



## Mining in Afghanistan: Guide to Conducting Business and Ensuring Compliance

A recent study released by the U.S. Geological Survey and Afghanistan's Ministry of Mines and Industry estimates that Afghanistan's natural reserves have the potential to produce over 1.6 billion barrels of oil over 15 trillion cubic feet of natural gas in the near term<sup>1</sup>. Furthermore, Afghanistan contains significant deposits of precious and semi-precious stones, including emerald, jade, lapis lazuli, ruby, sapphire, alabaster, quartz and tourmaline.<sup>2</sup> Given the likely magnitude of these reserves, companies with industry expertise may find investing in Afghanistan's natural resources a highly attractive business venture.

The U.S. Department of Commerce promotes trade and investment in Afghanistan by providing guidance and strategic direction to businesses pursuing investment opportunities. As such, this guide is intended to aid companies in ensuring compliance with the 2005 Minerals Law of Afghanistan, the primary source of legal guidance within the hydrocarbon and mineral industries.

### **Ministry of Mines and Industry**

While all minerals within Afghanistan are property of the state<sup>3</sup>, Afghanistan's new Minerals Law enables individuals and companies to extract natural resources for economic benefit. Afghanistan's Ministry of Mines and Industry possesses jurisdiction over Afghanistan's land and natural resources and regulates all minerals-related activities. The Ministry also formulates and implements mining policies, classifies various minerals and mineral sources for regulatory purposes, grants licenses, issues and execute contracts, and assess fees.

### **Ministry Structure**

Within the Ministry, there are four primary bodies each with varying functions:

- (1) The Mining Cadastre, which issues mining rights, registers applications, assesses and collects contract and surface right fees, evaluates technical and environmental impact assessments, and serves as the Ministry's interface with outside investors

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1 *Scientists Find Bigger Oil and Gas Reserves in Afghanistan*, USA Today online. Published 3/14/2006. [http://www.usatoday.com/tech/science/2006-03-14-afghan-oil\\_x.ht](http://www.usatoday.com/tech/science/2006-03-14-afghan-oil_x.ht)

2 *Foreign Direct Investment Magazine, Great Prospects*. [http://www.fdimagazine.com/news/fullstory.php/aid/1285/Great\\_prospects.html](http://www.fdimagazine.com/news/fullstory.php/aid/1285/Great_prospects.html)

3 *Afghanistan, 2006*, Published by Mining Communications Ltd. [www.mining-journal.com](http://www.mining-journal.com)



## **Ministry Structure** continued

- (2) The Mining Inspectorate, which oversees mine safety, monitors compliance, and compiles statistics on production and sales
- (3) The Geological Survey, which conducts regular assessments and studies and maintains databases
- (4) Environmental Protection Department, which oversees compliance with environmental regulation and coordination with other similar state agencies

## **Mining Rights**

The Ministry of Mines and Industry (MMI) issues two types of mining rights -- licenses and authorizations. Licenses and authorizations govern the scope and extent of an entity's rights over mines and minerals for both production and exploration activities. Generally,

- (1) Authorizations govern the scope of quarry operations and construction minerals
- (2) Licenses govern activities relating to the exploration and excavation of minerals, ornamental stones and gems

The following chart provides a summary of the key differences between authorizations and licenses and relevant information on their applicability.



**Mining Authorizations and Licenses Comparison:** Authorizations and licenses also vary in their scope. These key differences can be summarized as follows:

	<b>Authorizations</b>	<b>Licenses</b>
<b>Purpose</b>	Issued for quarry and construction minerals	Issued for minerals, industrial minerals, ornamental stones and gems,
<b>Types</b>	<ul style="list-style-type: none"> <li>(1) Temporary quarry exploitation</li> <li>(2) Permanent quarry exploitation</li> <li>(3) Tailings exploitation</li> <li>(4) Artisanal exploitation</li> <li>(5) For the treatment, processing, transformation, transportation or trading of minerals</li> </ul>	<ul style="list-style-type: none"> <li>(1) Exploration</li> <li>(2) Exploitation               <ul style="list-style-type: none"> <li>a. Standard</li> <li>b. Small-scale</li> </ul> </li> </ul>
<b>Method of Issuance</b>	Public tender	Public tender
<b>Eligibility</b>	Any Afghan citizen over age 18, legal foreign resident, or foreign entity registered with the State to conduct business	Any Afghan citizen over age 18, legal foreign resident, or foreign entity registered with the State to conduct business
<b>Rights</b>	<p>Only Afghan citizens may conduct artisanal exploitation. Does not grant holders legal ownership claim to the licensed land</p> <p>Quarry exploration and artisanal exploration authorization holders may sell and export any excavated minerals freely</p>	<p>Does not grant holders legal ownership claim to the licensed land</p> <p>Exploitation licenses grant holders the following:</p> <ul style="list-style-type: none"> <li>a. Right to build infrastructure</li> <li>b. Right to possess, sell or trade any discovered minerals or natural substances</li> </ul> <p>They do <b>not</b> grant the holder the right to excavate any discovered materials. However, holders of exploration licenses are granted the automatic right to obtain an exploitation license upon discovery of mineral resources.</p>
<b>Length of Issuance</b>	<p>Artisanal authorizations are issued for two years, renewable indefinitely for two year periods</p> <p>Quarry exploration authorizations are issued for six months and may be renewed in six month increments for two years; upon each subsequent renewal, the total licensed surface area is reduced by 25%.</p> <p>Permanent quarry exploitation authorizations are issued for ten years and may be renewed in consecutive periods of five years until mineral resources are fully extracted</p> <p>Temporary quarry exploitation authorizations are issued for no more than two years from the date of registration and are not renewable.</p> <p>Artisanal exploitation authorizations are issued in two year increments and may be renewed indefinitely in two year time periods</p>	<p>Exploration license are issued for three years and may be renewed in two consecutive periods of three years each;</p> <p>Standard exploitation licenses are issued for a maximum thirty year period and may be renewed in consecutive five year periods until mineral resources are fully extracted</p> <p>Small-scale licenses are issued for a maximum ten years total, and may be converted into regular licenses</p>



