INDEPENDENT JOINT ANTI-CORRUPTION
MONITORING AND EVALUATION COMMITTEE

Special Report
Vulnerabilities to Corruption in the Importation and Supply of Fuel and Liquid Gas

Kabul, Afghanistan
September 2016

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ABBREVIATIONS/ACROYMS

AFLGE	Afghanistan Fuel and Liquid Gas Enterprise
AFN	Afghani (currency)
AISA	Afghanistan Investment Support Agency
ANSA	Afghanistan National Standards Authority
AOP	Administrative Office of the President
BSA	Bilateral Security Agreement
GIRoA	Government of the Islamic Republic of Afghanistan
MEC	Independent Joint Anti-Corruption and Monitoring Evaluation Committee
MOCI	Ministry of Commerce and Industry
MOD	Ministry of Defense
MOJ	Ministry of Justice
MOI	Ministry of Interior Affairs
MOF	Ministry of Finance
MOPW	Ministry of Public Works
NDS	National Directorate of Security
RS	Resolute Support Mission
PIL	Private Investment Law
SOEs	State-Owned Enterprises
USD	United States Dollars (currency)

1. Executive Summary

In this Special Report, MEC assess the vulnerabilities to corruption in Afghanistan's process of importing fuel and liquid gas. For more than a decade, the challenges involved in the importation process have resulted in the government of Afghanistan experiencing revenue shortfalls and the country suffering from poor quality fuel and liquid gas.

MEC reviewed legal and administrative documents relevant to the process of importation. Additionally, interviews were conducted, group and consultation meetings were held, and visits were made to offices at the border crossings of Aqeena, Hairatan, Torgundi, Islam Qala, and provincial customs of Balkh, Herat and Kabul. MEC also made direct observations of the employees of the relevant ministries and directorates.

The Special Report's findings show that there is a general lack of harmony between the old laws and regulations for fuel and liquid gas importation, and Constitution of Afghanistan and Law on National Standardization which were adopted in the last 14 years. The existing laws are broken with impunity by high ranking officials in the capital and provinces. For instance, powerful people in the localities use pressure and threats to misrepresent the size of their imported fuel. Not only are there 15 separate and distinct government organizations involved in the process, but there is a lack of agreement on leadership among them. The Afghan government is passive toward the enforcement of the State-Owned Enterprises Law, which is also at variance with the Constitution. Government entities at border crossings do not possess the appropriate tools and equipment which are necessary to process imported goods, they lack modern systems such as large scanners at border gates, there is a low capacity in the human resources, and weak mechanisms for monitoring the performance of government employees. These vulnerabilities have facilitated the smuggling of low-quality fuel and administrative corruption in the importation of fuel and liquid gas.

In general, this Special Report shows that vulnerabilities for corruption in the importation process are widespread and serious, and behind this are the hands of a large criminal patronage network which exists both inside and outside the country, and has even infiltrated the government.

This Report indicates that in the past 14 years, there have been no determined efforts to improve all the entities involved in the importation of fuel and liquid gas, particularly the Afghanistan Fuel and Liquid Gas Enterprise (AFLGE). Those interviewed as part of the preparation of this Report believe that the government's unwillingness to make the operations of AFLGE consistent with the Constitution has hampered its development. According to AFLGE's new Director, over the last decade the Enterprise was unable to cover its administrative expenditures with sufficient revenue. AFLGE was created as a profit-making entity but now is in debt AFN 4 billion. Figures provided by AFLGE show that the amount of fuel import revenues for 2015 were USD 21.3 million, however, AFLGE's reported actual revenue that year was USD 3.34 million (AFN 229 million), and that USD 17.96 million was embezzled. It is worth mentioning that the USD 21.3 million in revenue was collected, but disappeared because there is no proper financial system in AFLGE.

In addition to the problems identified by AFLGE, figures received from the Customs Department show that in 2015, the Department registered 0.758192 million tons of

imported fuel, while the figures from AFLGE show that in the same year 1.495291 million tons were imported. So this translates to a difference of USD 70.76 million in custom's revenue which was not collected.

In the area of human resources, evidence shows that the majority of AFLGE's employees are unqualified. According to the new Director there is even an instance where more than 10 employees are members of one family. In 2015, positive change was made by the appointment of a new Director and the enactment of a few basic reforms. As a result, the AFLGE increased revenues from its services at different border stations from 300-1000 percent. This dramatic improvement is indicative of how widespread and infiltrated the previous corruption was in AFLGE.

This Special Report shows that all the above vulnerabilities pave the way for the loss of large amounts of custom revenues due to a lack of transparency, recruitment on the basis of relations, evasion, smuggling, and widespread administrative corruption.

One of the high ranking officials involved in the importation process traveled to Iran's Zabul customs house which is located adjacent to Afghanistan's Customs Meel 78 of Faraha. This official says that a comparison of figures from these two Customs Departments shows that Zabul Customs registered 84,000 tons more of fuel than Meel 78 Customs, and this amount was imported into Afghanistan without going through customs processing. In addition, having inquired with Iranian Customs how much poor quality fuel rejected by the Afghan National Standards Authority (ANSA) was then registered back in their Customs, they replied that not one liter of poor quality fuel rejected by Afghanistan was returned to Iran.

Similarly, the respondents shared their concern regarding misuse of exempted fuel imported to Resolute Support (RS), and the Ministries of Interior Affairs (MOI) and the Ministry of Defense (MOD). This matter of fuel exemption, which is central to much of the abuse in the market, has been extensively analyzed by the Ministry of Finance (MOF). A solution has been proposed, whereby the military would pay the custom duty and then claim it back afterwards directly from the central Government. MEC understands from interviews with both RS and MOF that this reform is strongly supported; but it is still not implemented. Why not? Is the reason for the delay perhaps another instance of corruption?

These concerns about the fuel exemption also include the exchange of low quality exempted fuel with high quality fuel in the market, and then sending this high quality fuel to RS. MEC officially requested the Customs Department to report the exact amount of exempted fuel imported in 2015, but they did not respond. However, based on information that MEC received from AFLGE, there were .378989 million tons of exempted fuel imported to Afghanistan in 2015, and the value of that fuel's custom duty would have been USD 36.38 million.

This Report goes on to show that as an organization, AFLGE requires considerable improvement in all areas including legal documents, organizational structure, human resources, equipment and working tools, administrative systems and even a revision of authorities and responsibilities. Another troubled entity ANSA, is not yet self-reliant and requires necessary standards and systemic reforms, equipment and capacity building. Afghanistan loses hundreds of millions of Aghanis in customs revenue due to a lack of

equipment such as scanners, human resources, low capacity, and a lack of political support and personal safety.

This Report's recommendations concentrate on abovementioned problems, particularly on laws, regulations, reforms, administrative structures, coordination and leadership among involved organizations, control and monitoring of employee performance, the process of recruiting employees, equipping involved border offices with modern tools and equipment, and strengthening administrative systems.

2. INTRODUCTION

The Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC) decided to assess the supply process of fuel and liquid gas since the flow of low-quality product has increasingly become a concern for the people of Afghanistan. During the last decade this has affected the growth of the macro-economy and caused large amounts of air pollutants to be released from automobile exhaust. The management of the importation process has become very complicated and Afghanistan is now believed to be a big market for low-quality fuel. Misuse of the exempted fuel that is imported to NATO forces and other security institutions has also raised serious concerns since there is still not enough transparency in the supply contracts of security institutions.

While Afghanistan sits on vast natural deposits of fuel and liquid gas, it has yet to extract and utilize these untapped resources, and has instead increased the importation of fuel and liquid gas from northern and western neighboring countries. The increasing demands of the domestic sector and resourcing the current military forces have significantly increased the level of fuel imports. However, the flawed customs monitoring-system as well as poor administrative management in government offices have paved the way for the flow of low quality fuel to Afghanistan.

Afghan citizens rightly complain that their government should take more action when they see prices steadily increase domestically yet fluctuating prices have at times actually fallen in international markets. Fuel merchants and their customers believe administrative corruption is one of the main reasons prices remain high. This Special Report focuses on the factors which contribute to corruption in the process of fuel and liquid gas importation to Afghanistan and has identified the vulnerabilities in the process that lead to corruption.

The use of fuel and liquid gas has political, economic, social, military and most importantly environmental effects on the country. Thus a standard and reliable process for importation is necessary for economic growth and environmental protection.

Considering the importance of ensuring the legal and efficient importation of quality fuel and liquid gas, MEC has conducted this extensive analysis to understand and identify the vulnerabilities to corruption. The Special Report reviews the current laws and regulations related to the importation of fuel and liquid gas, and assesses the roles of government and private entities involved in the process.

MEC has clearly identified the existing vulnerabilities and issued specific recommendations which are prioritized, directed at the key institutions in this process, and deadlines are suggested for implementation. With the implementation of these recommendations, the vulnerabilities to corruption can be significantly reduced or eliminated.

3. METHODOLOGY

This Special Report identifies sources and implications of corruption in relevant organizations and seeks to assist those entities in bringing about reforms. The Report is based on a comprehensive review of official, legal and administrative documents, media reports, and an assessment of existing research about the process of fuel and liquid gas importation.

For this Report, MEC conducted 120 interviews with top-level government authorities (ministers, deputy ministers, and directors), middle-level managers (officers, managers, local representatives in provinces and specifically at the borders), frontline workers of public services institutions (including their professional managers and employees), fuel supply companies and refinery owners. MEC also conducted eight focus group discussions where knowledgeable participants identified factors which lead to corruption and gave their constructive suggestions on how to improve the process of importation.

4. LEGAL FRAMEWORK OF THE PROCESS

Many laws, regulations, procedures, policies and decrees exist which are directly related to the importation process of fuel and liquid gas. MEC has reviewed relevant legislative documents to clarify the vulnerabilities of the importation process. The most important and applicable Afghanistan legal documents pertaining to fuel importation are listed below and then analyzed.

1. Constitution, Articles 10 and 13 (2004)
2. State-Owned Enterprises Law (1991)
3. Charter of Afghanistan Fuel and Liquid Gas Enterprise (1987)
4. Law on Private Investment In Afghanistan (2005)
5. Customs Law (2005)
6. National Standardization Law (2013)
7. Hydrocarbons (Fuel & Liquid Gas) Law (2008)
8. Fuel and Liquid Gas Policy (2007)
9. Council of Ministers Resolution No. 45 (2012)
10. Council of Ministers Resolution No. 9 (2014)

4.1. CONSTITUTION, ARTICLES 10 AND 13 (2004)

Article 10 of Afghanistan's Constitution states, "The state encourages and protects private capital investments and enterprises based on the market economy and guarantees their protection in accordance with the provisions of the law." As well, Article 13 of the Constitution states, "The state shall formulate and implement effective programs for development of industries, growth of production, increasing of public living standards and support to craftsmanship." Traders of fuel and liquid gas claim that Article 10 has not been fully observed, and further that it requires the existence of a market economy; however the government has not facilitated the necessary economic infrastructures to encourage the private sector to import fuel and liquid gas.

Traders believe that some political and governmental figures involved in the importation of fuel and liquid gas do not follow existing laws. Furthermore, refinery owners who were interviewed believe that the government has not provided essential facilities for the development of a private sector, and worse yet, due to officials' conflicts of interest, the government is actually an impediment to the growth of the private sector for fuel and liquid gas. Investors insist that the Council of Ministers' Resolution (Ref: 45) issued on February 24, 2014, with respect to prohibition of crude oil importation to Afghanistan, violated Articles 10 and 13 of the Constitution.

Investors believe that the key factor behind continued ineffective competition among traders of fuel and liquid gas is the inability of the government to better manage the market. Investors went further and complained that government's ineffective importation policies resulted in wasting hundreds of millions of dollars which was invested in the establishment of refineries. This led directly to laying off hundreds of refinery workers while at the same time Afghans are forced to pay millions of dollars more in higher prices for fuel and liquid gas. Fuel importers believe that owners of fuel-refining companies mix low-quality fuel with high-quality A-92 fuel and then supply this

substandard fuel to the market without refining it. The government was required to assign a technical team to evaluate the refineries and determine if they were able to continue operations, but no team has been assigned.

