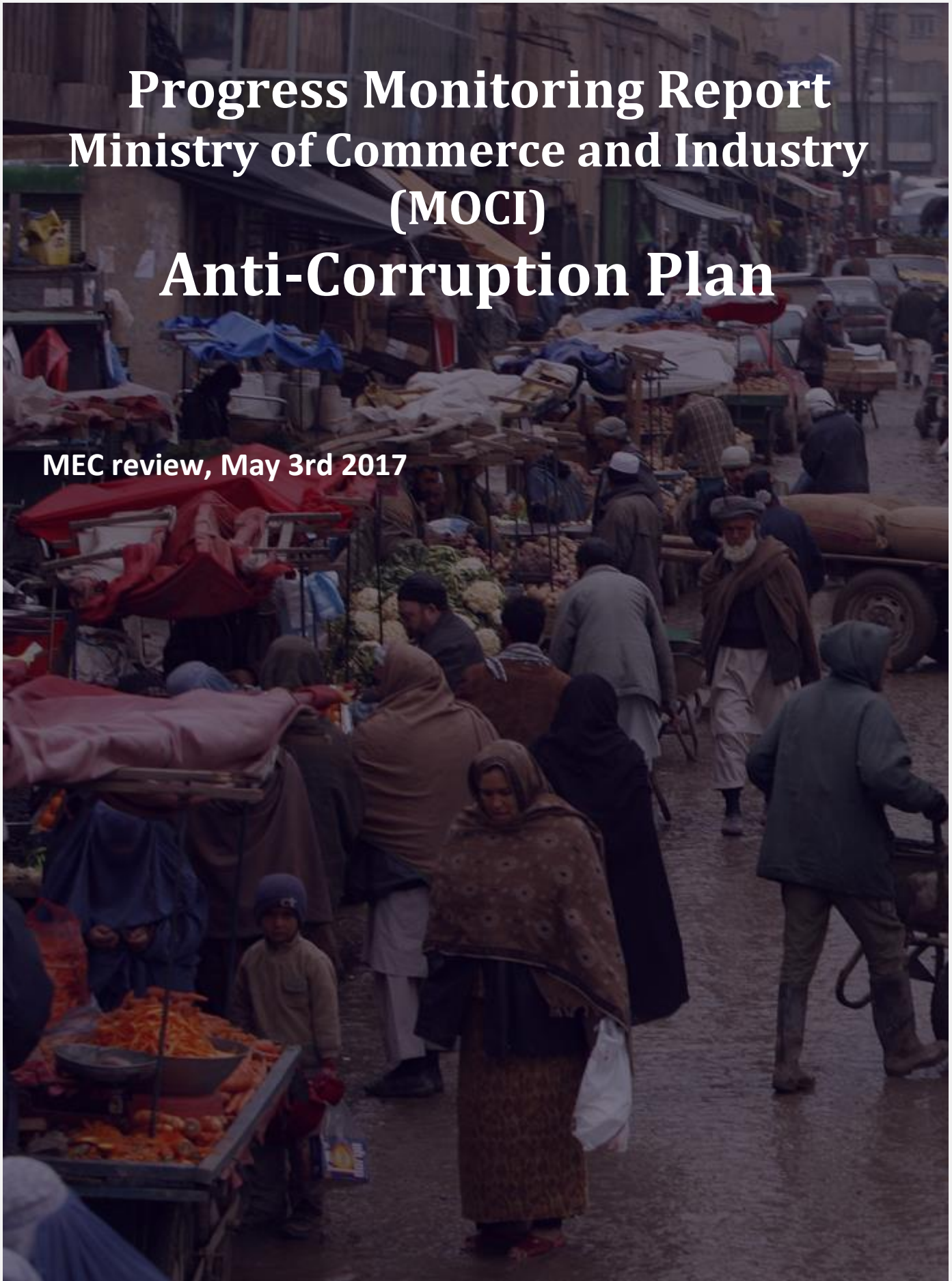


Independent Joint Anti-Corruption Monitoring and Evaluation
Committee

Progress Monitoring Report Ministry of Commerce and Industry (MOCI) Anti-Corruption Plan

MEC review, May 3rd 2017



EXECUTIVE SUMMARY

Last year, almost all Ministries of Afghanistan developed their Anti-Corruption Plans and announced their commitment to fulfilling them. Ministry of Commerce and Industries was amongst them. MEC is reviewing each of these plans and is releasing here its first review of the Ministry of Commerce and Industries (MoCI)'s Anti-Corruption Plan.

