

Islamic Republic of Afghanistan

Ministry of Mines

Directorate of Policy

Rare Earth Elements and Metals Policy

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1. Preamble

Afghanistan, due to its complex geological structure, is host to a large number of minerals and hydrocarbons. It was only recently that the Government has decided to develop its mining sector with an aim of economic growth, alleviation of poverty and creation of employment opportunities. There are large and economic deposits of Rare Earth Elements and Metals (REEM) in the country as well. In developing its REEM resources the Government seeks to diversify mining investments in terms of source of investment and technology in order to avoid future dependence.

Rare Earth Elements (includes the 15 lanthanum, lutetium and scandium elements) and Metals (critical metals such as lithium, cobalt et cetera), due to considerable increase in their usage in different technologies, lack of active mines, policy of the major exporting countries, have become economically and strategically important for the economic growth. It is Government's objective to develop its REEM resources in a manner that will satisfy country's development needs but also establish the country as a competitive and reliable producer and exporter of REEM in the world.

The Role of the State in REEM mining will be facilitation and regulation of investment in the sector that will support exploration, exploitation, concentration process, smelting and refining processes in the country. Through the relevant ministries such as Mines, Commerce, Finance and others, the State shall promote good governance and transparency in how the REEM mining and the related industries are managed, revenue generated and social and environmental protections are in place.

2. Objective

The objective of this policy is to develop REEM resources taking into account their national and strategic importance, in order 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 REEM industry for the purpose of domestic use and export, to promote research and development, to ensure establishment of appropriate educational and training facilities for human resource development, to minimize adverse effects of REEM sector development on environment through appropriate protective measures and to ensure health and safety of all concerned.

3. Legal and Regulatory Framework

The Afghan constitution and Afghan Mining Law state that 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 property of the state. All the legal and regulatory provisions provided in the National Mining policy, Environmental and Social Policies for the mining sector, Minerals Law, mining regulations and their amendments are applicable to the REEM mining policy. Mining operations will be conducted in Afghanistan either by the state or the licensed individual or company/ies. and they can have control over the minerals and minerals substance produced.

4. Key Institutional Players

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

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

As deemed necessary, the Government may establish, strengthened and/or restructure existing institutions in order to contribute to sound development of the REEM sector.

5. Survey, Exploration and Exploitation

Due to strategic importance of the RREMs, limited bidding process will be used to invite a specific number of companies to participate in the process. This is to avoid the deposits from going to into wrong hands and to avoid from the awarded deposits that are not explored.

The Afghanistan Geological Survey is the principal agency for geological mapping and resources assessment of the country. Though private sector would in future be the main source of exploration activities, the AGS will continue its exploration and survey in areas where private sector investment is not forthcoming. Particular attention will be given to the survey and exploration of REEM in which the country has a competitive advantage and/or has rich reserves.

The exploitation of REEM ore deposits shall only be conducted by legally licensed operators that are in compliance with the terms and conditions of their mining license. All exploitation activities shall be conducted in accordance with approved mine plans and shall not proceed without legally required permits issued by the relevant Government authorities. This policy strictly prohibits the illegal mining of REEM deposits in Afghanistan. Where illegal mining is discovered, appropriate legal action shall be taken.

6. Value Addition and Process

The government encourages and emphasizes on maximum value addition of minerals within the country through establishment of downstream and side stream industries. The definition of value addition within a minerals industry context does not necessarily imply the transformation of a product into finished goods. These initiatives should be market-driven, based on the comparative advantage of the country. Local value addition does not only help in terms of job creation but also provides benefits for the private sector through increased competitive differentiation, reduced cost of exports, increased export revenues and sustainability.

7. Protection of Investment

The Government facilitates full and fair leasing rights and rights of way to land at which REEM deposits are located. Afghan and foreign investor shall be permitted to freely transfer out of Afghanistan without unreasonable delay distributions received from: a registered enterprise, foreign investment capital, profits associated with foreign investment, principal and other payments of foreign loans, in whatever foreign currency the foreign investor chooses at the prevailing exchange rate for that currency. In accordance with the Investment Law of Afghanistan, the State can expropriate an investment or the assets of a Registered Enterprise for the purpose of public interest and shall provide prompt, adequate and effective compensation at the market rate to the enterprise immediately after the expropriating

action was taken. 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.