4.1.1. Vulnerability

The lack of comprehensive regulations for the establishment of fuel refining companies resulted in the idling of eight refining companies, and it also allowed the Council of Ministers to approve resolutions contradicting the Constitution.

4.1.1.1. Recommendation

The Ministry of Commerce and Industry (MOCI) should draft a comprehensive regulation for the establishment and resumption of the activities of refining companies and send the regulation to related agencies.

Deadline: November 20, 2016

4.2. STATE-OWNED ENTERPRISES LAW (1991)

The State-Owned Enterprises Law, (published in Official Gazette 743), was enacted by the People's Democratic Party of Afghanistan (PDPA) on April 24, 1991. The first article of this Law explains its purpose as, "This Law has been enacted to strengthen and promote the economy of the public sector and to regulate the activities of state-owned enterprises." This Law was based on the principles of a planned economy, contrary to the current Constitution which adopts the principles of a free market economy.

Respondents, particularly legal experts, believe the government failed to decide on how state-owned enterprises (SOEs) should operate and align their legal status with the Constitution. Private sector respondents stated that the continuation of SOEs based on this Law has turned government-owned companies into a source of corruption and facilitated the misuse of government properties by employees of these SOEs. Economic analysts believe that despite being clearly stated in the Constitution, the government of Afghanistan is not ready to enforce market economy principles for fear of negative political consequences.

4.2.1. Vulnerability

The State-Owned Enterprises Law contradicts Article 10 of the Constitution and the idea of a market economy, and this contradiction results in the inapplicability of AFLGE Law and depression of AFLGE.

4.2.1.1. Recommendation

The MOCI, in coordination with the MOF and MOJ, should prepare a plan regarding the State-Owned Enterprise Law cancellation, and send it to the Council of Ministers for a decision on the future of SOEs.

Deadline: October 21, 2016

4.3. CHARTER OF AFGHANISTAN FUEL AND LIQUID GAS ENTERPRISE (1987)

The Charter of the Afghanistan Fuel and Liquid Gas Enterprise (AFLGE) was adopted in 1987 and was later amended by the Taliban regime. The amendment was based on State Owned-Enterprises Law and the principles of a planned economy. The amendments of the Taliban assigned three responsibilities to the AFLGE:

- Importing, distributing and selling fuel and liquid gas
- Providing border services to traders
- Monitoring the private sector and controlling the market price

Article 4 (paragraphs 1, 4, and 5) of this Charter clarifies AFLGE's functions, which contradicts Article 10 of the Constitution and facilitates the interference of the state in the market. Additionally, legal experts believe that the three responsibilities of this profitable entity have created a conflict of interest between the private sector and AFLGE.

4.3.1. Vulnerability

The Charter of AFLGE was predicated on a planned economy which is contrary to Article 10 of the Constitution. This has created a conflict of interest resulting in huge losses to the private sector entrepreneurs, particularly to the fuel and liquid gas importers.

4.3.1.1. Recommendation

The MOCI, in collaboration with the MOF and MOJ, should review and reform AFLGE's Charter based on the current laws.

Deadline: November 21, 2016

4.4. PRIVATE INVESTMENT LAW (2005)

Article Two of the Private Investment Law (PIL) explains the purpose of the Law as "to maximize the role of private investment, both domestic and foreign, in the economy, to create a legal regime and administrative structure that will encourage and protect foreign and domestic private investment in the Afghan economy in order to promote economic development, expand the labor market, increase production and export earnings, promote technology transfer, improve national prosperity and advance the people's standard of living."

Most of the respondents, particularly traders, believe that administrative corruption, insecurity and bureaucracy prevent the implementation of this Law. They argue, "In a country – where businessmen are abducted near a police station in broad daylight, investors are forced to bribe officials who collect their tax, and bribes are paid for paying electricity bills – support for investors is solely a slogan."

In general, most parts of the PIL have not been enforced, mostly due to the lack of a qualified workforce and presence of criminal patronage networks in the fuel sector.

4.4.1. Vulnerability

The PIL has not been implemented properly due to weak governance and existing criminal patronage networks in the trade of fuel and liquid gas.

4.4.1.1. Recommendation

The MOCI, in collaboration with the Afghan Chamber of Commerce and Industry should develop and approve a policy in order to administer criminal sanctions against offenders and prevent the interference of fuel and liquid gas criminal patronage networks.

Deadline: November 21, 2016

4.5. CUSTOMS LAW (2005)

Article 3(29) of the Customs Law defines the customs duty as "an amount of money assessed on imports or exports in accordance with the classification and rates stated in the Customs Tariff."

Article 4 requires uniform implementation of the Customs Law, "Customs legislation shall apply uniformly throughout the customs territory of the state." However, most respondents believe that fuel smuggled from the borders of Afghanistan's Farah and Nemrouz Provinces violate provisions of the Customs Law and has facilitated illegal dealings between traders and custom officers. However, fuel smuggling simultaneously increases the amount of low-quality fuel in the market and reduces custom revenues.

Article 16 of the Customs Law defines a brokerage as "a non-governmental business that persons may carry out upon obtaining a license from the Ministry of Finance." This Article officially allows the brokers to operate within the Customs structure and process traders' documents. Interviewees believe that Article 16 provides the opportunity for corruption since brokers are the major cause of corruption in the customs process. Some traders complained that customs officers make the use of brokers compulsory at times in order to take bribes. Customs officials do not expedite the paperwork of traders unless they hire a broker.

4.5.1. Vulnerability

Article 16 of the Customs Law legalizes brokerage. The performance of brokers has led to corruption in Customs Departments.

4.5.1.1. Recommendation

The MOF, in coordination with the MOJ, should delete Article 16 of the Customs Law.

Deadline: December 30, 2016

4.6. NATIONAL STANDARDIZATION LAW (2013)

Article 6(1) of National Standardization Law identifies the Afghanistan National Standards Authority (ANSA) as the official authority to inspect, analyze and audit the quality of imported goods in its laboratories. However, based on the findings of MEC, fuel and liquid gas are instead inspected in private laboratories.

ANSA could partially inspect the quality of fuel and liquid gas at five border-crossings (Hairatan, Aqena, Torghundi, Islam Qala, and Nimrouz) following the establishment of National Standardization Law. However, ANSA cannot conduct all the required testing due to a lack of staff and laboratories.

Paragraph 2 of Article 21 of this Law has been contradicted by Resolution No. 45 issued by Council of Ministers on February 24, 2014. The Resolution states, "The Ministry of Commerce and Industry, and the National Bureau of Standards shall, after the expiration date, reject the low quality fuel and fine the perpetrators in accordance with the National Standardization Law." Paragraph 2 of article 21 of the Standardization Law in regards to sub-standard goods:

Commercial goods including import and export and manufacturing products stipulated in the paragraph 1 of this article should be technically inspected by the mixed delegation of inspectors and experts from the ANSA. If the commercial goods including export, import and manufacturing products deemed to be fit for human and animal consumption and can be used as staple food after modification, according to the law it can be sold and the proceeds will be transferred to the government bank account. Otherwise, the mentioned goods and products in the presence of representatives of Ministry of Finance, Ministry of Interior Affairs, Attorney General Office, local municipality, Afghanistan's National Environmental Protection Agency, and ANSA will be destroyed.

Interviewees say that this paragraph of the Resolution is contrary to paragraph 2 of article 21 of the National Standards Law, and that it represents the involvement of major oil criminal patronage networks in the decision making process of the Council of Ministers.

4.6.1. Vulnerability

ANSA has not been able to effectively enforce the National Standardization Law due to lack of capacity and necessary tools.

4.6.1.1. Recommendation

ANSA prepares a comprehensive strategy for how it would enhance the capacity of its staff and equipment in order to secure an adequate budget from the government and international donors.

Deadline: December 31, 2016

4.6.2. Vulnerability

Ad hoc and unprofessional decisions of the Council of Ministers have challenged the process of importing fuel and liquid gas as the role of ANSA was degraded.

4.6.2.1. Recommendation

In an attempt to prevent the flow of low quality fuel, ANSA assures that Articles 21 and 20 of National Standardization Law are fully implemented.

Deadline: Ongoing Action

4.7. FUEL AND LIQUID GAS POLICY (2007)

Given the requirements of the process of importation and extraction of fuel and liquid gas, this policy has been strongly criticized by both traders and the AFLGE. Interviewees believe that this policy meets the needs of market economy, but the AFLGE has misinterpreted the policy and this has impeded its implementation. Although all services

provided according to this Policy should be voluntary and free of charge, in most cases the AFLGE makes the services mandatory and then actually imposes a fee on traders.

In addition, according to paragraph (9), section 1 of this Policy, the MOCI is required to study the idea of changing the legal personality of AFLGE to that of a public private enterprise and submit the proposal for approval at an appropriate time submit to related agencies. But with passage of nine years no progress has been made.

4.7.1. Vulnerability

The uneven implementation of provisions of the Fuel and Liquid Gas Policy has forced the fuel traders to pay a fee to the AFLGE, without receiving any service. For the nine years since the Policy's adoption, the MOCI has not implemented paragraph 9 which legally turns the Enterprise into a public private enterprise.

4.7.1.1. Recommendation

In order to equally apply this Policy and transform the AFLGE into private company, the MOCI should develop a comprehensive plan and submit this to the Cabinet for approval.

Deadline: October 22, 2016

4.8. RESOLUTIONS AND POLICES OF COUNCIL OF MINISTERS

In recent years, Afghanistan's Council of Ministers issued several policies with respect to the importation of fuel and liquid gas. In 2013, Resolution 45 was issued which invalidated the fuel inspection contract with the Indian company Geo Chem. The Council then assigned both the MOCI and ANSA to finalize a new contract with a credible international company. However, the contract with Geo Chem remains in effect because Resolution 45 was never implemented. The Resolution had clarified which types of fuel should be imported, and it authorized the importation of A-92 petrol and L02-62 diesel. However, Resolution 45 was quickly replaced with Resolution 9 issued in 2014. One of the respondents explained his memory about reduction of air pollution in Kabul after importation of A-80 fuel (a lower-quality product) was prohibited, saying "the residents of Kabul could easily see the stars when the importation of A-80 was banned. However, they were deprived of this blessing after the ban was lifted."

The adoption of Resolution 45 required that all refinery companies should be assessed within a one-month period from the date of adoption. However, this provision was never fully implemented and almost three years have passed, but no refineries have been assessed. ANSA believes that the Resolution was issued based on the recommendations of the Ministries of Commerce and Industry, Finance, Economy and Mines. Investors have strongly criticized disregarding the role of ANSA in the decision making process and stressed only the criminal patronage networks of the fuel industry benefited from such decisions by the Council of Ministers.

4.8.1. Vulnerability

Decisions and policies by the Council of Ministers which are in contradiction to Afghan laws and undermine the role of the respective organizations have prevented the full implementation of Afghan laws.

4.8.1.1. Recommendation

Prior to submitting the resolutions/policies to the Cabinet and Council of Ministers, the Administrative Office of the President, shall in accordance with the Afghan laws and in collaboration with the respective organizations, conduct a compressive review of the proposals. After revising and removing errors, then the resolutions/policies should be sent to the Cabinet and Council of Ministers for discussion and approval.

Deadline: Ongoing Action

5. LEADING AND MANAGING THE IMPORTATION OF FUEL AND LIQUID GAS

The identification of major entities involved in the importation of fuel and liquid gas, and the roles they play in the process are identified in this section. Their human resource capacity, technical capacity and equipment have been fully analyzed and assessed, and the findings are consolidated.

