliation, may be expressed graphically for the two fiscal periods as follows (AFS millions):-



MOMP - Other receipts

1393 (2014)



Table 7.006

1394 (2015)

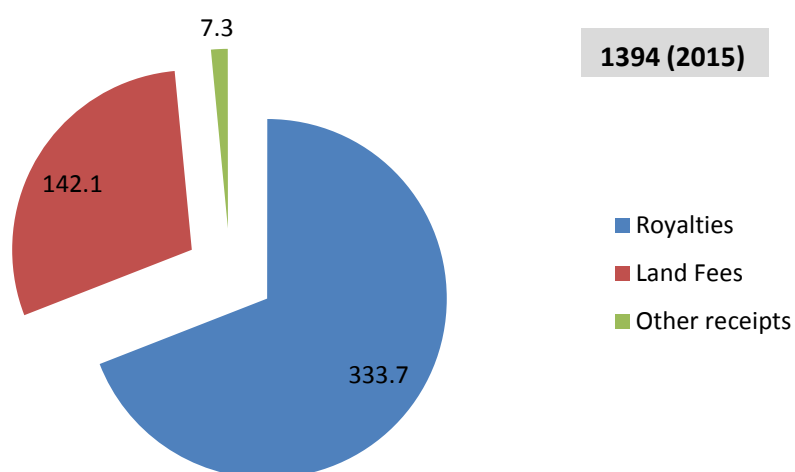


Table 7.007

MOMP - Other receipts

1394 (2015)

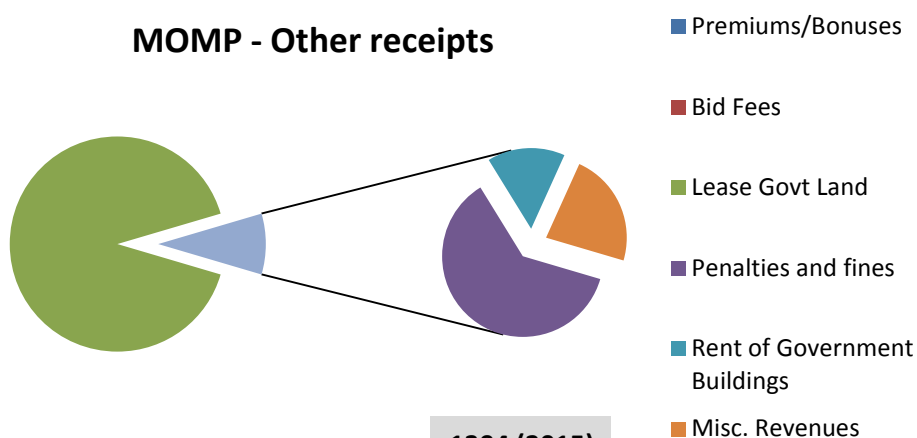


Table 7.008

7.2 NON REPORTING COMPANIES

There were eight companies which did not return templates or report data.

7.2.1 NO CONTACT DETAILS

It was not possible to distribute templates to four of the companies selected by the AEITI MSG:-

1. Mohammad Faisal Company

We contacted the Nangarhar provincial mining directorate to obtain contact details and information for this company, but were unable to progress distribution in the absence of a response.

2. Lajaward

We were informed by the MOMP Cadastre that the company is closed and the responsible person is not in Afghanistan; all staff have gone to Turkey or elsewhere. The Government sent a letter with the reporting templates by email to bdkminesdepartment2017@gmail.com, but the email address is invalid. Press reports suggest that disputes between local factions are preventing operations being conducted under the government licence. We have not been able to obtain information from this company.

3. Ayzeen Central Mining Services Company

We have attempted to contact the companies using the details given to us, but have been unable to do so. We are not in a position to obtain information from the company.

4. Mahmand Shamal

We have attempted to contact the companies using the details given to us, but have been unable to do so. We are not in a position to obtain information from the company.

7.2.2 COMPANIES NOT REPORTING


Templates were distributed to four companies, which either have not responded or have replied that they are unable to participate, as explained below.


1. Shamsheer Zameer

We were informed by the company that there is a legal dispute between the President and Vice President of the company, which will not respond until the case is settled.