MEC's review was carried out in the period January to April 2017. MOCI's plan consists of 23 actions across 5 priority areas: Trade attaches, etc. Approximately 27 interviews were conducted, together with reviews of many documents. The Ministry was mostly extremely cooperative towards the MEC team. However, two parts of the Ministry were quite uncooperative: Regulating and revising procurement process area and oil and petroleum products enterprises. MEC's findings are expressed in two broad areas: the general nature of the MOCI plan, and the detailed progress of the action items in the plan.

Completion of the plan

Of the 23 actions in the plan, 8 have been fully completed to date. MEC received no cooperation regarding 9 actions. So far, most of the challenges in the plan remain uncompleted.

Specific findings

MEC received good cooperation from the Ministry in three of the five MOCI priority areas:

1. EXPEDITING AND ENSURING TRANSPARENCY IN THE LICENSE ISSUANCE PROCESS

On the positive side, MoCI is issuing business licenses faster than previous years. A local businessman can obtain/or renew his license in less than 8 hours.¹ However, this is leading to new forms of corruption: Licenses are issued and renewed by SABT MARKZAE (Central License Registry). It is one of the main revenue-hub for the Ministry of Commerce and Industries. But, a huge chunk of the money is lost due to tax evasion through bribery. Businesses that owe tax dues do not mostly renew their licenses. Instead, they pay bribe (between USD 1000 to 2000, at times even more) and obtain new ones. MEC has documented that bribery and forgery have become a widespread trend now in SABT MARKAZEE.²

2. IMPROVING AND ENSURING TRANSPARENCY IN THE AFFAIRS OF TRADE ATTACHES

To foster foreign investment in Afghanistan, Ministry of Commerce and Industries was expected to hire new Trade Attaches through a transparent and fair process. However, despite the intention to make this a clean process, the recruitment has been marred by political influences and interventions.³

¹ Interview with License and Control Director of Sabt Markazee, Kabul, 19 Feb.

² Fake licenses that MEC received, Kabul.

³ Assessment Team's observation inside MoCI, Kabul, 12 March.

3. ESTABLISHING TRANSPARENCY AND SURVEILLANCE OF THE MINISTRY RELATED ENTERPRISES

The Industries Directorate (ID) of MoCI, which acts as a focal point between the Ministry and national enterprises, was supposed to identify usurped properties as part of its anti-corruption activity. ID has successfully identified around 2,265 acres of usurped properties and that recovered 696 acres of them in Balkh, Kunduz and Kandahar through the support of local governance units.⁴ The recovery of the lands has added to the advantages of SOEs. The list of land grabbers was shared with law enforcement agencies but none of the perpetrators has been put on trial.⁵ Currently, 1869 acres of SOEs' lands remain usurped.

In two areas, MEC received no cooperation:

4. ESTABLISHING TRANSPARENCY AND EFFECTIVENESS IN THE ACTIVITIES OF THE OIL AND PETROLEUM PRODUCTS

5. REGULATING AND REVERSING PROCUREMENT PROCESS

Gaps in scope

The MOCI plan ignores several well-known areas of corruption. The plan does not cover the following areas:

- MoCI's Private Sector Development General Directorate (PSDGD)
- Gas/Petroleum Directorate are not in the plan. Gas and Petroleum is a very key directorate in MoCI, which regulates the petroleum sector, issues and extends licenses of gas and petroleum companies across Afghanistan.
- The HR organization of MOCI has not been included

⁴List of usurped properties of SOEs recovered by MoCI, 18 April.

⁵Interview with the staff of Industries Directorate, Kabul, 16 April.