5.1. RELATED INSTITIONS AND THEIR ROLE IN THE PROCESS

Numerous institutions are involved in Afghanistan's process of fuel and liquid gas importation. This Special Report focuses on the following key institutions and the responsibilities delegated to them:

1. *Afghanistan Investment Supporting Agency (AISA).* Registers fuel and liquid gas suppliers as investment units.
2. *Central Business Registry and Intellectual Property Directorate.* Issues licenses to suppliers.
3. *Fuel and Liquid Gas Trade Management Department.* Grants fuel importation permits to suppliers who have been registered by AISA.
4. *Afghanistan Fuel and Liquid Gas Enterprise (AFLGE).* Registers the fuel after it is imported, and provides border-crossing services including storage and transportation. One of AFLGE's important tasks is to compete with the private sector in the fuel and liquid gas market.
5. *Customs Department.* Processes the customs paperwork of traders at border crossings.
6. *Afghanistan National Standards Authority (ANSA).* Mandated to monitor and inspect the quality of imported products.
7. *Geo Chem*. A private company which inspects the quality of fuel and liquid gas on behalf of ANSA at some border crossings.
8. *Ministry of Public Works (MOPW).* Assigned to enforce the weight limits on tanker truck loads
9. *Municipalities.* Receive charges (Tahjayee) when fuel tankers enter their city, grant work-permits to fuel stations and approve the designs for construction of fuel stations.
10. *National Environment Protection Department.* Grants licenses to fuel stations.
11. *Ministry of Urban Development*. Approves the plans for the construction of fuel stations.

12. *Border Police.* Authorized to stop the importation of low quality products, particularly fuel and liquid gas.
13. *Local Police.* Provide protection to tanker trucks on highways.
14. *Ministry of Transportation (MOT).* Has a role in the transportation of fuel and liquid gas consignments.

The excessive number of institutions involved and their corresponding functions present challenges to the process of fuel and liquid gas importation. Procedural violations by one institution directly affect the performance of another. Respondents believe all these institutions are vulnerable to some level of corruption. Based on the views of respondents, most employees of these entities do not have enough knowledge about their delegated authorities, and this lack of awareness cause delays, which then results in the payment of bribes. The overly bureaucratic nature of these institutions is another factor that makes them vulnerable to corruption.

5.1.1. Vulnerability

Undefined leadership of importation process of fuel and liquid gas, and proliferation of institutions involved in the process has affected the management and coordination among the organizations, and decreased transparency and accountability.

5.1.1.1. Recommendation

The MOCI should take the lead on the importation process, and establish a transparent mechanism for coordination and accountability.

Deadline: October 6, 2016

5.2. Functional similarities among organizations

Three different types of licenses are required in order for a company to import fuel and liquid gas. These licenses and permits are issued by: 1) AISA; 2) Business Registry and Intellectual Property Directorate of MOCI; and 3) Department of Fuel and Liquid Gas. In addition, to complete the licensing process for environmental agencies, municipalities and the Ministry of Urban Development are involved in the process. All the interviewees are of the opinion that the proliferation of licensing from three (potentially five) different entities is unnecessarily bureaucratic and makes the process more vulnerable to corruption.

5.2.1. Vulnerability

The proliferation of organizations and the complex bureaucracy of licensing and permitting for the importation of fuel and liquid gas has left the process vulnerable to corruption, and caused inconvenience for traders and investors.

5.2.1.1. Recommendation

The MOCI should assess the role of all these organizations and approve a plan to create a single licensing/permitting authority for this process.

Deadline: October 6, 2016

5.3. Structural incompatibility with workload in organizations

The officials and senior managers of the organizations involved in the importation process, especially the Custom Departments in Herat and Hairatan, ANSA, and AFLGE believe that the Tashkeil (current organizational structure) of their organizations was not developed in accordance with the organizational goals and workload, and they are unable to meet current demands. They indicate that some departments are overstaffed and some are understaffed. In order to adequately manage the process, they suggest reviewing and professionalizing the Tashkeil of local units, otherwise it will lead to increased chances of corruption in the process and the dissatisfaction of customers. For example, officials of the Custom Department in Herat Province pointed to the understaffing of several departments, including Department of Description of Goods, which has resulted in the improper collection of custom duties.

The AFLGE has 1,767 positions, while at the same time providing a low level of service delivery. According to officials, this Directorate is running a AFN 4 billion (USD 58,238,588) deficit. The new officials of AFLGE are also of the belief that in order to make the Tashkeil compatible with the organizational goals the problem of overstaffing should be addressed.

5.3.1. Vulnerability

Overstaffing in the AFLGE has led to 60 percent of employees in disguised unemployment which breeds problems, such as some employees creating their own opportunities for corruption.

5.3.1.1. Recommendation

The MOCI, in collaboration with AFLGE, should review the current Tashkeil of the Directorate, identify the redundant positions, and align the Tashkeil in accordance with the workload of the organization.

Deadline: December 20, 2016

5.3.2. Vulnerability

Due to the lack of adequate staff, a large portion of imported goods are being improperly described by Customs. This has paved the way for corruption by the non-payment of custom duties.

5.3.2.1. Recommendation

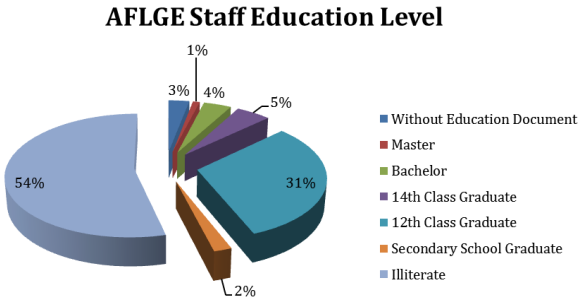
The MOF, in consultation with Custom Department officials, should review the organizational structure of the Customs in the provinces and align the Tashkiel in accordance with the workload of the organization.

Deadline: March 19, 2017

5.4. Lack of professional human resources

The low level of human resources capacity in local organizations is mainly due to two factors. First, resources cannot be employed due to lack of vacant positions in the

structure of organization, while some departments need more employees for their daily operations, such as Herat's Customs Department. In a meeting with MEC, officials of Herat's Customs Department said that it is impossible to describe all the imported goods including hundreds of daily food items, with the current limited personnel. Therefore, the goods description process is conducted based on sampling. The second factor is that due to the low salaries of the specialized and professional staffs, they have no incentive to work in remote border areas, and organizations cannot hire capable local, which all results in low capacity. ANSA officials emphasize that it is nearly impossible to recruit the necessary technically trained individuals for the laboratories given the limitations of the current salary range. Lack of human resources in these organizations has not only affected the quality of the work but it has also increased the chances of bribery and delays in the work.



The interviewees are of the belief that the AFLGE has been plagued by the problem of low capacity as well. Despite having 1,767 positions in its Tashkeil, it lacks the necessary number of professional employees, most of their employees being high school graduates with a little knowledge of modern information technology.

5.5. Improper recruitment results in low capacity of human resources

The interviewees are of the belief that in addition to low salary range and benefits, one of the main factors behind the low capacity of the employees is lack of transparency in the recruitment process. But the interviewees specifically commented on Customs officials saying, "Most of the Customs employees in the country have been hired either by paying lump sum amount (bribes) or having a connection with one of the high ranking government officials – including MPs, ministers or a political leader." The MEC assessment team has directly observed that although employees in remote provinces are paid a low salary by the Customs Department, most employees are enjoying a luxurious life and possess new model cars, private homes, etc. This indicates the likely existence of corruption within these organizations. The interviewees believe that without extensive reforms in the structure and a review of all the departments, especially AFLGE, conducting capacity building programs in these organizations would be ineffective

5.5.1. Vulnerability

The lack of transparency and continued political interference in the recruitment process by agencies involved in the process of fuel and liquid gas importation have facilitated employment for unqualified and unskilled persons. This trend has challenged the capacity building efforts in these agencies.

5.5.1.1. Recommendation

The Afghanistan Independent Administrative Reform and Civil Service Commission evaluates all the staff in these agencies in coordination with the MOF, MOCI, and ANSA, and introduces the staff of ANSA to related training courses.

Deadline: March 19, 2017

5.6. Lack of necessary equipment

In some of the provinces, such as Herat, the Customs Directorates are either not resourced with the necessary equipment or cannot use the equipment. In a meeting with MEC, the officials of Herat Customs Directorate said that if their scanners are properly activated, and there is a consistent and dependable source of electricity, this can play an effective role in the prevention of smuggling and employee fraud. Some of the interviewees are of the belief that scanners and generators are available at some custom houses in the provinces, including Herat, but some officials deliberately damaged pieces of equipment, creating the vulnerability for bribery and smuggling. Also, ANSA expresses its concern over lack of equipment in the laboratories across the country. An Afghan Parliamentarian group also confirmed this, adding that in most of the border areas there is an obvious lack of necessary equipment, and that in some areas the equipment has been intentionally sabotaged.

5.6.1. Vulnerability

Due to an inadequate budget, the National Standard Authority is not equipped with the required working tools, such as laboratories, which prevents the effective implementation of the National Standardization Law.

5.6.1.1. Recommendation

The National Standard Authority should prepare a comprehensive plan for capacity building and equipment acquisition (laboratories, scale calibration devices and other required tools), and request a corresponding budget from MOF and international donors.

Deadline: March 19, 2017

5.6.2. Vulnerability

Due to the lack of an effective maintenance policy, equipment has suffered damage or premature failure, and some officials deliberately damaged equipment with impunity.

5.6.2.1. Recommendation

The MOF should adopt a regulation which obligates the employees of the organizations to maintain tools and office equipment. The regulation should include sanctions and compensation for damaging equipment.

Deadline: December 30, 2016

5.7. Lack of balance between responsibilities and authorities

Based on the responses of interviewees, MEC has found that the authorities and responsibilities are not balanced in the current administrative system of Afghanistan. In most cases local authorities are forced to ask direction from the head office, even for very ordinary issues and basic information. Most of the time the head office does not provide a timely response which leads to wasted time, dissatisfaction and corruption. Interviewees suggested that authority and responsibility should be balanced. MEC collected documents which show that the relevant organizations do not cooperate in sharing with each other very ordinary information because they are unauthorized to do so and sometimes ministers themselves prohibit sharing. For example the local office of ANSA in Torgondi asked for some information from the Torgondi Custom Department through a letter (No: 193/85 dated Aug 27, 2014) but the Customs Department rejected their request via letter (No: 111 dated September 6, 2014).

5.7.1. Vulnerability

Lack of balance in the power and monopolization of power in the capital has slowed administrative procedures of provincial-level agencies involved in the process of fuel and liquid gas importation.

5.7.1.1. Recommendation

The Administrative Procedure Law which is currently being drafted should include a provision which ensures that there is clear authority so that responsibility is given to employees at different levels for certain actions. This provision should be drafted in coordination with the MOJ, the Administration Office of the President and the Afghan Independent Administration Reform and Civil Service Commission.

Deadline: June 19, 2017

6. The Process of fuel and liquid gas importation

In order to better understand the complexities involved in the importation of fuel and liquid gas, the step-by-step process is described, including the numerous government entities involved. The important parts of this process are:

1. Obtaining a license
2. Fuel and liquid gas contracts are signed
3. Transportation to the zero point of the border
4. Stop in the zero point
5. Provision of border services by AFLGE
6. Quality examination
7. Customs process
8. Weighing
9. Transport by highways to reach the final destination
10. Municipality charges for transporting goods into the city (Tahjaye)
11. Distribution of fuel to petrol stations

These phases of the process are controlled by a number of ministries. This Special Report shows that all of these phases are vulnerable to corruption due to bureaucracy,

extortion on highways, exceeding the size and weight limits by offering bribes, low-quality, and forgery of papers, fraud, and discriminatory behavior with importers, smuggling and other factors.

6.1. OBTAINING LICENSES AND PERMITS

To import fuel and liquid gas, a trader is required to obtain a license from two entities and a permit from a third, each of which is a part of MOCI: AISA; the Central Business Registry and Intellectual Property Directorate; and the Fuel and Gas Regulation Department.

The trader must first obtain a license from AISA, and then a second license from the Central Business Registry and Intellectual Property Directorate. These two licenses are required for most businesses in Afghanistan. After these two licenses are secured, then the trader must obtain a permit from the Fuel and Gas Regulation Department, which is specific to fuel and liquid gas importation. The Fuel and Gas Regulation Department requires that the trader first have the two above licenses (AISA and Central Business Registry) and they must have a deposit of USD 500,000. These requirements, including the USD 500,000 and proof of AISA license, facilitate corruption at times because most of the companies do not have the proper AISA license. Instead, they pay bribe and make fake documents. Based on respondents' views, MEC believes that issuing of licenses and permits by several institutions not only wastes the time of applicants but also facilitates corruption. Respondents describe the existence of several institutions to issue licenses and permits for importing fuel and liquid gas as a contributing factor to corruption and they have added that it is hard to pass from all these steps without reliance on a bribe or influence.