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2. Turkish Petroleum

Turkish Petroleum contacted us to say that while they provided data for the previous (1391/1392) EITI Report for Afghanistan, activities have been suspended in the country since mid 2016 and the company has no a to deliver a response to the EITI request.

Last ar we submitted the reconciliation report to AEITI for the period of 2012 to 2014. This year, we could not period such report due to the suspension in our operations in Afghanistan. If possible , we can submit an excuse letter to AEITI to explain our situation,

3. Dragon Oil Mazar-i-Sharif

4. Dragon Oil Sanduqli

Dragon Oil contacted us to explain that their project has been on hold for the last one and a half years and they have closed down their office in Afghanistan; and added that with no one in country and no operations, Dragon Oil has no data to share at this time.

7.3 COMMENTARY ON DATA COLLECTION AND RECONCILIATION

7.3.1 GOVERNMENT DATA COLLECTION AND RECONCILIATION PROCESS

Government departments provided information on receipts from extractive companies for the MSG to decide upon the scope of the reconciliation. Separate templates were not subsequently completed for each reporting company, but discrepancies between the initially reported amounts and company templates were investigated and cleared where possible by reference to supporting documentation.

The MOF Customs department initially provided no information on total government receipts for the scoping phase, only after follow up. During the reconciliation, requests to MOF Customs for information relating to some companies to understand differences between amounts reported by the companies and MOF Customs received no response, and the differences remain unresolved.

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The reported receipts and payments for flows dealt with by MOF Customs, before and after reconciliation, were:-




Unit: AFS	MOF Customs	Companies	(Under)/Over reported by MOF
1393 (2014)	13,912,191	 18,630	(2,906,439)
1394 (2015)	 4,491,434	2,637,705	1,853,729


Table 7.4a

7.3.2 COMPANY DATA COLLECTION AND RECONCILIATION PROCESS

Training and assistance was provided to companies as far as possible. The circumstances in Afghanistan are not conducive to extensive travel outside Kabul, nevertheless visits were made to several  provinces and there was much face to face contact with companies. Outside the major companies (MCC/CNPC) and companies represented on the MSG, awareness of EITI requirements was limited and the capacity to produce the basic financial data for EITI reporting was also limited. Considerable assistance was provided in a number of cases. Company record keeping and accounting systems are manual and extraction of information is laborious.

The inclusion of a greater number of companies in the current EITI report meant that there were participants for whom this was their first contact with EITI.

7.3.3 UNRESOLVED DIFFERENCES

Net unresolved differences amounted to AFS 331.6 million in 1393 (2014) and AFS 65.5 million in 1394 (2015). These net differences are a blend of instances where government has reported more than companies and where government has reported less than  companies.

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Table 7.5 below shows separately the total amounts reported by government where these were more than those reported by companies (columns A and C); the total amounts reported by government where these were less than those reported by companies (columns B and D).



Unit: AFS	1393 (2014)		1394 (2015)	
Flow	Over/(under) reported by government		Over/(under) reported by government	
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Income Tax	1,651,923	-		(33,625,129)
BRT	8,898,557		15,623,698	
WHT salary	14,151,197		6,606,991	
WHT rent	1,044,525		38,972	
WHT contracts	16,934,278		18,649,892	
WHT other	612,733		27,055	
Penalties	1,368			(406,609)
Other (transferable share, shares, others)	101,629,279			(35,122)
Other		(307,734)		(500,000)
Sub total - MOF Revenue and SOE	144,923,860	(307,734)	40,946,608	(34,566,860)
Royalties	156,414,873		15,191,726	
Premiums/Bonuses	0		0	
Bid Fees	3,000		0	
Penalties and Fines	16,321		46,508	
Land Fees	37,063,704		45,799,137	
License Fees	0		75,000	
Permitting Fees	289,200		0	
Bid/other securities	0	(1,984,320)	0	
Lease of Government Land	58,500			(3,530,376)
Rent of Government Buildings	0		0	
Misc. Revenues	0	(1,939,990)		(265,800)
Sub total - MOMP	193,845,598	(3,924,310)	61,112,371	(3,796,176)
Imports Duties	976,323		1,316,148	
BRT		(1,759,675)	303,479	
Fixed Tax on imports		(1,581,259)	305,348	
Other Receipts		(541,828)		(71,246)
Sub total - MOF Customs	976,323	(3,882,762)	1,924,975	(71,246)
Net unreconciled discrepancies	339,745,781	(8,114,806)	103,983,954	(38,434,282)