### **Additional Requirements:**

Individuals or companies interested in obtaining exploration licenses must also abide by the following guidelines:

1. Submit and obtain approval of a Mitigation and Rehabilitation Plan (MRP) to the Environmental Protection Department
2. Engage in practices in accordance with labor, health standards, human rights, water, and environmental and affected communities protection
3. Submit current budget, work, minimum annual spending, and protection of affected communities plans to the Mining Inspectorate
4. Maintain and submit accurate records of all activities conducted within the licensed area to the Geological Survey

Applicants for exploitation licenses must submit:

1. Evidence of financial stability
2. Submitted feasibility study
3. Submission of an Environmental Impact Assessment (EIA) including information on social impact social impact assessment, and
4. Submission of an Environmental Management Plan (EMP)

As of September, 2008, the Afghan Ministry of Mines and Industry had not ratified its implementing Mining Regulations. Once passed, these regulations may provide more clarification and transparency to the regulations affecting the Minerals law. As such, companies are advised to seek appropriate legal counsel when entering into contractual obligations within Afghanistan.

For additional information on investing in Afghanistan's minerals and natural resources, please visit the following sources:

- U.S. Geological Survey page-provides a summary of initiatives in Afghanistan: <http://afghanistan.cr.usgs.gov/>
- Results of recent geological surveys completed by the U.S. Geological Survey, Naval Research Laboratory, Defense Department's Reconstruction Office (ARO) and Afghanistan's Ministry of Mines and Industries: <http://afghanistan.cr.usgs.gov/airborne.php>
- The Afghanistan Investment and Reconstruction Task Force, [www.trade.gov/afghanistan](http://www.trade.gov/afghanistan)
- U.S. Trade and Development Agency-funded definitional mission report: [http://trade.gov/static/afghanistan\\_oilgasreport.pdf](http://trade.gov/static/afghanistan_oilgasreport.pdf)



## Appendix One

### Overview of the Natural Resource Deposits in Afghanistan

## Estimated Annual Current Production (Consumption) of Selected Mineral Products

Commodity	Estimated Production (Consumption)	Market Price (\$US/Unit)	Estimated Current Value \$US m1n	Comments
Coal (metric tones)	140,000	44-77	10.1	Official and free market price
Salt, kilograms	(54,000,000)	0.40	21.6	Estimated consumption
Gravels, M3	2,702,840	10-19	41.0	
Sand, M3	500,000	30	15.0	
Gemstones			2.8	
<b>Total</b>			<b>90.5</b>	

*Source:* Securing Afghanistan's Future: Accomplishments and Strategic Path Forward (World Bank, 2004). Mining Sector Technical Annex, pg. 5 bank staff Estimates.



## Appendix Two

### Selected Mineral Commodities Production and Price Estimates

Commodity	2002 Declared Production	Estimated Production (2003)	Market Price (\$US/unit)	Est. Current Value \$US '000	Comments
<i>Undergraduate</i>					
Coal (metric tons)	22,000	30,000	44	1,320	Reserved for government workers
Salt (kg)	15,000	54,000,000	0.40	21,600	Annual consumption
Sand 1 M3		500,000	30-36	15,000	Retail price, general construction
Gravel, other 1 M3	134	500,000	12	6,000	General construction
Gemstones				2,750	
			<b>Total Estimated Value</b>	46,670	

*Source:* Securing Afghanistan's Future: Accomplishments and Strategic Path Forward (World Bank, 2004). Mining Sector Technical Annex, pg. 61 bank staff Estimates.



## Appendix Three

### General Information on Afghanistan's Natural Resources

Commodity	Estimated Reserves	Other Information
Coal	+/- 70 million tons	Most deposits are of the hard coal variety and are located between Herat and Badashkan
Salt		Afghanistan imports most salt from Pakistan and Iran; sizeable deposits are located in Herat and Balkh Provinces. Avg. gross consumption is 54,000 tons per annum.
Gravel, construction and industrial materials		Deposits include limestone, marble, sand, gravel and clay. Quarrying occurs predominately in Badakshan, Kabul and Kandahar
Gemstones		Afghanistan is one of the richest countries in the world for various gems, including emeralds, lapis lazuli, aquamarine, kunzite, rubies, tourmaline, spinals. 2002 Estimated production: emeralds: 2,00,
Gold	20-25 metric tons	Samti deposit, located near the Panj River Valley, is estimated to hold deposits of 20-25 metric tons of gold.
Iron Ore	1700 tibs	Hajigak deposit in Bamyān Province is Afghanistan's best known iron ore deposit; in 2008 the Ministry of Mines was reportedly seeking investors to further explore and extract this deposit
Oil/Natural Gas	Undiscovered petroleum: 1,596 Mbbl crude; 444 Billion cubic meters natural gas; 562 Mbbl natural gas liquids	Most of the undiscovered crude oil occurs in the Afghan-Tajik basin; most of the undiscovered natural gas occurs in the Amu Darya basin.

*Source:* U.S. Geological Survey Minerals Yearbook-2006. Securing Afghanistan's Future: Accomplishments and Strategic Path Forward (World Bank, 2004). Mining Sector Technical Annex, pg.63-64.