6.1.1. Vulnerability

Proliferation of licensing and permitting agencies under the MOCI has caused inconvenience for the fuel and gas traders, and paved the way for corruption by employees of these organizations.

6.1.1.1. Recommendation

The MOCI should assess the role of all the license and permit issuing organizations and approve a plan to create a single issuing authority.

Deadline: October 6, 2016

6.2. FUEL AND LIQUID GAS CONTRACTS ARE SIGNED

One of the challenges in importing fuel and liquid gas is entering into contracts with the exporting countries. Based on MEC's interviews, the Afghanistan Chamber of Commerce and Industries listed the challenges, including lack of cooperation between the government and traders, which has resulted in mismanagement, inflation and ineffective competition in the marketplace. The amount imported is determined by exporting countries and then it is auctioned. The price for every ton of fuel and liquid

gas is offered based on international standards. One trader in the bidding session will offer the highest price and by doing so will receive winning bid. The traders from one of the regional countries is accompanied by a government official of their country, however, Afghan traders attend regional bidding sessions alone, without an Afghan government representative and they buy the fuel at a higher price than international price index. In 2015, the average price for a ton of fuel was around USD 270 but Afghan traders had paid USD 450 per ton over the same year.

Finally, traders buy the fuel and liquid gas and hand the shipment over to a transporting company. Drivers from the transporting company obtain CMR[1] for tankers and consignment for rail cars, and submit them to border customs upon entering Afghanistan. Respondents believe that mismanagement of fuel and liquid gas imports, and monopolization of the business by some criminal patronage networks has affected the economy of Afghanistan. Some of the respondents suggest that government can better manage the price of fuel in the market if it authorizes AFLGE to buy the fuel from regional countries and then sub-contract with local traders.

6.2.1. Vulnerability

Criminal patronage networks have reached an agreement with fuel-supplying entities in some neighboring countries, particularly Uzbekistan, to overcharge investors due to poor management of the process and passive behavior of MOCI with investors on contracts with exporting countries.

6.2.1.1. Recommendation

The MOCI facilitates positive competition to support consumers and prevent the influence of fuel criminal patronage networks.

Deadline: December 20, 2016

6.3. TRANSPORTATION TO THE ZERO POINT AT BORDER

After the buyer concludes the contract with the seller the fuel can be transported, which involves two phases. The first phase is the delivery of fuel to the borders of Afghanistan. The second phase is the transportation of fuel from border-crossings to the provinces. Afghan traders transport the vast majority of fuel and liquid gas either in railway cars or tanker trucks; the tankers are used more often since there is seldom rail access at Afghanistan's borders.

Transportation by tanker truck is coupled with many challenges. Misbehavior of the police on the highways of Uzbekistan, Turkmenistan and Iran are the main challenges facing traders. It cannot be verified independently because MEC has not traveled to these countries, but this is a common claim made by both drivers and traders. However, MEC's findings show that extortion on highways in Afghanistan does remain a significant threat to the drivers of fuel tankers. Unfortunately, since Afghanistan disregards the

[1] The CMR (Convention on the contract for the international carriage of goods by road) is a consignment note with a standard set of transport and liability conditions, which replaces individual businesses' terms and conditions. It confirms that the carrier (i.e., the road haulage company) has received the goods and that a contract of carriage exists between the trader and the carrier.

Convention on International Transport of Goods (TIR), neighboring countries have barred the use of Afghan tanker trucks on their soil.

6.3.1. Vulnerability

Traders cannot directly transport their fuel into the country through Afghan transportation companies because they do not comply with the Convention on International Transportation of Goods (TIR). The companies were granted licenses by the Ministry of Transportation without considering the international standards.

6.3.1.1. Recommendation

The Ministry of Transportation ensures the companies comply with provisions of TIR before they grant them a license.

Deadline: March 20, 2018

6.4. BORDER SERVICES PROVIDED BY AFLGE

After the Custom Directorate officials send the related documents to AFLGE, traders are charged a fee by AFLGE. The fee amounts to 1.78 percent of the value of their imported fuel and covers the provision of the below listing of services. After the fees are paid, AFLGE sends the documents to ANSA. Listed below are the fees, as percentages of the total value.

Service Provided	Fee %
Registration of fuel and liquid gas imported by traders	0.05
Storage of liquid gas and fuel of traders	0.5
Arrangement of program	0.05
Weighing	0.05
Measuring the rail cars	0.02
Security from zero point of the border to storages	0.3
Mobile services of firefighters	0.4
Use of storage tools	0.3
Unloading of fuel	0.05
Handling of fuel	0.06
Total service fees which are deducted from the price of imported fuel and liquid gas	1.78

Based on MEC's visits to AFLGE storage houses, most are not functioning properly, and traders listed the reasons why they do not use the department's services:

1. Sub-standard equipment and installations.
2. AFLGE workers are not trusted. A large trader stated that 1,500 tons of his fuel was stolen in 2008, and only 750 tons were recovered.
3. Most large traders have built their own storage houses, which are of a higher quality than the government facilities.

Respondents believe that AFLGE could play a significant role in the management and supply of fuel and liquid gas in the country. Nevertheless, this important institution is vulnerable to corruption mostly due to the legacy of former officials who were incompetent, and the absence of standard financial and accounting systems which leads to less control and monitoring of expenditures.

In a challenge to the policy of a free market system, AFLGE monitors and evaluates the performance of the private sector and this has created a conflict of interest. Economists insist that AFLGE is actually competing with the private sector in providing services to traders. Therefore, AFLGE is vulnerable to chronic corruption. For instance, 1.495291 million tons of fuel was imported into Afghanistan in 2015, and the price of every ton was set by MOF at USD 800. Given this, the total revenue of AFLGE should have been USD 21.3 million, but AFLGE reported revenue as USD 3.368 million. When asked, AFLGE states that they are unaware of what happened to the lost USD 17,932,000.

During his interviews with the MEC, AFLGE's new Director reported that he has developed a new reform plan to tackle many of the challenges. While implementation of this plan will take time, the preliminary stages show potential for making a positive impact on the collection of revenues. The documents provided by AFLGE show a 300-1000 percent increase in revenues at its different border stations, and the reason for this increase is the new Director and the partial reforms which have been implemented. This is an indication that in 2015 almost six times of the revenue of this directorate was embezzled and/or not collected.

6.4.1. Vulnerability

Impunity and not applying the law to politically-connected powerful individuals, and the role and influence of the fuel and liquid gas criminal patronage networks on high level officials of the government and Parliament has caused the individuals who have embezzled millions of dollars go unprosecuted.

6.4.1.1. Recommendation

The Administrative Office of the President, through a joint government delegation, should conduct a compressive review of the process of income collection of the AFLGE, discover any misuse by officials, identify suspected individuals and refer them to the AGO for prosecution.

Deadline: November 20, 2016

6.4.2. Vulnerability

A lack of active administrative systems has paved the way for corruption for the employees of the Department of Petroleum and Liquid Gas.

6.4.2.1. Recommendation

MOCI should computerize its financial and accounting systems including the revenues and expenditures of the Department of Petroleum and Liquid Gas, and introduce mechanisms that will lead to transparency, accountability and responsibility of employees in financial issues.

Deadline: March 19, 2017

6.4.3. Vulnerability

In another instance of conflicts between existing laws, the Department of Petroleum and Liquid Gas imposes a service charge on importers which contradicts articles 3 and 4 of the Policy on Petroleum and Liquid Gas; while not delivering certain services stipulated in the Policy.

6.4.3.1. Recommendation

The Department of Petroleum and Liquid Gas in order to comply with the Policy on Petroleum and Liquid Gas, shall not impose a service charge on importers who do not want to use the services of the Department.

Deadline: October 21, 2016

6.5. QUALITY EXMINATION

Once it receives the documents from AFLGE, ANSA sends the samples to Geo Chem for quality examination. A team of four representatives comprised of Geo Chem, Fuel and Liquid Gas Department, ANSA and a representative of the trader collect samples from fuel tankers.

However, respondents claim that they do not collect samples based on a uniform procedure, thus making the collection process vulnerable to corruption. For instance, there are three compartments on every tanker truck and a sample should be taken from each, but the team can make a deal with the trader and so that only one compartment is sampled.

The collected samples are examined in the laboratories of Geo Chem and then the results are sent to ANSA. In order to perform the tests, Geo Chem charges traders USD 5 per ton of fuel and USD 4 for every ton of liquid gas.

Based on the agreement that has been signed between ANSA and Geo Chem, 90 percent of the money they receive from testing fees is deposited directly into Geo Chem's account and the remaining is transferred to the Afghan government. Once the laboratory reports are confirmed, ANSA sends the documents to AFLGE and then AFLGE send the documents to the Customs Department at the related border-crossing. The fuel traders claim that after Geo Chem sends the lab report to ANSA, the traders should pay AFN 1,000 in order to receive the report when in reality they should receive the report at no cost. If the trader does not pay the AFN 1,000, then ANSA will typically make excuses and delay the process.

The completed lab reports can have two results:

1. Laboratories confirm the imported fuel is of standard-quality. This permits the trader to bring the tankers into the country after the customs duties are paid.
2. Laboratories do not confirm the fuel is of a standard-quality. Based on the current procedure the fuel should be rejected and traders would then be prohibited from removing the fuel from the custom house and thus not able to sell the fuel on the open market. However, officials of ANSA claim that low-

quality rejected goods are frequently taken out of the custom houses and then sold illegally.

Respondents listed the following issues that make the process vulnerable to corruption.

1. Interference of political figures including members of Provincial Council, Members of Parliament and other government authorities. The participants of consultation meeting held in the MEC office on July 13, 2016, mentioned that the Governor of Farah Province is involved in smuggling of the fuel into country, and they added that he is also involved in the overloading of tanker trucks.
2. The bribing of Custom Directorate officers on border-crossings.
3. The open and uncontrolled borders of Afghanistan.
4. Smuggling of fuel and liquid gas in collusion with border police. Most fuel smuggling occurs through Farah and Nimrooz Province border crossings.

Respondents also criticized the quality examination phase because of unprofessional performance of Geo Chem. They shared their concerns of forgery with respect to the vulnerability of laboratory reports. MEC discussed the traders' concerns with officials of Geo Chem and they responded, "Over the past years, several of our workers have been found forging the reports. They were fired. If other workers of Geo Chem break the law, their contracts would be quickly terminated."

The vulnerability for Geo Chem is that most of their employees are of foreign origin and they may quickly leave Afghanistan before any action is taken against them. One of the clauses in the contract that was signed by both ANSA and Geo Chem required Geo Chem to train the staff of ANSA and hand-over its used tools to them once the contract ends. Geo Chem has not complied with this provision of the contract and has not made efforts to enhance the capacity of ANSA.

Another issue is lab testing fees in Geo Chem laboratories, which are USD 5.00 per ton of fuel and USD 4.00 per ton of liquid gas. Geo Chem receives 90 percent of the lab costs and the rest is transferred into Afghanistan's national budget. Officials of the Fuel and Gas Union in Herat Province claim that the cost of testing one ton of fuel does not exceed USD 1.00 in other countries, and based on MEC's research many reliable companies, including SGS, charge USD 1.00 for testing one ton of fuel. The high cost of lab tests by Geo Chem and payment of as little as 10 percent of the proceeds to the Afghan government indicate that the contract with Geo Chem was not given due attention. However, the ANSA officials justify the fees and added that the insecurity in the country and recruitment of foreign experts increase the expenses to the Company.

