

**Islamic Republic of Afghanistan
Ministry of Mines
Directorate of Policy**

National Coal policy

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ACRONYMS

AGS	Afghanistan Geological Survey
CBM	Coal Bed Methane
CCS	Carbon Capture and Storage
CTL	Coal to Liquid
EISA	Environmental Impact Social Assessment
EITI	Extractive Industry Transparency Initiative
EMP	Environmental Management Plan
IMC	Inter-Ministerial Commission
LTO	Large Taxpayers Office
MCC	Metallurgical Corporation of China
MOCI	Ministry of Commerce and Industries
MOF	Ministry of Finance
MOM	Ministry of Mines
MSG	Multi-Stakeholder Group
NCE	Northern Coal Enterprise
NEPA	National Environmental Protection Agency
NRRCPP	National and Regional Resource Corridors Program
PPP	Public-Private Partnership
QEIT	Qualified Extractive Industries Taxpayer
SOE	State Owned Enterprise

DEFINITIONS

Beneficiation of Coal. This describes different processes to prepare a coal in order to meet a specific consumer demand. Samples of coal from the mine and the cores are taken to determine the type of treatment that must be performed. Special Preparation Plans perform the beneficiation process and are constructed close to mine. Three kinds of processes may be performed at the processing plants: (1) sizing, controlled by a crushing and screening process, (2) increasing the heating value of the coal, by removing noncombustible ash and rock, (3) removing or controlling undesirable mineral and chemical components (e.g., sulfur, sodium, and trace elements) In the past most coal preparation was concerned with reducing the amount of sulfur and ash in coal but today more sophisticated processes can do more.

Coal Basin. A large-scale structural formation in the form of rock strata formed by tectonic warping of previously flat areas called “strata”. Basins are geological basins – the inverse of domes. Some long basins are also known as “synclines”. Coal basins generally appear on geological maps as circular or elliptical with layers. The youngest coal is in the center of the basin. Coal basins are often large in area extent, often hundreds of kilometers across

Coal Deposit. An area where coal may be found. Coal deposits exist in nearly every region but economically exploitable deposits occur in Asia, Australia, Europe and North America.

Coal Mine. A definite area where excavation is made in the earth in order to extract coal.

Coal Property. An area where coal deposits exist, the coal deposits may be mined as the property owner owns the mineral rights and the area where the coal property exists is suitable for mining and there are not mining restrictions.

Coal Seam. A bed of coal where an areas coal thick enough to be mined.

Gasification. The conversion of coal into gas, especially the conversion of coal into natural gas.

Mine Effluent. The liquid drainage from coal mining operations that causes pollutants to water.

1. PREAMBLE

Afghanistan is host to vast coal resources, and the Afghan coal sector has been in operation for more than seventy years. Known coal deposits are located in the central, western and northern regions of Afghanistan. Coal plays an important role in fueling domestic industry and residential heating as well as for the export market. Presently, Afghanistan has no coal-fired power generation. The development of indigenous coal resources can directly improve Afghanistan's energy and power supply, mitigate energy and economic security risks that impact the country's political and social well-being, and create thousands of sustainable work places. Considerable opportunity exists for Afghan coal to supply domestic and export markets.

Government of Afghanistan is committed to the protection of all domestic and international investments in the sector through effective regulations and facilitation that support prospecting, exploration, mining, processing, and sale of coal within and outside of Afghanistan. The Role of the State in mining in Afghanistan will be facilitation and regulation of investment in the sector by domestic or international firms (including the State-owned Northern Coal Enterprise) that may support prospecting, exploration, exploitation, sale and processing of coal in and out of Afghanistan. The State shall promote good governance and transparency in how the Afghan mining sector is managed, revenue generation and social and environmental protections in place. Where possible, the State shall provide mine security. Where necessary, in partnership with mining companies, Government will work with mining companies to provide security within defined parameters and time frames so as to ensure safe access, transit, operations and enforcement of project boundaries.

