

Islamic Republic of Afghanistan

**Ministry of Mines
Directorate of Policy**

Industrial Minerals Policy

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ACRONYMS

AGS	Afghanistan Geological Survey
MOCI	Ministry of Commerce and Industries
MOF	Ministry of Finance
MOM	Ministry of Mines
NEPA	National Environmental Protection Agency
MoLSAMD	Ministry of Labor Social affairs Martyrs and Disabled
IDLG	Independent Directorate of Local Government
IMC	Inter Ministerial Committee
EISA	Environmental Impact and Social Assessment
EMP	Environmental Management Plan
ANSA	Afghanistan National Standards Authority
ASM	Artisanal and Small scale Mining

DEFINITIONS

Artisanal and Small scale Mining: artisanal and small-scale mining refers to mining by individuals, groups, families or cooperatives with minimal or no mechanization, often in the informal (illegal) sector of the market.

Illegal Mining: The absence of land rights, mining license, exploration or mineral transportation permits or of any document that could legitimate the on-going operations.

Exploitation: Any activity by means of which pre-production development and extraction of minerals takes place from an identified deposit by means of surface (open pit) and/or underground operations from a Deposit or an Artificial Deposit for its processing, using or selling.

Exploration: An activity carried out to discover minerals in order to demarcate the quality and quantity of the reserves contained within it, or to evaluate the possibilities of its exploitation.

Environmental Management Plan: means to describe the program and work plan in connection to the environment and the society, and to eliminate its negative impacts during the working period of the project and to reduce and or compensate the resultant damages in case of negative impacts; to ensure the benefits to local communities and rehabilitation of the mine sites.

Health and Safety Plan: means a description of the potential health and safety hazards for any project based upon the specific activities being or to be carried out. The response plan for such hazards are designed and implemented through provision of technically appropriate equipment, better implementation of relevant measures, and adoption of accurate methods.

Processing: means ore dressing or metallurgical processes applied to ore or other Mineral Substances which results in obtaining of products for sale including crushing, concentration, beneficiation, washing, and refining.

Associated and non-associated Minerals: means other minerals or mineral substances that are obtained during the studies, exploitation or process of the main minerals.

1. Preamble

Afghanistan is host to vast industrial mineral resources which are extracted on both small scale and large scale, industrial minerals which are extracted on small scale include clays, gemstone minerals (corundum, garnet, and tourmaline etc), limestone, gypsum, mica, salt, talc and magnesite etc, while other industrial minerals which can be extracted on large scale include asbestos, barite, carbonatite, fluorite, graphite, kaolinite, ilmenite, phosphate, quartz, sodium bicarbonate, sulfur and so on. The Industrial minerals sector is easily recognized as one of the most important sectors of an industrialized economy. Industrial minerals are valuable natural resources being finite and non-renewable. They constitute the vital raw materials for many basic industries and are a major resource for development. Management of industrial mineral resources has, therefore, to be closely integrated with the overall strategy of development; and exploitation of minerals is to be guided by long-term national goals and perspectives.

The core functions of the State in industrial minerals will be to encourage, facilitate and regulate exploration, mining and quarrying activities of investors and entrepreneurs, provision of infrastructure and tax collection The State reserves the right to treat mines and quarries that might have strategic importance differently.

2. Objectives of this Policy

The objective of this policy is to develop industrial mineral resources taking into account the national and strategic considerations and to ensure their adequate supply and best use keeping in view the present needs and future requirements, to promote necessary linkages for smooth and uninterrupted development of the mineral industry for the purpose of domestic use and export , to promote research and development in industrial minerals, to ensure establishment of appropriate educational and training facilities for human resource development , to minimize adverse effects of industrial mineral development on , environment through appropriate protective measures and to ensure health and safety of all concerned.

3. Legal and Regulatory Framework

Pursuant to the Afghan constitution and Afghan Mining Law all naturally occurring minerals and artificial deposits of minerals on surface or subsurface of the territory of Afghanistan or in its water courses are the exclusive property of the state. Mineral/Quarry operations will be conducted in Afghanistan either by the state or the authorized individual or company who have obtained license from Ministry of Mines. A license holder can do mining/quarrying activities and have control over the minerals and minerals substance produced. Mining contracts for large-scale industrial minerals shall be implemented upon the approval of the Inter- Ministerial Council.