Table 7.5

Afghanistan EITI Report 1393 and 1394 (2014 and 2015)

The largest discrepancies which have not been reconciled are as follows:-

Unit: AFS 000 Company	Flow	<u>1393 (2014)</u>		<u>1394 (2015)</u>	
		Over/(under) reported by government		Over/(under) reported by government	
		<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Northern Coal	Other - transferable shares, etc.	101,608,235			
Hashimy	Royalties	59,006,500			
Shamsheer Zameer	Royalties	44,756,400			
Lajaward	Royalties	35,291,337			
Afghan Gas	Income tax				-36,851,334
Wisco International	Royalties				-12,861,391
Hashimy	Royalties			13,005,005	
Dragon Oil (Sanduqli) Ltd				19,490,880	
Turkish Petroleum				17,551,912	
Other differences		99,083,309	8,114,806	53,936,157	11,278,443
Total differences		339,745,781	8,114,806	103,983,954	-38,434,282

Table 7.6

7.4 INFORMATION ON SOES

Two SOEs were included in the reconciliation, Northern Coal Enterprise and Afghan Gas Enterprise. These two companies provide a large part of the revenues received by government from the extractive sector.

A number of difficulties were encountered in obtaining information relating to these SOEs, both from the companies themselves and also from the departments in MOF and MOMP which deal with the SOEs.

The MOF SOE department was late in providing information and did not use the templates specified by the MSG. We noted that the records maintained by the department are not in good order. MOF LTO reported that payments made by the two companies were frequently round sums and there was no explanation as to what they represented, causing problems in control over amounts due from the companies. We were informed that the SOE tax returns have not been agreed for three or four years.

There is a lack of accounting capacity in both Northern Coal and Afghan Gas, which materially affects their ability to produce the basic financial data required for the EITI report. Accounting records are maintained manually, and the manual systems require improvement. Afghan Gas did not complete the EITI templates fully or correctly.

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We received inconsistent information from MOMP and MOF, as summarised in the tables below.

Northern Coal								
No.	Cash Flow Stream	1393				1394		
		SOE - MOMP AFS	SOE - MOF AFS	LTO AFS		SOE - MOMP AFS	SOE - MOF AFS	LTO AFS
1	Income Tax	-	897,110,608	96,354,608		-	181,649,864	-
2	Business Receipt Tax	-	46,032,511	346,828,511		-	252,228,236	-
3	Withholding on salary	-	-	-		-	5,366,000	-
4	Withholding tax on Rent	-	-	-		-	-	-
5	Withholding tax on contract	-	-	-		-	4,500,000	-
6	Withholding Tax-Other items	-	-	-		-	-	-
7	Penalties	-	-	-		-	-	-
8	Other(transferable share, shares,others)	-	-	-		-	-	-
9	Other Receipts Profit	-	310,756,982	-		-	2,025,658,427	-
10	Other	-	40,000	-		-	13,388	-
Total		-	1,253,940,101	443,183,119		-	2,469,415,915	-

Table 7.6a

Table 7.6a

Afghan Gas								
No.	Cash Flow Stream	1393				1394		
		SOE - MOMP AFS	SOE - MOF AFS	LTO AFS		SOE - MOMP AFS	SOE - MOF AFS	LTO AFS
1	Income Tax	12,285,580	12,285,580	15,749,620		57,078,928	48,851,028	-
2	Business Receipt Tax	4,953,000	4,953,000	9,504,830		17,090,001	9,658,138	17,085,929
3	Withholding on salary	-	-	3,739,664		-	-	3,431,591
4	Withholding tax on Rent	-	-	171,628		-	-	1,155
5	Withholding tax on contract	-	-	2,083,280		-	-	53,319,388
6	Withholding Tax-Other items	-	-	-		-	-	1,260
7	Penalties	-	-	-		-	-	-
8	Other(transferable share, shares,others)	-	-	-		-	-	-
9	Other Receipts Profit	-	-	-		-	-	-
10	Other	-	-	-		-	-	-
Total		17,238,580	17,238,580	31,249,022		74,168,929	58,509,166	73,839,323

Table 7.6b

Table 7.6b

7.5 FLOWS TO GOVERNMENT ANALYSED BY COMPANY

Total relevant amounts¹⁸ reported as received or paid by government or companies respectively, after reconciliation, are reported in Tables 7.7 and 7.8 below, analysed by company.