RECOMMENDATIONS

NO	RECOMMENDATION
LEADERSHIP	
1	MOCI should set up an internal group to coordinate and track the progress anti-corruption plan and to publish regular progress reports
2	To tackle bribery and forgery in Sabt Markazee (Central License Registry), the Minister of MoCI should readily replace the top and mid-management of it.
3	The leadership of MoCI should launch a thorough assessment of all activities of MoCI and incorporate them in the second phase of its Anti-Corruption Plan for the 2018 onwards.
REGARDING PRIORITY 1:	
4	MoCI should immediately devise a joint database between Sabt Markazee and Ministry of Finance for issuance of business licenses.
5	MoCI should centralize the whole process of business license issuance in the provinces and replace the leadership of them.
6	MoCI should close all brokerage offices near the building of Sabt Markazee.
REGARDING PRIORITY 2:	
7	The recruitment process of trade attaches should be stopped. A joint-committee should be set up to appoint Trade Attaches based on merit.
8	MoCI should also include Intellectual Properties and Trade Mark Registry in the joint database of MoF to prevent forgery and bribery.
REGARDING PRIORITY 3:	
9	A proper mechanism should be prepared for transparent collection of SOEs revenues.

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ACRONYMS

MoCI	Ministry of Commerce and Industries
USAID	United States Agency for International Development
SOEs	State-owned enterprises
MoF	Ministry of Finance
ACP	Anti-Corruption Plan
MEC	Monitoring and Evaluation Committee
Mol	Ministry of Interior
ID	Industrial Directorate
PSDGD	Private Sector Development General Directorate
NUG	National Unity Government
M&E	Monitoring and Evaluation
WTO	World Trade Organization
HEC	High Economic Counsel
NPA	National Procurement Authority

1. INTRODUCTION

ANTI CORRUPTION PLAN OF THE MINISTRY OF COMMERCE AND INDUSTRIES (MoCI)

MoCI is one of the five key revenue-generating ministries of the Islamic Republic of Afghanistan that prepared its Anti-Corruption Plan in 2015. Being a revenue-generating ministry, MoCI has been plagued with corruption to a greater or lesser degree as other ministries, which continues to undermine the sustainability of government-led operations.

Therefore, to increase its revenue, MoCI is to prioritize designing and implementing a working Anti-Corruption Plan to address the following challenges.⁶

- Lack of a digital system for registration and issuance of business licenses
- Failure to employ competent and qualified Trade Attaches
- Lack of a reporting mechanism from provincial institutions and/or proper M&E.
- Interventions of powerful figures in recruitments
- Non-existence of a transparent recruitment system

To address the mentioned challenges, MoCI has listed the following priorities in its Anti-Corruption Plan.

- I. EXPEDITING AND ENSURING TRANSPARENCY IN THE LICENSE ISSUANCE PROCESS**
- II. IMPROVING AND ENSURING TRANSPARENCY IN THE AFFAIRS OF TRADE ATTACHES**
- III. ESTABLISHING TRANSPARENCY AND SURVEILLANCE OF THE MINISTRY RELATED ENTERPRISES**
- IV. ESTABLISHING TRANSPARENCY AND EFFECTIVENESS IN THE ACTIVITIES OF THE OIL AND PETROLEUM PRODUCTS**
- V. REGULATING AND REVISING PROCUREMENT PROCESS**

2. MEC REVIEW METHODOLOGY

The review of Anti-Corruption Plan (ACP) of the Ministry of Commerce and Industries (MoCI) was proposed to determine the progress inside the ministry as regards to the implementation of ACP. To systematically assess the indicators of the plan, the assessment team has initially conducted a desk research, collected policies and procedures of MoCI and ACP and studied them one by one.

Subsequently, information regarding the indicators listed in the Anti-Corruption Plan was gathered through Key informant/ in-dept interviews, focus group discussions and document reviews and

⁶ MoCI Anti-Corruption Plan, p1.

analysis.

For this report, MEC conducted face-to face interviews with the minister of MoCI as well as other top officials in MoCI directorates. The assessment team also conducted focus group discussions with mid-level and low-level staff of the Ministry of Commerce and Industries in related directorates. The team also met with other entities involved in the sector. The field assessment was followed by a detailed review and analysis of the documents gathered to verify the descriptions and arguments revealed by the participants in interviews and focus group discussions.