4. Key Institutional Players

The following government organizations are responsible for the administration, oversight, regulation, fiscal management, revenue collection, environmental management, human resource development, beneficiation, trade and contract evaluation of the industrial minerals resources.

- Ministry of Mines (MoM)
- Ministry of Commerce and Industries (MOCI)
- Ministry of Finance (MoF)
- National Environmental Protection Agency (NEPA)
- Ministry of Labor and Social Affairs, Martyrs and Disabled (MoLSAMD)
- Independent Directorate of Local Government (IDLG)
- Inter-Ministerial Committee (IMC)

5. Survey, Prospection and Exploration for Industrial Minerals

The Afghanistan Geological Survey is the principal agency for geological mapping and regional industrial mineral resources assessment of the country and shall be responsible

for drawing up action oriented plans in close co-operation with all other agencies engaged in this task. Private sector would in future be the main source to conduct exploration. The AGS will continue its exploration and survey tasks in areas where private sector investment is not forthcoming.

Particular attention will be given to the survey and exploration of industrial minerals in which the country has a competitive advantage and/or has rich reserves.

6. Exploitation

The exploitation of industrial mineral resources in Afghanistan shall be conducted by legally-licensed operators that are in compliance with the terms and conditions of their mining and quarrying license, lease, permits and/or contract. Exploitation activities shall proceed with legally-required permits and certifications issued by the relevant Laws of Afghanistan that include but are not limited to the Mining Laws and regulations, and The Environmental Law. Environmental and social safeguards apply to such mines and quarries, as do legal requirements for the payment of taxes and applicable royalties.

7. Processing and Value Addition

The government of Afghanistan is committed to encourage initiatives for value addition to raw materials as it seeks to increase its competitiveness on the international marketplace. The government is committed to encourage innovation in the value added process.

Government will continue to support research with a view to developing new or improved beneficiation techniques and to developing new applications for locally produced industrial mineral products. Government will provide access to capital and / or financial resources for research and training programs in order to produce the necessary skilled manpower required for industrial mineral beneficiation development. The Government supports full, fair and complete transfer of information, knowledge and technology in support of the sector. There shall be co-operation between and co-ordination among all organizations in public and private sector engaged in mineral processing and beneficiation task.

8. Foreign Trade.

Industrial minerals continue to be an important source of foreign exchange earnings. The policy of export shall keep in view the mineral inventory position and the long term needs of the country. Efforts shall be made to export industrial minerals in value added form as far as possible. The indigenous industrial mineral industry shall be attuned to the international economic situation in order to derive maximum advantage from foreign trade by carefully anticipating technology and demand changes in the international market for industrial minerals.

9. Protection of Investments.

Government seeks to provide a fair and balanced fiscal and regulatory regime. In accordance with the Laws of Afghanistan the Government shall protect industrial minerals sector investments and shall apply all laws equally and fairly to all national and international registered companies. Government ensures security of tenure, management and ownership control for all industrial minerals companies operating in accordance with the Laws of Afghanistan.

This Policy recognizes that for international investors repatriation (return of foreign-earned profits or financial assets back to a company's home country) of capital and profits is an important factor for investment profitability.. This Policy does not support the imposition of barriers that will prevent repatriation of capital and/or profits. However, reporting of investor capital and profits shall be guided by the laws of Afghanistan that detail requirements to be met in order to repatriate capital and/or profits.

Industrial minerals mining or quarrying operators will be allowed to insure their assets and risks with national and/or international insurance companies.

In accordance with the Investment Laws of Afghanistan, the State can expropriate an Investment or the assets of a Registered Enterprise only for the purpose of public interest, based on a law permitting such expropriation, and on a non-discriminatory basis. The State shall provide prompt, adequate and effective compensation in conformity with principles of international law, equivalent to the fair market value of the expropriated Investment or assets immediately before the expropriating action was taken.

10. Research and Development

Research and development in the industrial minerals sector has to cover the entire range of activities from geological survey, exploration, mining and quarrying, health and safety, processing, market evaluation and trade practices. As a result of these research and development efforts, modern technology and safe mining and quarrying methods will be introduced to this industry.

Government encourages the development of domestic-based production of equipment, machinery, supplies and materials for mine and quarry operations. Indigenous industry for manufacture of mining/quarrying equipment and machinery shall be strengthened. Imports of machinery and equipment shall be permitted to improve the efficiency, productivity and economics of mining/quarrying operations and safety and health of persons in the mines/quarries and the surrounding areas. Research and development shall be oriented to ensure maximum economic recovery of the associated minerals.