The companies which responded that they no longer have active operation in Afghanistan, or which are in an ownership dispute, are shown separately. The companies for which contact details were not provided are also shown separately. See further section 7.2.2 above.

Full details of the reconciliation by company are set out in Appendix 10.2.

No payments were reported by companies for social payments or infrastructure payments.

¹⁸ A relevant amount is a receipt / payment for a flow which the AEITI MSG determined should be included in the reconciliation (see section 4.1.1 for a list of these flows).

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Summary of Reconciliation Results: Fiscal Period 1393 (2014)

No. Cash Flow Stream	1393 Template originally lodged			Adjustments		1393 Final reconciliation		
	Government	Companies	Difference	Government	Companies	Government	Companies	Difference
	AFS	AFS	AFS	AFS	AFS	AFS	AFS	AFS
Companies to which templates were sent								
(a) With current operations								
1 North Coal Enterprise	753,940,101	1,162,395,368	(408,455,267)	510,063,502	-	1,264,003,603	1,162,395,368	101,608,235
2 Afghan Gas Enterprise	50,651,810	33,027,200	17,624,610	(19,402,788)	(1,771,500)	31,249,022	31,255,700	(6,678)
3 MMC - JCL Aynak Minerals Company Ltd.	13,068,864	16,471,314	(3,402,450)	4,650,510	1,248,060	17,719,374	17,719,374	0
4 CNPCI Watan Oil and Gas Afghanistan Ltd.	179,738,125	378,369,554	(198,631,429)	198,631,430	-	378,369,555	378,369,554	1
5 Kushak Brothers Company	17,093,459	17,859,264	(765,805)	1,315,986	-	18,409,445	17,859,264	550,181
6 Hashimy Group	59,226,417	-	59,226,417	-	-	59,226,417	-	59,226,417
7 Technologist	25,959,068	-	25,959,068	-	-	25,959,068	-	25,959,068
9 Mesaq - e - Sharq Company	65,603,686	66,363,041	(759,355)	-	-	65,603,686	66,363,041	(759,355)
10 Afghanistan Coal LLC	3,657,217	3,090,578	566,639	(545,257)	(9,356)	3,111,960	3,081,222	30,738
11 Afghanistan Cement LLC	8,583,251	9,034,159	(450,908)	15,257	(367,472)	8,598,508	8,666,687	(68,179)
13 Amaniya Mining	7,673,625	-	7,673,625	-	-	7,673,625	-	7,673,625
14 Wisco International	-	3,101,987	(3,101,987)	-	-	-	3,101,987	(3,101,987)
15 West Land General Trading (Norabah)	1,027,444	297,519	729,925	-	-	1,027,444	297,519	729,925
16 Belal Mosazai Company	61,703,149	71,118,348	(9,415,199)	12,500	-	61,715,649	71,118,348	(9,402,699)
17 Amin Karimzai	85,400,915	85,913,572	(512,657)	-	-	85,400,915	85,913,572	(512,657)
19 Marajuding Shamse	16,067,127	16,898,018	(830,891)	-	-	16,067,127	16,898,018	(830,891)
21 Humayon Company	8,890,375	9,649,670	(759,295)	116,610	-	9,006,985	9,649,670	(642,685)
23 Pameer Khorasan	14,349,509	13,427,859	921,650	16,500	938,150	14,366,009	14,366,009	-
24 Afghan Investment Company	8,407,444	-	8,407,444	(8,407,444)	-	-	-	-
25 Shair Pawan Company	6,464,061	6,306,359	157,702	-	-	6,464,061	6,306,359	157,702
Sub total	1,387,505,647	1,893,323,810	(505,818,163)	686,466,806	37,882	2,073,972,453	1,893,361,692	180,610,761

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Afghanistan EITI Report 1393 and 1394 (2014 and 2015)