2. OBJECTIVE

The objective of this Coal Policy is to provide a clear description of the priorities and practices supported by the Government of the Islamic Republic of Afghanistan in support of the Afghan coal sector and related activities. The Government seeks to develop the country's coal reserves in a strategic and systematic manner that will ensure the country's national wealth and long-term use of indigenous coal for electricity generation and industrial use. Government seeks to license several large-scale coal deposits to minerals' license holders in order to support those operations.

3. BASIC FEATURES OF THIS COAL POLICY

3.1 Market-oriented Coal Sector Development. This Policy supports the market-oriented development of the Afghan Coal Sector in order to ensure that coal operations are commercially based and do not rely on funding from the Government. Active measures that Government will take to ensure market-oriented operations shall include: competitive bidding of coal resources; market-based evaluation of tenders; equitable distribution of revenues; and transparent issuance of licenses, leases and project awards.

3.2 State and Private Operations. This National Coal Policy supports private coal mining ownership and investment that may include Afghan or international corporations, joint ventures, partnerships, sole proprietorships or any other legal structure allowed under Afghanistan law. Fully or partially-owned Government corporations are not precluded from coal mine ownership and/or investment. Government shall encourage technically and financially qualified and sound private investment in the sector.

3.3 Transparency. Government supports the transparent operation of coal companies through a regularized system of reporting and audit controls that will be implemented by the Ministry of Mines. As part of its support of transparent operations, Government will ensure surety of tenure and enforceable contract terms for all legitimate coal license holders and investors. Government is also committed to implementing the revenue monitoring of mine operations in accordance with the Extractive Industry Transparency Initiative (EITI).

3.4 Coal Sector Coordination. Government promotes the coordinated development of the coal industry and related mining and other industries. The construction of large-scale coal mining should be linked with conditions for water resources, transportation and electric power to enhance local industrial and economic development. In support of large-scale coal mining the Inter-Ministerial Committee will serve as a coordinating body among related institutions and will promote information exchange among key stakeholders.

3.5 Infrastructure Development. Government encourages the use of public private partnerships (PPP) to construct infrastructure that will support coal sector operations as well as broader regional development objectives.

3.6 Social and Environmental Protection. Government is committed to implementing the best international standards of social and environmental protection. Social and environmental policies and guidelines promulgated by the Ministry of Mines shall provide

detailed information and requirements for coal companies, coal communities and Government that ensure protection of Afghan citizens and their environment. The policies and standards have been developed based on the broader policy framework of National Environmental Protection Agency (NEPA) and Afghanistan National Standards Authority (ANSA).

4. LEGAL AND REGULATORY FRAMEWORK

4.1 Legal Basis. The Constitution of Afghanistan (Ch.1, Article 9) states “Mines, underground resources are properties of the state. Protection, use, management, and mode of utilization of the public properties shall be regulated by law.” The primary legislative basis for coal mine operations in Afghanistan is guided by the Mining Law including its amendments and regulatory provisions. As relevant, other laws of Afghanistan are applicable to coal mine operations. Lease rights and renewal of those rights may be awarded by the Ministry of Mines to coal companies in accordance with the Mining Law.

4.2 Regulatory Framework. The Regulatory Framework for the Afghan coal sector is being developed as part of the overall Mining Regulations.. Technical, financial, health and safety, environmental, and social regulations to support coal sector development are and will continue to be developed by the Ministry of Mines in coordination with relevant Government authorities. Technical standards for coal operations are to be prepared by the appropriate technical bodies. For power and related coal development regulations, those institutions charged with regulatory drafting will work in collaboration with appropriate Ministry of Mines’ departments to ensure a harmonized regulatory regime.

4.3 Procedures and Guidelines. The Ministry of Mines shall develop and issue relevant procedures and guidelines in support of the legal and regulatory framework for the Afghan mining sector.