11. Technical Operations

In accordance with Mining Regulations, prior to mining or quarrying, each mine or quarry developer shall prepare and submit a Mine Development Plan, Mine Closure Plan, Health and Safety Plan and Environmental Impact and Social Assessment to the MoM and NEPA to avoid or mitigate future social and environmental damages. The Environmental Management Plan (EMP) will be updated every year for review and approval by the Ministry of Mines and NEPA.

12. Financial Aspects

All industrial minerals operators in Afghanistan will be responsible for the timely payment of applicable business, rental, royalties and other taxes. The Government is committed to the development of a competitive royalty regime. Industrial minerals companies may take advantage of existing tax and other fiscal benefits applicable to qualified extractive industry operations. Fees and penalties relevant to industrial minerals in Afghanistan shall be detailed in procedures of the relevant Government agencies.

The Government seeks to optimize financial return generated from mining and Quarry operations in Afghanistan. The Government will work with the investor to ensure that on an overall basis the agreement terms yield a level of financial return to the industrial minerals company that is commensurate with the risk of the investment while safeguarding resources and employment opportunities for Afghan citizens.

This policy advocates financial support from financial institutions to all licensed small scale mining and quarrying operators. Arrangements should be made available so that microfinance loans will be provided to small scale miners in the sector.

13. Protection of Environment

Extraction and development of minerals are closely interlinked with other natural resources like land, water, air and forest. The areas in which minerals occur often have other resources presenting a choice of utilization of the resources. Some such areas are ecologically fragile and some are biologically rich. It is necessary to take comprehensive view to facilitate the choice or order of land use keeping in view the needs of development as well as needs of protecting the forests, environment and ecology. Both aspects have to be properly coordinated to facilitate and ensure a sustainable development of mineral resources in harmony with environment.

Mining operations shall not ordinarily be taken up in identified ecologically fragile and biologically rich areas. Surface mining in forest areas should be conducted with high level of care and responsibilities. . No mining/quarrying lease would be granted to any party, private or public, without a proper mining plan including the environmental management plan approved and enforced by statutory authorities. The environmental management plan should adequately provide for controlling surface disturbance, restoration of mined areas and for planting of trees according to the prescribed norms. As far as possible, reclamation and afforestation will proceed concurrently with mineral extraction. Efforts would be made to convert old disused mining sites into forests and other appropriate forms of land use.

14. Occupational Health and Safety

In the field of occupational health and safety, government of Afghanistan is committed for updating of legislation, institutional strengthening and training of personnel. The government is committed to have basic safety principles for open cast or underground mining operations, these need to be adjusted for each operation to address the following aspects (i) prevention, protection, safety, security and health in the mines/quarries and action plans for emergency situations (ii) transportation, employment and storage of explosives and detonators (iii) obligation and frequency of medical examinations for mineworkers and (iv) adequate protection for people living in the areas surrounding operating mines. Afghanistan National Standards Authority (ANSA) in coordination with MoM shall develop health and safety standards for industrial minerals operations. The Ministry of Mines will be responsible for the oversight and implementation of these regulations and procedures, in the instance of violations, penalties will be assessed.

15. Restoration of Mining Areas and Relief for Affected Communities

Mineral deposits are finite and once the process of economic extraction is completed, restoration of the affected surface area is necessary. Further, the surrounding communities who depend upon the mining operations for their income must be assisted during mine closure operations. The mine operator must therefore prepare a plan for the orderly and systematic restoration of the areas affected by the mining and processing operations and work with local community groups to assist (including financial grants) in the conversion of the affected workers to other occupations or the relocation to other areas where economic opportunities are available.

16. Dispute Resolution

Disputes arising under or in connection with industrial minerals shall be resolved in the manner provided by law, regulations and procedures. However, nothing in these legal acts shall prevent or limit the informal resolution of disputes between the Ministry of Mines and other party or parties by discussion, negotiation, or other informal means. Where dispute resolution is not possible, a court of law will be addressed as a matter of last resort.

17. Effectiveness of Industrial Minerals Policy

This Policy is effective as of its approval by the Cabinet and is deemed to be the foundation document on which the Afghanistan industrial minerals sector will operate and from which relevant legal and regulatory acts may be developed. The policy shall be reviewed from time to time by Ministry of Mines to take the cognizance of changes in the standards, technology, market and any other matter that may arise from its implementation.