Summary of Reconciliation Results: Fiscal Period 1393 (2014) - continued

No. Cash Flow Stream	1393 Template originally lodged			Adjustments		1393 Final reconciliation		
	Government	Companies	Difference	Government	Companies	Government	Companies	Difference
	AFS	AFS	AFS	AFS	AFS	AFS	AFS	AFS
(b) No current operations or in legal dispute								
18 Shamsheer Zameer	51,523,007	-	51,523,007	-	-	51,523,007	-	51,523,007
8 Dragon Oil (Sanduqli) Limited	17,523,519	-	17,523,519	-	-	17,523,519	-	17,523,519
12 Dragon Oil (Mazar - i - Sharif) Limited	-	-	-	-	-	-	-	-
22 Turkish Petroleum	15,690,735	-	15,690,735	-	-	15,690,735	-	15,690,735
Sub total	84,737,261	-	84,737,261	-	-	84,737,261	-	84,737,261
Companies without contact details - no templates sent								
20 Mohammad Faisal Company	9,497,183	-	9,497,183	-	-	9,497,183	-	9,497,183
27 Ayzeen Central Mining Services Company	10,380,533	-	10,380,533	-	-	10,380,533	-	10,380,533
26 Lajaward	76,736,974	-	76,736,974	(35,291,337)	-	41,445,637	-	41,445,637
28 Mahmand Shamal	4,959,600	-	4,959,600	-	-	4,959,600	-	4,959,600
Sub total	101,574,290	-	101,574,290	(35,291,337)	-	66,282,953	-	66,282,953
Total	1,573,817,198	1,893,323,810	(319,506,612)	651,175,469	37,882	2,224,992,667	1,893,361,692	331,630,975

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Afghanistan EITI Report 1393 and 1394 (2014 and 2015)

Summary of Reconciliation Results: Fiscal Period 1394 (2015)

No. Cash Flow Stream	1393 Template originally lodged			Adjustments		1393 Final reconciliation		
	Government	Companies	Difference	Government	Companies	Government	Companies	Difference
	AFS	AFS	AFS	AFS	AFS	AFS	AFS	AFS
Companies to which templates were sent								
(a) With current operations								
1 North Coal Enterprise	2,025,658,427	2,004,247,693	21,410,734	(21,910,734)	-	2,003,747,693	2,004,247,693	(500,000)
2 Afghan Gas Enterprise	73,839,323	68,531,514	5,307,809	(10,340,434)	(1,771,500)	63,498,889	66,760,014	(3,261,125)
3 MMC - JCL Aynak Minerals Company Ltd.	18,799,194	17,247,899	1,551,295	(1,254,957)	289,503	17,544,237	17,537,402	6,835
4 CNPCI Watan Oil and Gas Afghanistan Ltd.	306,706,715	90,775,137	215,931,578	8,580,036	224,511,614	315,286,751	315,286,751	(0)
5 Kushak Brothers Company	26,462,055	27,418,290	(956,235)	-	-	26,462,055	27,418,290	(956,235)
6 Hashimy Group	13,317,023	-	13,317,023	-	-	13,317,023	-	13,317,023
7 Technologist	12,929,160	-	12,929,160	-	-	12,929,160	-	12,929,160
9 Mesag - e - Sharq Company	60,821,777	60,747,898	73,879	-	-	60,821,777	60,747,898	73,879
10 Afghanistan Coal LLC	33,723,942	34,294,248	(570,306)	-	(570,306)	33,723,942	33,723,942	-
11 Afghanistan Cement LLC	19,476,168	22,801,664	(3,325,496)	1,846,613	(655,683)	21,322,781	22,145,981	(823,200)
13 Amaniya Mining	17,480,595	-	17,480,595	-	-	17,480,595	-	17,480,595
14 Wisco International	-	13,415,807	(13,415,807)	-	-	-	13,415,807	(13,415,807)
15 West Land General Trading (Norabah)	16,506,191	16,880,943	(374,752)	-	-	16,506,191	16,880,943	(374,752)
16 Belal Mosazai Company	8,623,042	9,755,084	(1,132,042)	12,500	-	8,635,542	9,755,084	(1,119,542)
17 Amin Karimzai	8,041,813	15,128,078	(7,086,265)	6,500,000	-	14,541,813	15,128,078	(586,265)
19 Marajuding Shamse	135,380	108,564	26,816	-	-	135,380	108,564	26,816
21 Humayon Company	-	-	-	-	-	-	-	-
23 Pameer Khorasan	11,031,184	-	11,031,184	(1,777,300)	9,253,884	9,253,884	9,253,884	-
24 Afghan Investment Company	-	-	-	-	-	-	-	-
25 Shair Pawan Company	222,570	7,529,846	(7,307,276)	7,363,355	-	7,585,925	7,529,846	56,079
Sub total	2,653,774,558	2,388,882,665	264,891,893	(10,980,921)	231,057,512	2,642,793,638	2,619,940,177	22,853,461