5. KEY INSTITUTIONAL PLAYERS

5.1 Ministry of Mines (MoM). The Ministry of Mines is the primary government agency responsible for the administration, oversight and regulation of the “upstream” aspects (exploration and exploitation) of the coal mining sector. The MoM and its related departments will set forth the parameters of coal mining sector policy, relevant legal and regulatory frameworks, be responsible for the licensing, registration and inspection of coal

mines, revenue collection, geo-science data, and working with relevant government agencies to establish a clear fiscal and operating regime for the sector. The Ministry of Mines shall develop fair and reasonable royalty schemes for commercial mine production that are based on type of mine materials. The implementation, oversight and enforcement of royalties will be conducted by the Ministry of Mines.

5.2 Ministry of Finance (MoF). Responsible for the implementation of certain fiscal management and revenue collection functions relevant to the Afghan Mine Sector. Tax and Custom payment and filing requirements are the responsibility of the Ministry of Finance. Issues on temporarily or permanently importing mining equipment and re-exporting mining equipment (e.g., on lease) will require compliance with the Customs Office under the MoF.

5.3 National Environmental Protection Agency (NEPA). NEPA is responsible for the certification of coal mining operations in accordance with the Law on Environment and its supporting regulations. Coal mine operators will be responsible for reporting to NEPA in accordance with NEPA requirements on mining and for preparing environmental management plans as required by NEPA. No mine shall be permitted to operate without prior certification from NEPA.

5.4 Ministry of Commerce and Industries (MoCI). The Ministry of Commerce and Industries has a regulatory role relevant to various “downstream” aspects of mining that generally include but are not limited to processing, transformation, trade and export of mineral products that take place once the raw mine material has been mined.

5.5 Ministry of Labor and Social Affairs, Martyrs and Disabled (MoLSAMD). The Ministry of Labor, Social Affairs, Martyrs and Disabled (MoLSAMD) is mandated by the Government to regulate the labor market and provide the necessary and proper technical, educational and vocational training opportunities for the different sectors.

5.6 Inter-Ministerial Committee (IMC). The IMC is officially established by the Minerals Law to ensure broad-based oversight of extractive industry activities in Afghanistan as well as to inform various government players about the status of sector developments. IMC membership is legally prescribed: Ministry of Mines (Chair); Ministry of Finance (Vice Chair); Ministry of Economy (Member); Ministry of Commerce & Industries (Member); Ministry of Foreign Affairs (Member); Independent Directorate of Local Government (Member) and the National Environmental Protection Agency (Member).

5.7 New Mine Institutions. As may be deemed necessary, Government may establish and/or restructure existing institutions in order to contribute to capacity building and the sound development of the Afghan coal mining sector. Existing institutions may be strengthened by the National Government in the furtherance of sound development of Afghanistan's indigenous coal mining resources as well as imported mining materials.

6. SURVEY AND EXPLORATION OF AFGHAN COAL

The AGS is responsible for the survey of coal throughout the country. Where possible Government agencies will expend public funds primarily in areas where private investments are not forthcoming. Investors, public and private, will be expected in future be the main source of investment in reconnaissance and exploration of coal in Afghanistan.

7. EXPLOITATION OF AFGHAN COAL

The exploitation of coal resources in Afghanistan shall be conducted by legally-licensed operators that are in compliance with the terms and conditions of their mining 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 NEPA. State owned enterprises such as the Northern Coal Enterprise are not presently subject to licensing rules but the MoM will include licensing of SOE mines in future.

This policy strictly prohibits the illegal coal mining in Afghanistan. Where illegal mining is discovered appropriate legal action shall be taken to bring such operations into compliance with the Mining Law. All exploitation activities shall be conducted in accordance with geological maps and shall not proceed without legally required permits and certifications issued by the relevant Government authorities that include but are not limited to environment, social protection and health and safety.

8. SALE AND PROCESSING

The sale and processing of coal is solely the responsibility of the licensed coal mine operator. The Government strongly encourages the free and open sales of coal to traditional and new markets. The transport, processing or any other activity relevant to the disposal of coal or other mine materials after they have been mined is solely the responsibility of the licensed

mine operator or consumers of the mine materials and must be conducted in compliance with Government legal and regulatory requirements specific to these activities.