In general, the overall findings of this Special Report indicate widespread complaints about the performance of Geo Chem. Some insist that Geo Chem lab tests should be sent abroad to confirm their authenticity, but this has not been done. However, officials of ANSA believe that Geo Chem is a highly capable and professional company in the region, and so ANSA sees no reason to have the lab tests confirmed outside the country. A member of the Afghan Parliament questioned the reliability of Geo Chem and added that during their visit to a Geo Chem lab they found the lab unreliable and in one case the Parliamentarian asked that an already tested sample be tested again but the second

tests result was different that than the first one. Also the technicians manipulated the tests in a way which can show desired results.

Another issue with the importation process is quality control of fuel and liquid gas products in the market. ANSA, in coordination with AFLGE, took the initiative and accordingly petrol stations were tested by mobile laboratories. However, over time the frequency of this mobile laboratory testing decreased and then stopped altogether. But now with the introduction of the new leaders in both institutions, the testing has restarted. ANSA believes that it is impossible to control the quality of all the fuel in the market because it is sold not only by over 3,000 petrol stations but also street traders. While no A-92 and A-95 fuel have not been registered on the borders to be imported, traders sell low-quality fuel under forged titles. Despite repeated recommendations regarding issuance of licenses to petrol stations under the name of fuel importer companies, petrol stations have not been registered under fuel importer companies. If these recommendations had materialized, the process of controlling the quality of fuel in the market would have been facilitated immediately.

In conclusion, ANSA failed to control the quality of fuel in the market despite having an established obligation to do so. The non-existence of well-equipped laboratories, and lack professional human resources and administrative support of other government units have added to the failure of ANSA to fully accomplish its assigned task.

6.5.1. Vulnerability

The lax enforcement of laws on document forgers and the collusion of sample taking teams with importers have provided more opportunities for administrative corruption and bribery, which results in poor quality fuel and liquid gas in the market.

6.5.1.1. Recommendation

ANSA employees involved in forging and collusion of test results should be referred to the AGO for prosecution.

Deadline: Ongoing Action

6.5.2. Vulnerability

Weak ANSA monitoring mechanisms concerning Geo Chem's performance has led companies and officials of local organizations to lose trust and question the transparency of the entire testing process.

6.5.2.1. Recommendation

In order to ensure transparency in the performance of Geo Chem, ANSA should design and implement a mechanism which re-tests some of the analysis carried out by the company.

Deadline: December 20, 2016

6.5.3. Vulnerability

The existence of 3,000 nationwide petrol stations has made ANSA unable to examine the quality of all imported fuel in the market.

6.5.3.1. Recommendation

AFLGE issues licenses to petrol stations that import fuel and liquid gas. It will assist ANSA in controlling the flow of low-quality fuel to the market.

Deadline: March 19, 2017

6.6. Custom Duties

After the quality of fuel is accepted by Geo Chem, the result is sent to the Border Customs Department which charges 2 AFS per liter under the title of Road Maintenance and the collected money is deposited into the account of the Ministry of Public Works (MOPW).

Once the Road Maintenance fee is paid, the tanker truck proceeds to the Customs House where they pay the actual custom duty. Once the custom duty has been collected, the process is complete and the driver can remove his tanker truck from the custom house. Most interviewees from different categories believe that Consignments and CMR (consignment notes) are vulnerable to fraud. Given the constant likelihood of fraud in the prices mentioned in trader's documents, MOF finally determined a fixed price for fuel and liquid gas in its database. In February 2016, the set price for fuel and diesel per ton was USD 800 (AFN 54,943) and for liquid gas USD 400 (AFN 27,471). Even though it was a preventive measure to reduce tax evasion, the significant gap between market price and the set price during the month of February was USD 270-300 in fuel and USD 150-200 in liquid gas, which caused traders to evade paying taxes, and forced them seeks ways of smuggling and paying off officials to leave the custom house without any registration and document processing.

The customs duty is 12 percent for fuel and liquid gas. However, due to the set price (which has been determined by MOF) which is higher than the market price, the fuel importer does not pay duty on the actual market price, but paid on the artificial MOF set price. Tradesmen believe that MOF's policies concerning revenue increases and achieving determined goals has given rise a case of the tradesmen's capital being grabbed by the government.

In MEC's interviews with fuel and liquid gas importers, they believe that such treatment and policies decreased the volume of fuel imported to the country through customs and there was a corresponding increase in smuggling. MEC's assessment of customs of Hairatan, Aqhina and Torgundi shows that the amount of fuel imported through these borders dropped significantly, and most of fuel imported through these three border crossings is exempted from duties.

Many respondents said that fuel and liquid gas is smuggled through western borders, especially from Farah and Nemrooz Provinces. Importers of fuel in north of Afghanistan raised their concern about smuggling fuel, and complained of facing serious challenges. They blamed MOF's weak policies, particularly the fixed price of USD 800.[2]

[2] During the time of MEC's drafting of this Special Report, the Council of Ministers reduced the price to USD 600.

In the view of fuel importers, the authority for approving custom duties which was given to MOF by paragraph 2 of article 23 of the Custom Law, while at the same time MOF is also responsible for the collecting and accounting is a conflict of interest. In order for MOF to reach the targeted amount of revenue, the MOF currently adopts custom duties at will, regardless of the negative consequences on tradesmen and consumers.

6.6.1. Vulnerability

The price of fuel and liquid gas is not set based on real market value and it has facilitated smuggling of low-quality fuel and liquid gas, and corruption in Customs Department.

6.6.1.1. Recommendation

The MOF should design its fuel and liquid gas price-setting policy based on the purchase invoice of trader and then double check the authenticity of the invoice with the seller, in coordination with MOCI.

Deadline: October 21, 2016

6.6.2. Smuggling fuel into Afghanistan

Almost all respondents including top-level authorities of related institutions, traders and beneficiaries agree that a significant amount of fuel and liquid gas is smuggled to Afghanistan. But how this illicit activity takes place and by which category of tradesmen was answered with different points of view by interviewees. The majority of interviewees describing fuel and liquid gas smuggling in two ways:

1. Borders between Afghanistan and its neighbors, particularly Iran, are open and uncontrolled and could be used as a corridor for smuggling goods, especially fuel. Interviewees from the western zone have reported that 35 routes between Afghanistan and Iran via Herat and Neemroz Provinces are used for fuel smuggling and human trafficking.
2. Some government officials believe that smuggling fuel mostly takes place at the official border crossings between the two countries. Goods pass through customs in collusion with custom officials and border police.

A high ranking official of ANSA says that in 2015, a government delegation travelled from Farah to visit the Iranian Custom Department. Figures received from both Afghan and the Iranian customs departments' show a difference of 84,000 tons between the two, specifically the Iranian side registered 84,000 tons more fuel exported than the importing Afghan side. This suggests that in a single year at just one border crossing this amount of fuel was brought into Afghanistan with no custom duty paid. It is not known how much fuel is smuggled via other border crossings. Another serious concern expressed by ANSA is that rejected fuel, which in 2015 amounted to 15,880 tons, also enters the country and no custom duty is paid. A high ranking official of ANSA voiced his concern that when they asked the neighboring countries customs departments, particularly Iran, how much rejected fuel from Afghanistan was returned to Iran, the answer was none.

According to the fuel and liquid gas importation procedure, when fuel and liquid gas enter the country, it is registered with the AFLGE, and then with ANSA, and then finally referred to Customs for payment of duty. Figures provided to MEC by these entities show gross differences. AFLGE records show that in the year 2015, 1.495291 million tons of fuel (petrol, diesel, and aircraft fuel) were imported into Afghanistan. But figures from the General Department of Customs indicate that customs duty was paid on only 0.758192 million tons. It means that 0.737099 million tons of fuel imported to the country by the customs and registered with the AFLGE, avoided payment of custom duty. The current amount of fuel imported shows the difference between the two entities, and the evidence of expanded corruption in custom on fuel importation. Based on these figures, 49.3 percent of the total imported fuel was not subject to the custom duty. Since the price for per ton was USD 800 in the MOF database for 2015, and Customs deducts a 12 percent duty, based on this calculation, the amount of evasion by smuggling through customs in 2015 amounted to USD 70,761,504.

Figures received from the AFLGE show that in 2015, 0.517694 million tons of commercial liquid gas were imported. But figures from the Deputy Administration of Customs show that custom duties was paid on 0.568394 million tons of liquid gas. The difference between AFLGE and Customs was 50,700 tons of liquid gas, which was not registered with AFLGE. Employees of AFLGE in collusion with importers did not register this amount, and thus the Department did not receive USD 360,984 in service fees.

Another important issue is the exemption of imported fuel, which according to figures provided by the AFLGE, in 2015, 0.378989 million tons of fuel (petrol, diesel, aircraft fuel). But despite great efforts by MEC, the Department of Custom did not provide information concerning total exempted fuel imported in the country. The data presented by AFLGE indicates that the government did not collect USD 36.38 million in revenue due to the existence of the exemption on fuel importation.

MEC's analysis shows that smuggling goods through official borders stems from the following vulnerabilities:

1. A lack of necessary equipment including scanners in customs;
2. A lack of sufficient monitoring and controlling on the performance of different organizations officials who are assigned to customs;
3. A lack of standard electronic controlling system, particularly exchanges of custom information between Afghan customs and customs of neighboring countries.

In general, it appears that smuggling poor quality fuel into the country has become an almost uncontrollable challenge, which inflicts losses of government revenue, and pollutes the climate and damages the engines of vehicles.

6.6.2.1. Vulnerability

A lack of transparent mechanisms for control and accountability in Customs has led to the importation of large quantities fuel and liquid gas without payment of any custom duty.

6.6.2.1.1. Recommendation

The Administrative Office of the President should investigate the process of collecting custom duties and related issues of misuse through a joint government team. Those suspected of corruption should be referred to the AGO for prosecution.

Deadline: September 20, 2016

6.6.3. Duty exemption in Afghanistan customs[3]

Paragraph 29 of article 3 of the Custom Law, defines custom duty as, "an amount that is imposed on exported and imported goods in compliance with category and measures included in custom tariff." Therefore all goods imported into Afghanistan are subject to the payment of custom duty. But according to Bilateral Security Agreement (BSA) between the Afghan government and international military forces, the government will not impose a duty on all goods imported by international military forces and are they exempted from custom duties. Similarly, MOF will not levy a duty on goods imported for MOI and MOD. However, the process of tax exemption for international military forces is very complicated and lengthy; the traders are complaining regarding sale of exempted fuel in open market.

There are many commercial companies[4] in Afghanistan that import fuel for international forces and also national security forces. The number of these companies varies each year, and in 2015, there were 20 such companies which were exempted from the duty.

In the process of exempting military forces, for instance, Resolute Support[5] submits the following documents to MOF for processing:

1. Official letter stamped and signed by the procurement official;
2. Copy of BSA with GIRoA;
3. Copy of contract with the company which imports the fuel.

The international military forces submit three kinds of documents to MOFA and a specific request for a quantity of fuel by the contractor. In return, MOFA forwards the official request letter to MOF (Deputy of Customs), and Technical Department of Deputy of Customs provides an exemption form including all specifications of the importer, including the amount of required fuel, then signs and stamps it, and again sends this to MOFA. MOFA approves the form and then submits it to the Deputy of Customs. The Technical Department of Deputy of Customs provides the form to the importer after registration, and the importer imports the required fuel[6], which is exempted from all payments and custom procedures. ANSA is not permitted to analyze the quality of fuel imported for the international military forces. The Bilateral Security Agreement (BSA) clearly lists items which are allowed to be imported, however contractors such as Supreme and others did not permit customs officers to examine the imported items,

[3] On the basis of MOF suggestion and according to resolution (4) of March 22, 2015, of the Council of Ministers, tax exemption in Afghan customs was approved for MOD, MOI, and international military forces.
[4] Refer to Annex 2 for the list of exempted companies which import fuel.
[5] Formerly ISAF
[6] Exempted fuel just imported via the borders of Hairatan, Aqheena and Torgundi.

thus creating an opportunity for prohibited items to be imported and make their way into the markets of Kabul and other cities. In order to prevent misuse, the Deputy of Customs scans the exemption form and it is emailed to the Border Customs Directorate so it can be compared to the form with the exempted companies. Additionally, in order to ensure that the relevant institutions received the fuel and to ensure the arrival of fuel to the address of applicant, Border Customs also requests a receipt from the applicant. The Customs Department of MOF expressed their frustration after a non-response from MOD regarding requested receipts, and MEC also received no cooperation from MOD in providing requested information for this Special Report.