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Afghanistan EITI Report 1393 and 1394 (2014 and 2015)

Summary of Reconciliation Results: Fiscal Period 1394 (2015) - continued

No. Cash Flow Stream	1393 Template originally lodged			Adjustments		1393 Final reconciliation		
	Government	Companies	Difference	Government	Companies	Government	Companies	Difference
	AFS	AFS	AFS	AFS	AFS	AFS	AFS	AFS
(b) No current operations or in legal dispute								
18 Shamsheer Zameer	4,544,373	-	4,544,373	-	-	4,544,373	-	4,544,373
8 Dragon Oil (Sanduqli) Limited	20,565,684	-	20,565,684	-	-	20,565,684	-	20,565,684
12 Dragon Oil (Mazar - i - Sharif) Limited	2,100	-	2,100	-	-	2,100	-	2,100
22 Turkish Petroleum	17,551,912	-	17,551,912	-	-	17,551,912	-	17,551,912
Sub total	42,664,069	-	42,664,069	-	-	42,664,069	-	42,664,069
Companies without contact details - no templates sent								
20 Mohammad Faisal Company	-	-	-	-	-	-	-	-
27 Ayzeen Central Mining Services Company	-	-	-	-	-	-	-	-
26 Lajaward	32,142	-	32,142	-	-	32,142	-	32,142
28 Mahmand Shamal	-	-	-	-	-	-	-	-
Sub total	32,142	-	32,142	-	-	32,142	-	32,142
Total	2,696,470,769	2,388,882,665	307,588,104	(10,980,921)	231,057,512	2,685,489,849	2,619,940,177	65,549,672

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8 RECOMMENDATIONS

8.1 PROGRESS MADE ON RECOMMENDATIONS IN PREVIOUS REPORTS

The MSG is required to consider the recommendations resulting from EITI reporting and to list in its annual progress report the corresponding activities that have been undertaken to address the recommendations and the level of progress in implementing each recommendation the multi-stakeholder group is required to take.

We note that there has been progress in some areas and commend the efforts of those involved.

Based on the recommendation from Fourth AEITI Report, MOMP has developed a Finance Management Information System (recommendation number 8.1.2 of 8.1.2.3) which, once operational, will improve access to information for future reports. Implementation is currently in the data entry phase.

MOMP and MOF have established internal committees to examine solutions to the issues raised by AEITI. In addition, a joint MOF/MOMP Committee has been created to address matters identified by AEITI. Matters addressed by the Committee include the recommendation that MOF-LTO and MOMP should prepare and maintain a list of all major corporate mining and oil and gas companies, with each Ministry holding a combined list of companies, licences held and Taxpayer Identification Numbers. The joint Committee is working to conclude an MOU between MOF and MOMP to coordinate their systems.

The EITI process nevertheless continued to face challenges to obtaining information for the current report and continued support is required from all parties for efforts to improve data accessibility and reliability.

We have reviewed the recommendations made in the Fourth AEITI Report and have commented on progress above or against a specific recommendation. Where further progress is required, we have repeated the recommendation.

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Recommendation in Fourth Report	Status	Recommended timing			Comment
		Short term	Medium term	Longer term	
Government departments and SOEs should improve manual record keeping, pending the introduction of a computerised system	Repeated				
Responsibility for collection of taxation from all mining and oil and gas companies should be centralised in MOF-LTO	Repeated				
MOF-LTO and MOMP should prepare and maintain a list of all major corporate mining and oil and gas companies, with each Ministry holding a combined list of companies, licences held and Taxpayer Identification Numbers	Repeated				
Computerised accounting information systems should be specified for MOMP and for the MOF Revenue and Customs Divisions, taking account of the responsibility recommendations above; and that after approval at the highest level within each Ministry, these systems be implemented, with appropriate and continuing training provided to staff. In devising systems, we recommend that the existing skill levels, staff capacities and locally available support are examined, and that the systems are suitably tailored.	Repeated				
Reliable cadastre records should be compiled and made publicly available, meeting Requirement 3.9 of the EITI Standard.	Repeated				Objective 4 in the 2015 - 2017 AEITI MSG Workplan
We recommend that prior to the next EITI report, MOMP and MOF with AEITI should examine the areas where the GIZ IS report identifies revenue to the government with a view to seeking to incorporate them into EITI reporting.	Repeated				
Government and company assurance environment	See current year recommendations				