9. PROTECTION OF INVESTMENTS

9.1 Non-discriminatory Investment. Government seeks to provide a fair and balanced fiscal and regulatory regime. In accordance with the Laws of Afghanistan the Government shall protect mining 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 mine companies operating in accordance with the Laws of Afghanistan.

9.2 Repatriation of Capital and Profits. 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 and does not support strict profit repatriation legalities for mining and/or mine-related activities. 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. Repatriation does not reduce other legal requirements for tax, debt, and other contractual obligations.

9.3 Insurance. Investors in all coal mine sector operations and related activities will be required to insure any and all assets and risks including its manpower with national and/or international insurance companies.

9.4 Expropriation. 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. TECHNICAL OPERATIONS OF COAL MINES

10.1 Mine Plans. As part of any Exploitation License, state, quasi-state and private coal mining companies will be required to provide Mine Exploitation Plans to the Ministry of Mines prior to commencing operations. Details to be included in the Mine Exploitation Plan will be provided in the Ministry of Mines procedures. At a minimum the plans will include: GPS coordinates of mine boundaries, resource estimate, description of the mine and approach for its development, production projections, mine closure plans, Environmental Management Plan, Community Development Plan, Health and Safety Plan, and timeline for mining operations.

10.2 Health and Safety Plan. As part of the Mine Exploitation Plan, a Mine Health and Safety Plan shall be included for review by the Ministry of Mines. Upon approval of this Plan, the Mine Operator shall post the plan at the work site and ensure that workers are aware of the plan requirements. Content for the plan shall be detailed by the Ministry of Mines procedures.

10.3 Technology and Equipment Plans. Mine feasibility studies will be required to include plans for proposed technology and equipment as part of the mining plan for the coal mine operation. Coal mining may not begin until the Ministry of Mines has approved the Mine Plan. Any material changes to the Mine Plan must be indicated in writing to the Ministry of Mines, and are subject to review and approval; failure to notify the MoM of the amended Mine Plan may result in regulatory actions, including penalties.

10.3.1 Clean Coal Technology. This Policy encourages the use of clean coal technology wherever possible. In addition, this Policy strongly supports the use of new technologies where economically viable, e.g., to wash the coal, harness subsurface gas (i.e., methane) and/or to affect carbon capture and storage (CCS) and/or coal bed methane (CBM) removal.

10.3.2 Afghanistan Coal Equipment Manufacturing: This Policy encourages the development of coal production and related technology developments in Afghanistan. This includes but is not limited to the manufacturing of coal mining machinery, equipment, and supplies. Government encourages the adoption of modern technology that is suitable to Afghanistan coal conditions and will result in good environmental practices and efficient and safe coal mining. This Policy encourages the upgrading of scientific and technical

research and development facilities in-country in order to support the development of Afghanistan coal.

10.3.3 Coal Transport. The Government of Afghanistan has made a long-term commitment to infrastructure development through implementation of the National and Regional Resource Corridors Program. Through a combination of government funding and public-private partnerships, necessary infrastructure will be developed to support coal mining and related operations, including road and highway networks, railroads and related shipping facilities.

11. FINANCIAL ASPECTS

11.1 Financial Return of Operations. The Government seeks to maximize financial return generation from mining operations in Afghanistan. In negotiating coal contracts, the Government will work with the investor to ensure that on an overall basis the terms yield a level of financial return to the coal mining company that is commensurate with the risk of the investment while safeguarding resources and employment opportunities for Afghan citizens.

11.2 Tax Payments. As a matter of policy, coal mine companies and/or coal-fired power plant operators will not be encumbered with excessive taxes, fees and duties at the international, provincial or district border. All coal mining operators in Afghanistan will be responsible for the timely payment of applicable business, rental and other taxes. Where possible, coal mining companies may take advantage of existing tax system and other fiscal benefits applicable to qualified extractive industry operations.