The Procedure of Duty Exemption

The table below details the steps in the process of importing duty-exempt fuel for the international military forces, MOD, MOI and MOF:

No.	Description of Step	Authorized Entity
1	Applicant submits an official stamped letter with signature of procurement official (MOD and MOI are directly submitting their requests for fuel exemption to the MOF)	US Army-RS
2	After verifying the necessary documents, MOFA sends the official letter to the MOF	MOFA
3	Exemption form provided in light of documents approved by MOFA and also the amount of requested fuel, and sent to MOFA for stamping and signature	MOF/ Customs and Revenue Department
4	Approval of exemption form and sending back to the MOF/ Custom and Revenue Department	MOFA
5	Sending a copy of the duty exemption form to Border Customs Departments through post and email	MOF/ Customs and Revenue Department
6	In light of exemption form, a representative of the company imports fuel to customs, and is exempted from all custom duties	Contractors (Fuel Importing Companies)

Vulnerabilities of the process of tax exemption against corruption:

National tradesmen, who import fuel and liquid gas via Aqhina, Hairatan and Torghundi border crossings believe that the exemption forms are counterfeits, and companies who have the right to import exempted fuel sell these forms, thus other companies purchase exemption forms and import fuel into the country without paying the custom duty. But as complicated as the exemption form process is, the MOFA, MOF, and RS control this process so there is little opportunity for the existence of counterfeit exemption forms. However, companies that possess legitimate exemption forms have been known to sell the original form to other companies.

Another example of exempted fuel making its way into the market is after the Custom Department processes the exemption paperwork, the companies that have been granted exemption forms re-sell the fuel to the private sector that then supplies this

fuel to the market. MEC has learned that such practices have been observed in Herat, where three exempted fuel tankers were unloaded and then resold in the market. But when MOD and MOI review the custom documents, they are frequently willing to remain ignorant that any wrongdoing has occurred.

In interviews with ANSA, in the context of exemptions they generally identified two cases vulnerable to corruption: 1) How to assess the needs for the amount of exempted fuel and consumed by military forces, including international forces; and 2) The mechanism for importing and emptying fuel in the supply system of these forces is also questionable. They believe that by excusing themselves from laboratory testing and quality control, Afghan contractors import poor quality fuel to the market, and deliver quality fuel to the international forces. Nonetheless, the process of importing exempted fuel, particularly fuel which did not pass quality controls, provides a great opportunity for tradesmen to import poor quality fuel. In this regard some traders say, "The Deputy of Customs in collusion with the Department of Petroleum and Liquid Gas could forge forms and sell it, and avoid registering statistics in their database because these two entities are the key sources in the process of information registration."

MEC's observation of the database of customs in Kabul and the provinces shows that what is referred to as a database is actually simple tables in Excel. The information and statistics are prone to theft and alteration. In addition, as part of the analysis for this Special Report MEC asked the Deputy of Customs how much fuel was imported in 2015 and was told that they could not answer the question because the database was incomplete. This clearly shows serious flaws and vulnerability of registration system of the Deputy of Customs.

Participants in MEC's consultation meeting noted the existence of TC-1 (jet fuel) as proof that exempted fuel actually exists in the open market. Looking into the documents registered with the Deputy of Customs and the Department of Petroleum and Liquid Gas, the initial amount of TC-1 imported into the country in 2015 was 27,307 tons, which was processed through customs. However, while all aviation companies in Afghanistan require this type fuel on a daily basis, 27,307 tons is not nearly adequate to meet this demand.

One of likely methods of leaking exempted fuel in to the market, which was raised by the interviewees, is that local security forces are involved. Corps and police headquarters will request fuel from MOD and MOI in excess of their actual needs, and then store this in their private tankers and use when the need arises, selling the rest on the open market. Some participants of the consultation meeting quoted the chief of police in Kandahar saying, "The Kandahar chief of police asked how much fuel had been stored in this headquarters? He replied that they cannot store more than 20 tons, and most of their fuel is stored in reservoirs, and distributed upon notes by the headquarters." In a meeting with MEC and representatives from the international military forces, the issue of misusing petroleum exemptions was raised. The representatives confirmed that the potential for abuse of customs exemptions existed and they expressed a readiness for implementing changes to the existing procedures and seeking alternatives so as to guarantee the transparency of the imports.

To summarize, the importation of exempted petroleum products is not transparent for various reasons including security issues, but also there are serious vulnerabilities in the process, including registration in the Deputy of Customs, verification of requirements within the entity which receive the fuel, and the exemption of some fuel from the quality testing process. It requires change in the administrative processing.

6.6.3.1. Vulnerability

The exemption of fuel and liquid gas, imported for international and national military forces, gives rise for misuse and opportunity to tax evasion.

6.6.3.1.1. Recommendation

There is an ongoing discussion with the MOFA, in cooperation with international forces, MOF, MOD, and MOI that there be a memorandum of understanding signed and based on this a custom duty has to be levied on all fuel and liquid gas belonging to military forces; and the MOF returns the payments to the bank account of international and national forces. MEC encourages all parties to sign the MOU and that a custom duty be levied on this imported fuel and liquid gas. They should also agree that all exempted items should be described properly in order to prevent the importation of prohibited goods.

Deadline: October 21, 2016

6.6.4. Role of criminal patronage networks in fuel and liquid gas importation

The criminal patronage networks of fuel and liquid gas in Afghanistan are a certain group of powerful individuals who have significant influence not only because of their high positions of government or Parliament, but they also have their significant role in private sector importation of fuel and liquid gas. Given their influence, they are able to change government policies, to create opportunities for their own benefit and self-interests.

According to interviewees, the controlling influence by individuals of these criminal patronage networks in the process of importing fuel and liquid gas paves the way for smuggling petroleum, counterfeiting necessary documents (especially weigh scale documents), reducing quality control, misusing custom exemptions which are intended for military forces, and sometimes manipulating the importation of thousands of tons of poor quality fuel and liquid gas. These controlling individuals are supporting private companies – either directly or indirectly – and they receive tangible benefits.

Most importers of fuel and liquid gas divide the criminal patronage networks of petroleum in Afghanistan into separate parts and state, “The criminal patronage networks of petroleum in the country are mainly divided into two parts of north and west, and both use their strongholds as a means of influence for illegal importation of fuel” They add that in the north and west of Afghanistan, which is an area controlled by just a number of specific individuals, who use the opportunity of smuggling thousands of tons of fuel and liquid gas products into the country without paying custom duties. Based on the swift changes in some decisions taken by the Council of Ministers, the majority of interviewees believe that the Council’s resolutions result from some

influence of criminal patronage networks at the decision-making level. An example of this, which has already detailed in this Report, is the resolution (45) of February 24, 2014, and resolution (9) of May 25, 2014, of the Council of Ministers.

6.6.4.1. Vulnerability:

Involvement of criminal patronage networks in the process of fuel importation and gas supply has resulted that a bulk of the fuel needed in the country to be smuggled and that it has also adversely affected the customs revenues.

6.6.4.1.1. Recommendation

Individuals involved in fuel and liquid gas criminal patronage networks should be identified, arrested and then prosecuted by the Attorney General through Anti-Corruption Justice Center.

Deadline: December 20, 2016

6.7. WEIGH SCALES OF THE MINISTRY OF PUBLIC WORKS

The Ministry of Public Works (MOPW) has placed weigh scales at border crossings and shipments cross the scales precisely when they are brought into the zero point of the country's borders. Employees of MOPW weigh the shipments for AFN 100 per ton. However, respondents criticized the way shipments are weighed. Drivers reported that they paid as much as AFN 1,500 for every fuel container to be measured. In response to a direct inquiry by the MEC about these concerns, the Ministry discounted the accusations as baseless.

Moreover, employees of the MOPW who are assigned to measure imported shipments allow over-loaded containers to drive on highways after they receive bribes.

Consequently this phase of the fuel and liquid gas importation process is also vulnerable to corruption. While the MOPW has placed mobile weighing machines at border crossings, it has not been able to prove why over-loaded tankers are permitted to travel towards their final destination on public highways. Providing a proper system, such as an electronic scale, that can bar its employees from changing measurements would assist in preventing such scenarios.

6.7.1. Vulnerability

The MOPW cannot control the weigh scales, as they have been seized by powerful figures and top-level government authorities.

6.7.1.1. Recommendation

The MOPW prevents the control of weigh scales by criminal patronage networks in coordination with the MOI.

Deadline: October 21, 2016

6.7.2. Vulnerability

Opportunities exist for suppliers and drivers to pay bribes to weigh scale employees so the official documentation indicates a lower weight. This practice leads to the loss of government revenue.

6.7.2.1. Recommendation

MOPW in coordination with the National Directorate of Security identifies employees and local officials involved in bribery and collusion with businessmen and drivers to reduce weight and refers them to the AGO for prosecution.

Deadline: Ongoing Action

6.7.3. Vulnerability

Non-standard weigh scales and lack of proper calibration has caused incorrect over and under measurements.

6.7.3.1. Recommendation

ANSA ensures the measurement and calibration systems of weigh scales at customs houses are standard and functioning.

Deadline: March 19, 2017

6.8. TRAVELING ON HIGHWAYS TO REACH THE FINAL DESTINATION

Another problem that drivers of fuel or liquid gas tankers often encounter when they start driving towards their final destination is extortion by police on highways. In addition to what respondents (particularly drivers) stressed regarding the continued extortions they face, MEC witnessed a policeman stop a fuel tanker on the Hairatan highway and demand payment from a driver. And this is not an isolated incident; there are several other incidents MEC encountered traveling between Herat and Islam Qala. In one situation a driver was brutally beaten by the police after he denied giving a bribe.

6.8.1. Vulnerability

Lack of control over the performance of police on highways has permitted extortion activities.

6.8.1.1. Recommendation

The MOI should establish intelligence sources and perform random surveillance with police checkpoints on highways, and then refer violators to the AGO for prosecution.

Deadline: October 21, 2016

6.9. MUNICIPALITY CHARGES FOR TRANSPORATION OF GOODS INTO THE CITY (Tahjaye)

When fuel or liquid gas containers are brought into cities, traders are required to pay Tahjaye (tax) to the municipalities because streets are considered city property. Based on the City Services Tax Law, any trading activity on municipality property, especially in

markets, city entrances and exit gates are all subject to the Tahjaye. Municipalities charge every fuel tanker around AFN 3,000 (USD 43). However, most traders claim that they are not given any receipts after Tahjaye is paid. Employees of municipalities at times collect less Tahjaye from some traders or none at all depending on tribal or political contacts inside the municipalities.

6.10. Distribution of fuel to petrol stations

This stage is another in the process which is faced with numerous challenges, one of which is determining where petrol stations obtain their fuel. Interviewees believe that many petrol stations purchase legally imported fuel from importers which has been processed through customs. However, there are other sources which provide fuel for petrol stations which are illegal and import poor quality, potentially smuggled fuel. In addition, interviewees believe that part of the fuel petrol which stations receive is exempted fuel and explain the methods, “exempted fuel is distributed to the private market petrol stations via two channels: 1) fuel is swapped, which means that exempted imported fuel distributed to the petrol stations, and fuel which has gone through custom procedures, distributed to the international military forces; and 2) extra exempted fuel, in collusion with petrol stations owners saved in their reservoirs. And then military units consume according to their needs, and the rest offered to the market by petrol stations.”

In addition, fuel which is sold by the staff of MOI and MOD could be a source of fuel distributed to the market. Retailers of fuel products in the market use this source and offer these stolen fuel products to the market.

6.10.1. Vulnerability

The lack of a standard system to control sources for purchasing fuel and liquid gas has led to the smuggling of these materials into the country and distribution to the open market.

6.10.1.1. Recommendation

In an attempt to stem the market for illegal and smuggled petroleum and liquid gas, the Department of Petroleum and Liquid Gas should develop a system which registers and identifies all companies that distribute petroleum and liquid gas to petrol stations.