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 similarly situated registered companies whether they have foreign equity ownership or not. Government ensures security of tenure, management and ownership control for all mining companies operating in accordance with the Laws of Afghanistan.

Mining operators are required to insure their employees and assets with national and/or international insurance companies.

8. Technical Operations

In accordance with Mining Regulations, prior to mining, each mine developers 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.

As part of any exploration or exploitation License, state, quasi-state and private mining companies will be required to provide Mine Exploitation Plans to the Ministry of Mines prior to commencement of operations. Details to be included in the Mine Exploitation Plan will be provided in the Ministry of Mines procedures.

Government supports the adoption of modern technology for REEM ores mining and the related industry that results in environmental protection and efficient and safe mining operations. This Policy supports the upgrading of scientific and technical research and development facilities in the country. A plan for proposed technology and equipment will be included in each Mine Plan. In the instance this plan is violated, the Ministry of Mines will have regulatory enforcement power to impose penalties.

9. Financial Aspects

All REEM mine operators in Afghanistan will be responsible for the timely payment of applicable royalties, business, rental, and other taxes. The Government is committed to the development of a competitive royalty regime. Mining 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.

10. Environmental and Social Responsibility

The development of REEM industry is essential for economic development but is also known to cause adverse environmental changes due to production and release of harmful wastes, acidic water drainage, effluents, toxic by-products into the environment and excess use of energy and other resource.

The National Environmental Protection Agency (NEPA) of Afghanistan is central to the formulation and implementation of relevant principles and guidelines and in this regard. Specific environmental protection guidelines for REEM mining will be formulated jointly by the NEPA and the MoM.

Mining operations shall not ordinarily be taken up in identified ecologically fragile and biologically rich areas. No mining 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. As far as possible, reclamation and afforestation will proceed concurrently.

No significant mineral operation will be permitted without a social impact assessment having been conducted, evaluated and approved by the relevant government organizations. Plans for managing environmental and social impacts must be incorporated into the assessment reports. These must, right from the inception of the operation, include plans for redressing physical impacts upon closure of the mine as well as for sustaining community livelihoods thereafter. The conduct of impact assessments must involve early consultation with the potentially affected public and open hearings should constitute a part of the evaluation.

11. Health and Safety

The REEM mining companies shall obey all the provisions of labor law, health and safety regulations and policies issued by MoLSAMD and MoM. The health and safety of workers engaged in REEM mining operations is a priority for the Government. The Inspectorate will maintain a qualified staff of mine safety inspectors who will conduct regular mine visits as well as spot checks. These Inspectors have the authority to implement penalties for health and safety violations as guided by the mining regulatory framework. Each employee is responsible for their own welfare and that of their fellow employee. Accident prevention is the responsibility of every employee. Afghanistan National Standards Authority (ANSA) and MoM will jointly prepare health and safety standards.

12. Dispute Resolution

Disputes arising in connection with REEM mining operations 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 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.

13. Research and Development

The Government recognizes the importance of research and development. Educational institutions and the Ministry of Mines with the cooperation of the international institutions will make it a specific part of their mandates to promote and encourage investigation into various issues of relevant industry. Areas of particular interest may include but shall not be limited to geological surveys to explore new areas, promotion of exploitation techniques, the utilization of waste from metals operations, the manufacture of value-added mineral-based products, the manufacture of aggregates for special applications, recycling and marketing and promotion. The Government encourages technology transfer and the sharing of knowledge throughout the industry.

14. Human Resource Development

The government shall constantly review and upgrade existing facilities and the syllabus for basic and specialized training to ensure that adequately trained manpower at all levels is available for the

mining sector. The Government in collaboration with mining companies shall provide capacity development, training and the development of local technology within the public and private sector. They shall provide specific and dedicated facilities to train persons for the industry. The mine operators shall also provide on the job training for their employees. The government of Afghanistan strongly advocates the employment of Afghan labor force in mining operations

15. Effectiveness of the Policy

Metals Policy is effective as of its approval by the Cabinet and is deemed to be the foundation document on which the Afghanistan REEM Mining 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 cognizance of changes in standards, technology, markets, and any other matters that may arise from its implementation.