11.3 Payment of Fees and Penalties. Fees and penalties relevant to coal mining in Afghanistan shall be detailed in procedures of the relevant Government agencies. Criminal provisions may be reasonably applied where a coal mine operator fails to comply with these procedures.

11.4 Royalty Payments. The Government is committed to the development of a competitive royalty regime. Mining companies operating in Afghanistan will be responsible for the timely payment of royalties. Offenders will be treated according to the law.

12. REPORTING REQUIREMENTS

The Ministry of Mines with the help of relevant Government agencies will prepare reporting requirements to be included in contracts for coal mining operations and related coal mine activities.

13. EQUIPMENT, MACHINERY AND SUPPLIES

13.1 Imports. This Policy encourages the importation of new technology, mining equipment, machinery and supplies that will improve the efficiency, safety and productivity of Afghan coal mines. Where possible, coal mining companies may take advantage of existing exemption in customs duties for the importation of new equipment and machinery. The Mining Regulations will provide guidance on the procedures to be followed.

13.2 Re-exporting of imported machinery, equipment and other coal and coal-related energy items. Where an exploration company, a coal mine company or coal-fired power operator has imported approved machinery, equipment, materials, specialized vehicles, accessories and/or other supplies on a temporary basis for time-based use, those items as approved by the appropriate National Government bodies may be repatriated (exported) out of Afghanistan as exempt from the levy of customs duty, sales tax and/or National excise duty (including special excise duty).

14. ENVIRONMENTAL AND SOCIAL MANAGEMENT OF COAL OPERATIONS

14.1 Environmental Impact and Social Assessment. In accordance with Laws of Afghanistan, Environmental Policy from the Ministry of Mines and NEPA and accepted international standards, an environmental management plan (EMP), environmental impact and social assessment (EISA) and other documents as may be required by the Ministry of Mines and NEPA must be conducted as part of any coal mine or coal-related industry activity as part of pre-feasibility and feasibility information. The EMP and EISA must be approved by MoM and NEPA before any mine or related mine activity may be commenced.

14.2 Social Aspects of Coal Sector Operations. This Policy supports best international practice of social responsibility in implementing coal sector and coal-related operations. In

accordance with the Laws of Afghanistan, Social Policy Guidelines from the Ministry of Mines and NEPA, and international standards, it is essential that each Mine Operator include as part of its Mine Plan the social aspects that will be addressed relevant to its operations and the proposed measures for addressing them. The Ministry of Mines will monitor and assess the social impacts of the coal and coal-related operations. Penalties will be imposed by the Ministry of Mines or an appointed agency operating under it, in accordance with its established regulations.

15. UTILIZATION OF COAL

This Coal Policy encourages the use of modern technology and supports the efficient and comprehensive use of Afghan coal resources for industry, heating, power, and other uses. In addition, mining principles of high efficiency, clean coal technology and full utilization should result in assessment of how coal mining by-products may be developed and enhanced for economic benefit. These may include but are not limited to: coal slag, above-ground and underground gas, production of coal-to-liquid (CTL), production of urea, and other associated resource development as well as water recycling.

15.1 Utilization of Mine Effluent. Where possible, this Policy supports the inclusion of water treatment plants as part of mine plans whereby (1) water is pumped away from the underground to prevent mine flooding and (2) water that has been used for processing, cooling or related activities may be treated for agricultural or other applications and/or to provide potable water.

15.2 Coal By-products. Coal mine operators will be required to include as part of their mine plans the proposed use, technologies and markets for any and all coal by-products generated as a result of their coal licenses. Where the coal by-products will not be used for a profit-bearing activity, the same plans for the environmentally safe removal and/or storage of the by-products as the coal will be clearly detailed and include a monitoring plan and regular reporting mechanism to the Ministry of Mines.

15.3 Mine and Mineral Elements. Where mine and/or minerals elements are discovered as part of a coal mine operation, those elements must be separately licensed by the Ministry of Mines if to be sold in raw or processed form by the mine operator.