Deadline: October 21, 2016

6.11. Pricing and monitoring the sale products in the market

Interviewees from consumers and the majority of the agencies involved in the importation process believe that the pricing process is the most challenging issue of the market monopoly and hoarding of fuel products by different categories of fuel importers. All importers of fuel and the AFLGE of Fuel and Liquid Gas are jointly involved in the following two things.

First, they play role together in the hoarding of fuel and liquid gas. Interviewees describe their method, "a joint decision is taken to hoard in collusion with institutions involved in the process, especially the Department of Fuel and Liquid Gas, and make it appear as if the supply of imported fuel has decreased.”

Second, they manipulate the market by raising the price of fuel by constricting the supply of fuel to the market. In the end, they raise prices, and after a few weeks, the Department of Fuel and Liquid Gas makes dramatic allegations through social media, and promises public that they are negotiating with importers, and reduce prices. This subterfuge takes a few weeks to accomplish and such practices may take place many times every year, such as occurred in the third quarter of last year. Interestingly, after benefiting from this opportunity, the Department of Fuel and Liquid Gas announced that after a stern talk with the importer of fuel, finally importers accepted to reduce the price of fuel and liquid gas by AFN 2. In fact, the price of fuel sometimes increases by as much as 80 percent but it then decreases by a 30-50 percent after a few months, and the public has become accustomed to such an inconsistent pricing system.

Interviewees believe that by virtue of the important role that it plays the criminal patronage networks of fuel and liquid gas infiltrated the Department, rendering it weak. Instead of playing a forceful role in regulating fuel and liquid gas, it plays role behind the scenes to increase the price and hoard materials. A new official in the Department says that such practices happened in the past. They have been offered money by a certain group of individuals and importers of fuel and liquid gas, AFN 2 for per liter out of the total amount of sale, but they strongly refused. The official adds that since the introduction of a reform plan to help prevent this, such practices have not taken place.

6.11.1. Vulnerability

Not implementing the Law on Hoarding and the Law on Monopoly by the authorities, has led to the hoarding of materials by importers in collusion with the Department of Petroleum and Liquid Gas.

6.11.1.1. Recommendation

In an attempt to implement the Law on Hoarding, and Law on Monopoly, MOCI develops a mechanism by which the perpetrators are prosecuted.

Deadline: October 21, 2016

7. Conclusions/ Recommendations

7.1. Conclusion

This Special Report shows that vulnerabilities to corruption in this process are very serious, and behind these vulnerabilities are the hands of large criminal patronage networks of fuel inside and outside of the country, which has even infiltrated into the government. Fuel criminal patronage networks have not only impeded the implementation of related laws and regulations but have also influenced the decisions of the Council of Ministers that have proven to be in contradiction with the laws in force and that the Resolutions have facilitated further opportunities for profit-seekers to benefit more by violating national interests of Afghanistan.

Passive approaches of the related institutions, particularly AFLGE, ANSA and MOF Customs Department that are all vulnerable to corruption have in turn paved the way

for the intervention of fuel criminal patronage networks in the process of fuel importation and gas supply.

More importantly, ineffective systems including quality-control, weight-control and ASYCUDA and lack of necessary coordination between the related institutions have increased smuggling of low-quality fuel as a result of which the government of Afghanistan lost millions of dollars.

This assessment shows that involved organizations in the process require considerable improvement in all aspects including existing laws, organizational structures, human resources equipment, administrative systems and even revision on authorities and responsibilities. The National Unity Government is dedicated to bringing reforms and increasing the country's revenue. So it is critical that the implementation of reforms be accelerated in the importation of fuel and liquid gas to combat the pervasive influence of criminal patronage networks.

7.2. Recommendations:

Recommendations of this Special Report concentrate on the reform and proper enforcement of laws and regulations, the standardization of administrative structures, and increased coordination and leadership among involved organizations. Recommendations also detail ways to control and monitor both the recruitment of employees and their performance on the job, and properly equipping border offices with modern systems. Vulnerabilities and recommendations have been listed in the subject areas throughout this Special Report, and a complete list is available in the table below.

Table of Fuel and Liquid Gas Recommendations

Priority (1)		Priority (2)		Priority (3)	
Indicator	**Reference Number of Recommendation in Report**	**Recommendation**	**Reference Number of Vulnerability in Report**	**Vulnerability (Baseline)**	**Deadline**
Draft and implement the regulation of fuel refining companies.	4.1.1.1	The Ministry of Commerce and Industry (MOCI) should draft a comprehensive regulation for the establishment and resumption of the activities of refining companies and send the regulation to the related agencies.	4.1.1	The lack of comprehensive regulations for the establishment of fuel refining companies resulting in the failure of eight refining companies, and also allowed the Council of Ministers to approve resolutions contradicting the Constitution.	Nov 20, 2016

Alignment of the State-Owned Enterprises Law with the Constitution	4.2.1.1	The MOCI in coordination with the Ministry of Finance (MOF) and Ministry of Justice (MOJ) should align the State-Owned Enterprises Law with the constitution of Afghanistan.	4.2.1	The Fuel and Gas Enterprises Law contradicts Article 10 of the Constitution and idea of a market economy, and this contradiction results in the inapplicability of the AFLGE Law.	Nov 21, 2016
Revise the Statute of fuel and liquid gas enterprise	4.3.1.1	The MOCI, in collaboration with the MOF and MOJ should review and reform the Charter of the AFLGE based on the current laws of the country.	4.3.1	The Charter of the Afghanistan Fuel and Liquid Gas Enterprise (AFLGE) was predicated on a planned economy which is contrary to the Article 10 of the Constitution and this has created a conflict of interest, resulting in huge losses to the private sector entrepreneurs, particularly to the fuel and liquid gas importers.	Nov 21, 2016
Prevent interference of criminal patronage networks in the process of fuel and liquid gas importation	4.4.1.1	The MOCI in collaboration with Afghan Chamber of Commerce and Industries should develop and approve a policy in order to administer criminal sanctions against offenders and prevent the interference of fuel and liquid gas criminal patronage networks.	4.4.1	The Private Investment Law has not been properly implemented due to weak governance and existing criminal patronage networks in the trade of fuel and liquid gas.	Nov 21, 2016
Delete Article 16 of the Customs Law	4.5.1.1	The MOF, in coordination with the MOJ, should delete Article 16 of the Customs Law.	4.5.1	Article 16 of Customs Law legalizes brokerage. The performance of brokers has led to increased corruption in Customs Departments.	Dec 30, 2016

ANSA needs a strategy for capacity development and care of equipment, and then requests the budget to fund strategy.	4.6.1.1.	ANSA prepares a comprehensive strategy for how it would enhance the capacity of its staff and equipment in order to secure an adequate budget from the government or international donors.	4.6.1.	ANSA has not been able to effectively enforce the National Standardization Law due to lack of capacity.	Dec 31, 2016
Providing mechanisms in order to implement Article 20 and 21 of the National Standardization Law	4.6.2.1	ANSA should enforce Articles 21 and 20 of National Standardization Law.	4.6.2	Some ad hoc and unprofessional decisions of the Council of Ministers have challenged the process of importing fuel and liquid gas after the role of ANSA was disregarded.	Ongoing Action
Prepare a plan for uniform application of fuel and gas policies and to transform the legal status of SOEs	4.7.1.1	In order to equally apply this Policy and transform the AFLGE into a private company, MOCI should develop a comprehensive plan and submit it to the Cabinet for approval.	4.7.1	The uneven implementation of provisions of Fuel and Liquid Gas Policy has forced the fuel traders to pay money to AFLGE, without receiving any services in return. For nine years since the policies adoption, the MOCI has not implemented paragraph 9 which legally turns the Enterprise into a private company.	Oct 22, 2016

Review draft resolutions of the Cabinet / Council of Ministers in consultation with the relevant technical departments before they are approved by Council of Ministers	4.8.1.1	Prior to submitting the resolutions/policies to the Cabinet and the Council of Ministers, the Administrative Office of the President, shall in accordance with the Afghan laws and in collaboration with the respective organizations conduct a compressive review of the decisions and policies. After revising and removing the errors, then the resolutions/policies should be sent to the Cabinet and Council of Ministers for discussion and approval.	4.8.1	Decisions and policies by the Council of Ministers which are in contradiction to Afghan laws and undermine the role of the respective organizations have prevented the implementation of Afghan laws.	Ongoing Action
Preparation of transparent mechanisms of coordination between agencies led by the MOCI	5.1.1.1	The MOCI should take the lead of importation process and establish a transparent mechanism for coordination and accountability in the process.	5.1.1	Undefined leadership of the importation process of fuel and liquid gas, and proliferation of institutions involved in the process has affected the management and coordination among the organizations, and decreased transparency and accountability.	Oct 6, 2016
Establishment of a single licensing authority for the importation process	5.2.1.1	The MOCI should assess the role of all the license issuing organizations and approve a plan to create a single licensing issuing authority.	5.2.1	The proliferation of organizations and complex bureaucracy of licensing in the process of importation of fuel and liquid gas has left the process vulnerable to corruption, and caused inconvenience for traders and investors.	Oct 6, 2016

Revise the organizational structure of the AFLGE	5.3.1.1	The MOCI, in collaboration with the AFLGE should review the current organizational structure of the Directorate, identify the redundant positions, and align the Tashkeil in accordance with the workload of the organization.	5.3.1	Overstaffing in the AFLGE has led to 60 percent of employment that some employees have created their own opportunities for corruption.	Dec 20, 2016
Review of the Customs' organizational structure	5.3.2.1	The MOF, in consultation with custom officials, should review the organizational structure of the customs in the provinces and align the Tashkeil in accordance with the workload of the organization.	5.3.2	Due to lack of adequate staff a large portion of imported goods are being improperly described in the customs process. This has paved the way for corruption and evasion of income from the custom duties.	Mar 19, 2017
Evaluation of staff in the related agencies, and then where needed, introduce capacity building efforts.	5.5.1.1	Afghanistan Independent Administrative Reform and Civil Service Commission should evaluate all the staff in these agencies in coordination with the MOF, MOCI, and National Standardization Authority, and introduces the staff of ANSA to related training courses.	5.5.1	Lack of transparency and continued political interference in the recruitment process of agencies involved in the process of fuel and liquid gas importation have facilitated job opportunities for unqualified and unskilled persons. This trend has challenged capacity building efforts in these agencies.	Mar 19, 2017
Designing the Master Plan for capacity building and equipping the National Standards Authority	5.6.1.1	The National Standards Authority should prepare a comprehensive plan for capacity building and equipment acquisition (laboratories, scale calibration devices, and other required tools) and request a corresponding budget from MOF and international donors.	5.6.1	Due to an inadequate budget, the National Standards Authority is not equipped with the required working tools, such as laboratories, which prevents the effective implementation of the National Standardization Law.	Mar 19, 2017

Adopt a regulation which protects the equipment of government entities	5.6.2.1	The MOF should adopt a regulation which obligates the employees of the organizations to maintain tools and office equipment. The regulation should include sanctions and compensations for equipment damage.	5.6.2	Due to the lack of an effective maintenance policy, equipment has suffered damage or premature failure, and some officials deliberately damaged equipment with impunity.	Dec 30, 2016
Address the current imbalance of authority and responsibility in the draft Admin. Procedure Code	5.7.1.1	The Administrative Procedure Law which is currently being drafted should include a provision which ensures that there is clear authority so that responsibility is given to employees at different levels for certain actions. This provision should be drafted in coordination with the MOJ, the Administrative Office of the President and the Afghan Independent Administration Reform and Civil Service Commission.	5.7.1	Lack of balance in the power and monopoly of power in the capital has slowed administrative procedures of provincial-level agencies involved in the process of fuel and liquid gas importation.	Jun 19, 2017
Encourage healthy competition in importation of fuel and liquid gas from neighboring countries	6.2.1.1	The MOCI facilitates positive competition to support consumers and prevent the influence of fuel and liquid gas criminal patronage networks.	6.2.1	Criminal patronage networks have reached an agreement with fuel-supplying entities in some neighboring countries, particularly Uzbekistan, to overcharge investors due to poor management of the process and passive behavior of MOCI with investors on contracts with exporting countries.	Dec 20, 2016