The report was subsequently shared with the Members of MEC and related government officials to seek their comments about the feasibility and accuracy of the recommendations.

3. FINDINGS

In the following sections, this paper assesses whether or not MoCI has achieved the indicators listed in the plan and that analyzes the activities based on the evidences collected and interviews conducted.

I. EXPEDITING AND ENSURING TRANSPARENCY IN THE LICENSE ISSUANCE PROCESS

OBJECTIVE	ACTIVITY 1	BASELINE	INDICATOR
Establishing an effective license issuance system in the capital and provincial branches	Developing simple and transparent procedures for registration and issuance of licenses	Current procedures are not working	New procedures for issuing licenses are developed and approved

FINDING:

As its first anti-corruption activity, the Ministry of Commerce and Industries (MoCI) has developed a 7-page procedure in August 2016 to ensure transparency in business license issuance process.⁷ The new procedure has put an end to the long administrative and bureaucratic stages to secure a license. The process has been brought from 12 into 5 steps. In all, it takes almost 8 hours now to take a license. Afghan businessmen have voiced their satisfaction with the new process.

Moreover, the procedure sets an array of comprehensive requirements to be met by business companies to either register or renew their licenses. Letter from Revenue Department of Ministry of

⁷ MoCI License Issuance Procedure, Kabul, 30 August, 2016.

Finance confirming payment of tax dues is one of the key pre-conditions to renew a license.⁸ However, the requirements are not at times fully administered by Afghanistan Central Business Registry or REYASAT SABT MARKAZEE and it has further facilitated bribery.

Businesses that owe tax dues do not mostly renew their licenses. To evade tax, they pay bribe (between USD 1000 to 2000) and apply for new licenses under the aegis of a new President or Vice President.⁹ Respondents stated that it has become a widespread trend in REYASAT SABT MARKAZEE in recent months.¹⁰ The evidences MEC received prove how rampant corruption has become in SABT MARKAZEE.

In the meantime, SABT MARKAZEE has no reporting system in place. Licenses are printed by MoCI Headquarters and then are collected by SABT MARKAZEE but MoCI's Administrative and Financial Department does not know how many licenses have been issued, either in Kabul or provinces.¹¹ The real fee of a license is 1000 AFS. However, 2000 AFS are collected from applicants.¹² SABT MARKAZEE also directly distributes the licenses to the provincial units without reporting the serial numbers to MoCI' HQs.¹³

OBJECTIVE	ACTIVITY 2	BASELINE	INDICATOR
	Introducing procedure for online registration and issuance of license in the capital and its expansion to the provinces.	Currently, there process is paper based and the online system does not exist.	Online system exists

FINDING:

As its second activity to ensure transparency in the license issuance process, MoCI was supposed to launch an online license registration both in Kabul and provinces. The deadline for completion of this activity has been set to be June 2017. Online registration would simplify and expedite the process and reduces bribery. However, the system has not been launched yet due to lack of funding. It costs the MoCI around USD 1, 2 million to put in place the system.¹⁴ World Bank has shown

⁸ MoCI License Issuance Procedure, Article 6(5), Kabul, 30 August, 2016.

⁹ Interview with businessmen, Kabul, 17 March.

¹⁰ Interview with the staff of Sabt Markazee, 17 March.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Interview with the staff of World Bank & Chemonics, 21, Feb.

willingness to fund the project. But at this stage, there is no online license registration system.¹⁵ License cannot be obtained online, which is very vulnerable to corruption.

OBJECTIVE	ACTIVITY 3	BASELINE	INDICATOR
	Implementing (One-Stop-Shop) for simplification and improvement of coordination among MoCI, MoF, ACCI	Lack of a single center requires applicants to go to many places and complete many steps to get a license paving the way for corruption	New Office is built. AISA's license depart is merged with MoCI's license depart. AISA's registration system is merged with MoCI

FINDING:

In close coordination with Ministry of Finance, MoCI has built a three-story building that is now being used as One-Stop-Shop by businessmen. Unlike the past, license applicants do not need to visit several different departments in different parts of the town to obtain a license. Applicants can obtain license and pay their application fee in the same One-Stop-Shop.¹⁶