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For the longer term, the MSG should determine a strategy to incorporate the ASM and gemstone sector into its implementation of EITI, with the goal of including the strategy in the next EITI report.	Repeated				
We recommend that the MSG should commission further work to examine flows from the extractive sector to sub national government, to seek to quantify them and to determine the extent to which these are material.	Repeated				
We recommend that the MSG should investigate the differences in production reported between government and companies and identify any systematic weaknesses.	Repeated				See Objective 6 in the 2015 - 2017 AEITI MSG Workplan
MOF and MOMP should consider bringing in additional professional resource to assist in the preparation of scoping and reporting data for future reports; and that a capacity evaluation and training needs assessment be undertaken, and capacity building measures be implemented so that there is an improvement in staff competence in the medium term.	Repeated				
The AEITI MSG should follow up why Ghazanfar Investments Limited was incorrectly omitted from the MOMP list					

8.2 CURRENT RECOMMENDATIONS

The areas identified in the previous report require further progress, and accordingly the recommendations from the last report are repeated. We have incorporated a suggested timescale for addressing each area.

In general, some difficulty was experienced in obtaining the information required for the EITI report, both at the scoping stage and for financial and production reporting. In order to achieve greater transparency, improvement of the record keeping and systems used by government departments is identified as the first step. It is recognised that capacity building and staff training will need to be undertaken in parallel, in order to obtain the benefit from improved systems.

We would in addition amplify comment on one area requiring sustained improvement, namely assurance over government and company reporting.

8.2.1 ASSURANCE OVER GOVERNMENT REPORTING

The Afghan SAO is now re-admitted to membership of INTOSAI and is working with an international firm of accountants and auditors to rebuild the capacity of CAO staff under a project approved by the Transitional Government of Afghanistan and funded by the World Bank.

8.2.1.1 *Recommendation on SAO capacity building*

We recommend that the strengthening of the SAO and training of its staff is continued, and that the importance of its role within Afghanistan is maintained.

8.2.1.2 *Recommendation on SOE*

We recommend that the SAO should conduct its audit of SOEs under International Standards on Auditing and should express an opinion on the accounts. As an alternative, the SAO should engage a suitably qualified independent firm to conduct the audit under these standards; and the government should, if necessary, pass legislation enabling appointment of an independent auditor for this purpose.

8.2.2 ASSURANCE OVER COMPANY REPORTING

The requirements for audit vary:-

- there is no requirement in law for company accounts to be audited.
- the Amu Darya PSC requires that the Contractor (CNCPI-Watan Oil and Gas Afghanistan Ltd) should produce accounts audited by an independent chartered accountant or certified public accountant, although the audit standards to be used are not specified
- the English summaries of the EPSCs for the Sanduqli and Mazar-i-Sharif blocks make no reference to audit

There is no professional body in Afghanistan to set accountancy or audit standards and there are few trained accountants in companies.

It is important that standards are improved in the private sector so that greater assurance is available on figures reported for EITI, and for other purposes.

In a country where there are few qualified auditors, it may appear difficult to legislate that audits are carried. However, in an environment where audits are not required, there is no need for qualified auditors to practise.

8.2.2.1 Recommendation on PSC requirements

We recommend that government should include a provision in all PSCs and EPSCs that an annual audit should be conducted within 12 months of the Contractor's year end by an independent chartered accountant or certified public accountant, using international standards on auditing.

8.2.2.2 Recommendation on legislation

We further recommend that the government should introduce legislation requiring all major extractive companies (major to be defined by reference to a suitable metric – e.g. annual turnover) to produce annually accounts audited by an independent chartered accountant or certified public accountant, using international standards on auditing; and to assign responsibility to a government body – e.g. the SAO – to receive these accounts and follow up late reporting companies.

The MSG should convey these recommendations to government through the MOF EITI Champion and should follow up on the government response and progress, to be reported in the next EITI report.