Ensure that transportation companies meet the TIR criteria before the Ministry of Transportation issues licenses	6.3.1.1	The Ministry of Transportation makes sure the companies meet the International Standards of Transportation Convention (TIR) before granting them license.	6.3.1	Traders cannot directly transport their fuel into the country through Afghan transportation companies because they do not meet the International standard transportations criteria. The companies were granted licenses by the Ministry of Transportation without considering the international standards.	Mar 20, 2018
Create a joint delegation to review the AFLGE's income collection, identify any wrongdoing, and punish the offenders	6.4.1.1	Administrative Office of the President, through a joint government delegation, should conduct a compressive review of the process of income collection of the AFLGE, discover any misuse by former officials, identify suspected individuals and refer them to the AGO for prosecution.	6.4.1	Impunity and not applying the law to powerful individuals who enjoy close connection with political circles, and the role and influence of the fuel and liquid gas criminal patronage networks on high level officials of the government and Parliament has caused individuals who have embezzled millions of dollars to go unprosecuted.	Nov 20, 2016
Computerize the financial and accounting systems of the Department of Petroleum and Liquid Gas.	6.4.2.1	MOCI should computerize its financial and accounting systems including the revenues and expenditures of the Department of Petroleum and Liquid Gas, and introduce mechanisms which will lead to transparency, accountability and responsibility of employees in financial issues.	6.4.2	A lack of active administrative systems has paved the way for corruption for the employees of the Department of Petroleum and Liquid Gas.	Mar 19, 2017

Do not impose service charges on those importers who are not using the service	6.4.3.1	The Department of Petroleum and Liquid Gas in compliance with the Policy on Petroleum and Liquid Gas shall not impose service charge on importers who do not want to use the services of the institution.	6.4.3	In another instance of conflicts between existing laws, the Department of Petroleum and Liquid Gas imposes a service charge on the importers of fuel and liquid gas, opposing articles 3 and 4 of the Policy of Petroleum and Liquid Gas; while not delivering certain services stipulated in the Policy.	Oct 21, 2016
Observance of Fuel and Gas Policy by AFLGE	6.4.4.1	AFLGE should not impose charge importers for the services that, according to the Fuel and Gas Policy, are optional and voluntary.	6.4.4	Currently, AFLGE imposes service-charges on fuel importers which is fully in violation to Article 3 and 4 of the Fuel and Gas Policy.	Oct 21, 2016
Enforce the laws and prosecute employees who forge documents or falsify test results	6.5.1.1	ANSA employees involved in forging and collusion of test results should be referred to the AGO for prosecution.	6.5.1	The lax enforcement of laws on document forgers and the collusion of sample taking teams with importers have provided more opportunities for administrative corruption and bribery, which results in poor quality fuel and liquid gas in the market.	Ongoing Action
Perform re-testing of some Geo Chem results to ensure transparency in the process	6.5.2.1	In order to ensure transparency in the performances of Geo Chem, ANSA should design and implement a mechanism which re-tests some of the analyses carried out by the company.	6.5.2	Weak ANSA monitoring mechanisms concerning Geo Chem's performance has led companies and officials of local organizations to lose trust and question the transparency of the entire process.	Dec 20, 2016
Issuance of licenses to petrol stations to aide in the control of low-quality fuel to the market	6.5.3.1	AFLGE should issue licenses to petrol stations that import fuel and liquid gas. It will assist ANSA in controlling the flow of low-quality fuel to the market.	6.5.3	The existence of 3,000 petrol stations nationwide has made ANSA unable to examine the quality of all imported fuel in the market.	Mar 19, 2017

Invoice validation process to determine the price of fuel and liquid gas	6.6.1.1	The MOF should design its fuel price-setting technique based on the purchase invoice of the trader and double check the authenticity of the invoice with the seller, in coordination with MOCI.	6.6.1	The price of fuel is not set based on real market value and it has facilitated smuggling of low-quality fuel and corruption in the Customs Department.	Oct 21, 2016
A joint government team should investigate the collection of custom duties	6.6.2.1.1	The Administrative Office of the President should investigate the process of collecting custom duties and related issues of misuse through a joint government team. Those suspected of corruption should be referred to the AGO for prosecution.	6.6.2.1	A lack of transparent mechanisms for control and accountability in customs has led to the importation of large quantities fuel and liquid gas without payment of any custom duty.	Sep 20, 2016
Change the current exemption process for international and national military forces payment of custom duties	6.6.3.2.1.1	There is an ongoing discussion with the MOFA, in cooperation with international forces, MOF, MOD, and MOI that there be a memorandum of understanding signed and based on this a custom duty has to be levied on all fuel and liquid gas belonging to the military forces; and the MOF returns the payments to bank account of the international and national forces. MEC encourages all parties to sign the MOU and that a custom duty be levied on this imported fuel and liquid gas. And they should agree that all exempted goods should be described properly in order to prevent the importation of prohibited goods.	6.6.3.2.1	The exemption of fuel and liquid gas, imported for international and national military forces, gives rise for misuse, and opportunity to tax evasion.	Oct 21, 2016

Prosecute suspected figures involved in criminal patronage networks	6.6.4.1.1.	Individuals involved in fuel and liquid gas criminal patronage networks should be identified, arrested and then prosecuted by the Attorney General through Anti-Corruption Justice Center.	6.6.4.1.	Involvement of the criminal patronage networks in the process of fuel importation and gas supply has resulted in the bulk of fuel needed in the country is smuggled and that this has also adversely affected the customs revenues.	
The MOPW should coordinate with MOI to keep weigh scales legitimate	6.7.1.1	The MOPW prevents the control of weigh scales by criminal patronage networks in coordination with the MOI.	6.7.1	The MOPW cannot control the weighing scales as they have been seized by powerful figures and top-level government authorities.	Oct 21, 2016
Identify those suspected of wrongdoing in relation to weigh scales and seek prosecution.	6.7.2.1	The MOPW, in coordination with the National Directorate of Security, identifies employees and local officials involved in bribery and collusion with businessmen and drivers to reduce weight, refers them to the AGO for prosecution.	6.7.2	Opportunities exist for suppliers and drivers to pay bribes to weigh scale employees so they show low weight on official documents. This practice leads to the loss of government revenue.	Dec 20, 2016
ANSA should ensure that the measurements of weigh scales are accurate.	6.7.3.1	ANSA ensures that measurement and calibration systems of customs houses are standard and functioning.	6.7.3	Nonstandard weigh scales and a lack of calibration has caused incorrect over and under measurements.	Mar 19, 2017
Randomly check highway police for possible instances of extortion	6.8.1.1	The MOI should establish intelligence sources and perform random surveillance of police checkpoints on highways, and refer suspects to the AGO for prosecution.	6.8.1	Lack of control over the performance of police on highways has caused extortion.	Oct 21, 2016

Register petrol stations to help stop illegal fuel and liquid gas entering the market	6.10.1.1	In an attempt to stem the market for illegal and smuggled petroleum and liquid gas, the Department of Petroleum and Liquid Gas should develop a system which registers and identifies all companies that distribute petroleum and liquid gas to petrol stations.	6.10.1	A lack of standard system to control sources for purchasing petroleum and liquid gas has led to the smuggling of these materials into the country, and distribution to the open market.	Oct 21, 2016
The Law on Hoarding and Law on Monopoly should both be fully enforced	6.11.1.1	In an attempt to implement Law on Hoarding, and Law on Monopoly, MOCI develops a mechanism by which the perpetrators are prosecuted and punished.	6.11.1	A lack of implementing Law on Hoarding and Law on Monopoly by the authorities in the process of petroleum and liquid gas distribution, has led to the hoarding of materials by importers, in collusion with the Department of Petroleum and Liquid Gas	Oct 21, 2016

8. SOURCES

Constitution (2004)
Private Investment Law (2005)
Income Tax Law (2008)
Customs Law (2005)
National Standardization Law (2013)
Hydrocarbons (Fuel and Liquid Gas) Law (2008)
Fuel and Gas Policy 3,1386 (2007)
Resolution 50,1391 (2012)
Resolution 45,1392 (2013)
Resolution 4,1394 (2015)
Resolution 9, 1393 (2014)
State-Owned Enterprises Law (1991)
Charter of Enterprises (1987)
City Services Law (2001)
High Tonnage Vehicle Control Regulation (2014)

Interviews

Minister of Commerce and Industry
Deputy of Private Sector Development (Ministry of Commerce and Industry)
Afghanistan Chamber of Commerce Authority
National Standardization Authority
Hairatan, Aqena, Islam Qala and Torgondi ANSA Authorities
Officials of the Hairatan Port
Officials of Geo Chem
Hairatan, Aqena, Islam Qala and Tordondi Geo Chem Authorities
Customs Deputy, Ministry of Finance
Resolute Support
Ministry of Finance
Balkh, Herat, and Kabul Provincial Fuel and Gas Enterprise Directors
Hairatan, Aqena, Islam Qala and Torgondi Fuel and Gas Enterprise Employees
Head of Ghazanfar Oil and Gas Company
Head of Itihad Brothran Private Company
Herat Province Fuel Importer Union
Herat Province Liquid Gas Importer Union
Civil Society

Annex (1)

Stages in the Fuel Importation Process

No.	Stage	Responsible Entity
1	Obtaining following licenses and permits: 1. Investment 2. Trade company 3. Obtaining fuel importation license	1. AISA 2. Central Business Registry and Intellectual Property Directorate 3. Fuel and Gas Regulation Department
2	Participation in bidding process and signing contract	Trader and fuel producing companies
3	Preparing CMR and Consignment	Fuel producing companies and delivering to transportation companies
4	Fuel and gas transportation	Transportation companies
5	Stumping and marking CMR and consignment	Border Customs Departments
6	Parking of fuel and liquid gas tanker trucks at the zero point	Fuel importer and transportation companies
7	Sending the copy of the related documents to fuel and gas enterprise	Border Customs Department
8	AFLGE receives 1.78 service fees for providing services, then sending formal letter to ANSA to check the fuel quality	AFLGE
9	Controlling related documents by ANSA and sending documents to Geo Chem	ANSA
10	Sampling and quality control	Geo Chem, ANSA, AFLGE and representative of trader
11	Sending the result of lab to ANSA	Geo Chem
12	Verification and sending the result to Fuel and Gas enterprise	ANSA
13	Sending the lab results to the Border Customs Departments	AFLGE
14	Sending the related documents to Customs Departments	Border Customs Department
15	Obtaining Tax process	Customs Department
16	Weighing the fuel importer tankers	Customs, MOPW, AFLGE
17	Unloading of Fuel in the Fuel reservoirs	Fuel importer
18	Transportation to different provinces for distribution	Fuel importer
19	Obtaining municipality tax (Tahjayee) from fuel importer	Municipality
20	Unloading fuel in the reservoirs and petrol stations	Fuel importer

Annex (2)

Companies Which Import Exempted Fuel

No.	Name of Supplier / Company	Recipient
1	Red Star Enterprise Limited	United States Army
2	N.C.S	Resolute Support Mission
3	Ghazanfer Oil and Gas Company	Ministry of Finance
4	Ghazanfer Oil and Gas Company	Ministry of Defense
5	Northern Afghanistan Company	Ministry of Defense
6	Ariaya Target Logistic	Resolute Support Mission
7	CE.FE. Limited	Resolute Support Mission
8	Maihan Sellab Limited	Resolute Support Mission
9	Fadeless Limited	Resolute Support Mission
10	Ferdowsy Balkh Limited	Ministry of Finance
11	Original Supplies Limited	Resolute Support Mission
12	Ariaya Target Petroleum Saify Group	Ministry of Interior
13	National Fuel Corporation	United States Army and Ministry of Finance
14	Original Supplies and Parwan Group	Ministry of Interior
15	Ariaya Target Petroleum	Resolute Support Mission
16	North Comp Supply	United States Army
17	Afghan Fortune	Resolute Support Mission
18	Northern Afghanistan Company	Resolute Support Mission
19	Lego Afghan	Resolute Support Mission
20	Parwan Group	Resolute Support Mission