The One-Stop-Shop is well equipped with security cameras. But these security measures have not reduced bribery at all. Several brokers are operating outside the building and they start negotiating with the managers of the One-Stop-Shop after 04:00 pm to secure licenses for businesses that are not eligible. Bribes are first paid to the brokers and then to the managers inside the One-Stop-Shop.¹⁷ It has been also admitted by businessmen in Kabul.¹⁸

OBJECTIVE	ACTIVITY 4	BASELINE	INDICATOR
	Merging Afghanistan Investment Support Agency (AISA) plan with MoCI.	Existence of AISA as an independent institution which provides services to private sector parallel with MoCI.	Merging Plan is completed. Plan approved by the Cabinet. Plan has been implemented.

¹⁵ Interview with the executive officer of Sabt Markazee, 9 March.

¹⁶ Focus group discussions with license applicants, Kabul, 19 Feb.

¹⁷ Ibid.

¹⁸ Interview with local businessmen, Kabul, 20 Feb.

FINDING:

Afghanistan Investment Support Agency (AISA) has been merged with MoCI to allegedly prevent yet another parallel institution in Afghanistan.¹⁹ The merger did address a parallel structure. However, it did not reduce corruption. AISA handed over around 9-thousand assets of it to MoCI in Kabul and provinces. Respondents insist that most of the assets including vehicles, carpets and laptops were stolen from warehouses after the handover.²⁰

Moreover, the Presidential Decree number (23) reads that the staff of AISA should be included in the Tashkeel of MoCI but only 60 employees of AISA have been granted 6 -month contracts. Their contracts would end by the end of 2017. Most of these employees are adept at modern technology and administrative procedures. Many respondents in One-Stop-Shot insisted their permanent presence in MoCI can be a big advantage for the government of Islamic Republic of Afghanistan, particularly in terms of building and improving the capacities of other staff.

OBJECTIVE	ACTIVITY 5	BASELINE	INDICATOR
	Introduction and implementation of procedures for digital registration of trademarks	Lack of procedures and digital system	Procedures developed and approved. New system functioning.

FINDING:

Intellectual Properties and Trade Mark Directorate of Sabt Markazee designed a database to digitalize registration of trademarks. So far, 20,000 trademarks have been registered.²¹ However, digital registration of trademarks does not exist so far due to non-existence of technical staff and funding.²² Respondents in Intellectual Properties and Trade Mark Directorate insisted that unavailability of a digital system would make the registration of trademarks more vulnerable to corruption.

¹⁹ Presidential Order # 23, Kabul, 23 Feb.

²⁰ Interview with the staff of MoCI, Kabul, 23 Feb.

²¹ Interview with the staff of Intellectual Properties and Trade Mark Directorate, Kabul, 22 Feb.

²² Ibid.

II. IMPROVING AND ENSURING TRANSPARENCY IN THE RECRUITMENT OF TRADE ATTACHES

OBEJECTIVE	ACTIVITY 1	BASELINE	INDICATOR
Enhancing effectiveness in the Trade Attaches Affairs	Comprehensive evaluations of activates of trade Attaches.	clear evaluation is not undertaken	<ul style="list-style-type: none"> - A working committee has been established to evaluate the recruitment Trade Attaches. - Evaluation Report developed
	ACTIVITY 2	BASELINE	INDICATOR
	Establishing working committee to ensure transparent recruitment of Trade Attaches	Attaches were hired based on personal recommendations.	<ul style="list-style-type: none"> - Members of the committee specified. - Terms of References specified.
	ACTIVITY 3	BASELINE	INDICATOR
Establishing mechanisms for the effective implementation of TORs and trade attaches regulations	Lack of relevant mechanisms	A committee established to develop ToRs	

FINDING:

After an investigation by HOO into the background and qualifications of trade attaches of Afghanistan, most trade Attaches were found unqualified for the job.²³ Therefore, the President of Islamic Republic of Afghanistan has assigned MoCI to prepare new Terms of References and hire qualified individuals as trade attaches to particularly urge foreign investment in Afghanistan.²⁴ MoCI has included the task in its anti-corruption plan. Based on its AC, MoCI was expected to achieve the task by the end of November 2016. To that end, MoCI set up a committee to evaluate the performance of Trade Attaches. The report of the Committee shows that most of the Attaches are not educated and experienced to be considered qualified.²⁵ The evaluation of the Committee has proposed that new TORs should be developed and vacancies should be filled in a transparent and fair manner. In the meantime, the reform-oriented report encompasses a set of tough requirements to be met by individuals who are keen to be employed as Trade Attaches. The evaluation report was approved by the government and that MoCI has developed Terms of References and announced the vacancies through its website.²⁶ Out of 591 applicants, 280 of them have been shortlisted and were given a written test opportunity.²⁷ That is not to say the process has been as transparent as expected. The written test was taken in the presence of representatives from the National Assembly, Presidential Palace and other state institutions. However, the process was rigged with political interventions and personal preferences. The assessment team has observed that individuals and members of the parliament were discussing with MoCI officials on the corridors of the ministry urging them to short-list their relatives and friends. MoCI is now supposed to hire 22 Trade Attaches while it is hard to believe that they would be employed based on merit given continued interventions and political favors in the process.

²³ Interview with the staff of International Trade Directorate, Kabul, 8 April.

²⁴ Ibid.

²⁵ Evaluation Report of the Committee, Kabul, 9 April.

²⁶ Terms of References, Kabul, 9 April.

²⁷ Interview with the staff of Human Resource Directorate, 9 April.

III. ESTABLISHING TRANSPARENCY AND SURVEILLANCE OF MoCI ENTERPRISES

OBEJECTIVE	ACTIVITY 1	BASELINE	INDICATOR
Improvement in the financial, procurement and productivity of the government enterprises	Registration	No action has been taken.	- Meetings held between MoF, MoCI and SOE.
	ACTIVITY 2	BASELINE	INDICATOR
	Establishing guideline for the evaluation of agreements and procurement of enterprises.	No taken to simply the guidelines.	- Preparing a guideline. - Develop a plan for evaluation of enterprises.
	ACTIVITY 3	BASELINE	INDICATOR
	Developing procedures for registering and identifying properties for rent/ lease.	No regulation exists!	- Preparing a procedure.
	ACTIVITY 4	BASELINE	INDICATOR
	Establishing a mechanism for providing balance and collecting	No actions have been taken yet!	- Preparing a mechanism.
	ACTIVITY 5	BASELINE	INDICATOR
	Completing all the Outstanding balances of payments of SOEs	No actions were taken As of now for this	- Processing 36 remaining balances

FINDING:

Ministry of Commerce and Industries has nine state-owned enterprises and six state owned corporations. Seven of them are goods-producing enterprises such as Spin Zar Kunduz and Kandahar textile. These state owned enterprises (SOEs) are profit and non-budgetary companies but they report to both MoF and MoCI about their financial transactions, but no proper mechanism exists to collect the revenues of SoEs.²⁸

The Industries Directorate (ID) of MoCI, which acts as a focal point between the Ministry and national enterprises, was supposed to identify usurped properties as part of its anti-corruption

²⁸ Interview with the staff of MoCI, Kabul, 10 April.

activity. ID has successfully identified around 2,265 acres of usurped properties and that recovered 696 acres of them in Balkh, Kunduz and Kandahar through the support of local governance units. The recovery of the lands has added to the advantages of SOEs. The list of land grabbers was shared with law enforcement agencies.²⁹

Currently, 1869 acres of SOEs' lands remain usurped.³⁰ Industries Directorate prepared a concept plan for all manufacturing state-owned enterprises and a business plan that has been just recently approved by High Economic Council (HEC).³¹ Based on the decision of HEC, all manufacturing enterprises should be initially audited. To launch the Audit, ID has devised Terms of References (ToR) for initiation of Audit Services. The required documents to contract the Audit Services have been sent to National Procurement Authority.

²⁹ Interview with the staff of Industries Directorate, Kabul, 18 April.

³⁰ List of remained usurped properties of SOEs, Kabul, 18 April.

³¹ Decision of the High Economic Council, Kabul, 18 April.