16. INTEGRATED COAL MINE DEVELOPMENT

16.1 This Policy supports the strengthening of linkages between coal mining and related industry, power-generation, infrastructure and fiscal regimes that will impact costs, pricing and affordability of services for the people of Afghanistan.

16.2 Coal mining and related companies will be encouraged to utilize Afghanistan goods and services where available. In addition, this Policy supports the development of intermediary market development wherein technical services, information services, light production and other ancillary goods, services and support for coal development is required.

17. HEALTH AND SAFETY

The health and safety of mine workers and workers engaged in coal-related activities is the priority for Government in the development of its coal resources. Coal mining companies are required to conduct mining operations in a safe and productive manner, and comply with all appropriate laws and regulations related to occupational health and safety in all areas of their business activities. Employees are responsible for working safely in the interests of their own welfare and that of their fellow employees. Mining companies are also required to provide the education, training, equipment, and adequate system that will reduce hazards and minimize the risk of accidents, injury, and disease and create a safety-conscious environment. Afghanistan National Standards Authority (ANSA) is responsible for development of coal mining health and safety standards. The Ministry of Mines will be responsible for the oversight and implementation of these regulations and procedures; in the instance of violations, penalties may be Imposed.

18. DISPUTE RESOLUTION

Disputes arising under or in connection with coal sector operations shall be resolved in the manner provided by law, regulations or 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 possible, the Ministry of Mines and coal-related party shall agree to first use best efforts to amicably resolve any and all disputes. Where dispute resolution is not possible, a court of law will be addressed as a matter of last resort.

19. EXPORT OF AFGHAN COAL

This Policy encourages and does not preclude the export of coal.

20. IMPORT OF COAL

This Policy does not favor the import of coal but does not preclude same. Instead, this Policy seeks as a first priority for Government to develop the indigenous coal resources of Afghanistan. When necessary, coal may be imported.

21. SUPPORT OF THE DEVELOPMENT OF THE AFGHAN COAL SECTOR

This Policy supports and encourages the Government of Afghanistan and potential investors to gain further understanding of the coal resources in country as well as the various options for development them.

21.1 Geological Surveys, Research and Development. This Policy supports the systematic collection, analysis and safeguarding of geological data relevant to coal mining in Afghanistan. Through the Afghanistan Geological Survey (AGS) and other public or private academic structures, The MoM will support basic and applied research that is aimed at discovering technical solutions to coal mining problems and/or creating new goods and knowledge specific to Afghanistan coal mines and related development. These activities and research and development may be facilitated by the Ministry of Mines and conducted by the AGS, other government agencies, institutions, educational facilities and the private sector.

21.2 Development of Mid-Career Professionals. Where possible, this Policy encourages that the Ministry of Mines develop initial and mid-career training programs for coal technicians, commercial staff, government officials and other essential professional and technical positions. Where possible Government and coal mining companies should develop international partnerships that support mid-career internships, training and other professional development opportunities both in Afghanistan, and abroad.

21.3 Promotion of Young Afghanistan Professionals. The MoM, in collaboration and close association with MoLSAMD and the Ministry of Higher Education, will provide fiscal and other resources for the development of educational and training services in coal mining regions of Afghanistan that target the technical, fiscal, legal, environmental and other aspects of coal mining sector development, and ensure sustainable supplies of

technical and skilled labor. Where possible, existing academic and training institutions are encouraged to enhance their programs to suit specific coal mine sector development while in other cases, stand-alone educational and training facilities will be required. National, Provincial and District Governments are encouraged to identify possible international educational and training programs that would suit these purposes as well as partnership opportunities to develop in-country facilities that are based on established international institutions.

22. EFFECTIVENESS OF THIS COAL POLICY

This Coal Policy is effective as of its approval by the Cabinet and is deemed to be the foundation document on which the Afghanistan Coal Sector will operate and from which relevant legal and regulatory acts and other supporting policies may be developed.