

**PROJECT INFORMATION DOCUMENT (PID)
IDENTIFICATION/CONCEPT STAGE**

Report No.: PIDC28038

Project Name	Support to the Afghanistan Independent Land Authority
Region	SOUTH ASIA
Country	Afghanistan
Sector(s)	General agriculture, fishing and forestry sector (25%), Public administration- Agriculture, fishing and forestry (25%), Public administration- Other social services (25%), Other Mining and Extractive Industries (15%), General industry and trade sector (10%)
Theme(s)	Other public sector governance (20%), Other rule of law (15%), Other social development (15%), Other rural development (15%), Land administration and management (35%)
Lending Instrument	Lending Instrument
Project ID	P156225
Borrower Name	Ministry Of Finance
Implementing Agency	Arazi
Environment Category	B - Partial Assessment
Date PID Prepared	15-Jul-2015
Estimated Date of Approval	28-Sep-2015
Initiation Note Review Decision	The review did authorize the preparation to continue

I. Introduction and Context

Country Context

Afghanistan continues to struggle to overcome almost three decades of war and civil strife. Its political context remains complex and dominated by the Taliban insurgency, narcotics production, and weak governance and rule of law. After twelve years of state building Afghanistan remains a fragile state. Elections in 2013 have resulted a new President and a unity government committed to address the country's political and economic challenges.

Afghanistan's development depends to a large extent on the efficient use of its land resources. Demand for agriculture land and for commercial development is high, while at the same time, the Government puts a lot of efforts into developing Afghanistan's physical infrastructure. Natural resources and agriculture are the only sectors with the potential to drive the required growth to cope with fiscal and demographic pressures. While Afghanistan's growth is projected at an average annual rate of 4.9 percent during the period of the transformation decade 2014-25, there is a potential to increase it to 6.7 percent, depending on an appropriate enabling environment, including security, and good progress in the two key drivers of growth, agriculture and the resource sector. In a high-growth scenario, the latter will directly contribute 3 percent to growth during 2014-17, and then 1.6 percent in 2018-25. However, this growth will not be inclusive unless it is leveraged to

create broader benefits and growth breaks out of “enclave” investments.

The delivery of basic government services, especially for land administration and management including land registration and dispute resolution, has not met the expectations of citizens, while mechanisms to hold the government accountable for delivery of such services have been undermined by corruption and lack of capacity. The Government of the Islamic Republic of Afghanistan’s (GoIRA) strategic vision for the Afghanistan Independent Land Authority (Arazi) is to achieve this through the provision of a balanced approach between (a) pro-poor land administration services in support of individual and collective tenure security through land registration, and (b) land allocation and the provision of land to support private sector investment in infrastructure, natural resources, agriculture and industry.

There is a strengthening global trend towards improved governance of land tenure, as reflected in the dissemination and adoption of the United Nations’ Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries (VGGT). It is critical that Afghanistan develops an effective and transparent land administration and management system with the capacity to respond to users’ demands in order for the state to provide a stable and secure land and property rights system for citizens and investors. While recognizing that outcomes from investments in the land sector are long-term in nature, GoIRA will also face increasing pressure to show progress in service delivery. An effective, efficient and transparent land administration and management system is crucial to the establishment of stable conditions necessary for peace, economic growth and poverty reduction. However, the establishment of services will have to be undertaken within the context of decreasing external resources for investment in all areas: from infrastructure, to equipment, to personnel and operating and maintenance capacity.

Sectoral and Institutional Context

More than 85 percent of the Afghan population is living in rural areas, and with 80 percent of the workforce in the agricultural sector that comprises 60 percent of its GDP, the Afghan population is decidedly dependent upon land and natural resources. Investments and growth in agriculture and agriculture-based industries heavily depend on a transparent policy and regulatory framework. Equitable growth and employment generation in the agriculture sector, agribusinesses and extractive industries depend on clear and secure land rights that protect the resource access of the poor, prevents land grabbing, and balances the interests of investors and in particular small landholders. Land was flagged as a major unmet issue for private sector development in the current Interim Strategy Note (ISN) and noted as warranting more attention.

The current institutional framework for land management and administration is not conducive to an inclusive, pro-poor economic development. Outdated systems, overlapping responsibilities, lack of capacity at local levels, conflicting systems for land ownership, and uncertain or incomplete legal frameworks, compounded by decades of conflict and widespread displacement, result in competing claims to land and conflicts between individuals, among communities, and between citizens and the state. The resulting lack of tenure security and the far majority of legal disputes are reportedly related to land issues, although still, a large proportion of people seek dispute resolution through informal justice mechanisms.

Conflict, vulnerability, and land disputes have been greatly heightened by the massive population displacement that has occurred in Afghanistan. Millions of refugees and displaced

Afghans have returned to their homes since 2002 with thousands still arriving annually, and many citizens remain displaced within the country. United Nation's High Commission for Refugees (UNHCR) reported (in 2011) that 74.3 percent of returnees did not have access to farmland and there has been a definitive link between displacement and increase in land disputes, particularly between different ethnic and religious groups. Internationally, restoration of property rights is recognized as a major factor in enabling Internally Displaced Peoples (IDPs) and returning refugees to restore their livelihood.

The most potent of the communal land-related conflicts are between pastoral nomads and settled farmers, over access to contested pasture lands, and disputes over pasture lands represent up to 60 percent of all land disputes. Many of these conflicts are rooted in contesting groups' alignment with different and shifting power alliances at central level. Claims by different parties, including in particular the state, on non-farm lands, i.e. pastures has included the state as a major party in many conflicts over land.

Afghanistan lacks an effective, transparent, accessible administrative system of land registration. In only a relatively small proportion of the country, and primarily in urban areas, do landowners hold court-registered deeds. The judicial system of land administration is widely acknowledged as being corrupt, favoring the powerful and being not pro-poor. International good practice is to move to administrative systems for land registration and this is the model preferred by Arazi, its cadastral department and many from civil society – and is reflected in the proposed amendments to the Law on Managing Land Affairs.

A National Land Policy was approved by the Cabinet in 2007, but the main land related laws are neither fully aligned with the National Land Policy, nor are they supported by proper regulatory frameworks. In addition, the limited and outdated land cadaster (covering only around one-third of total land) and land registration plus the prevalence of customary claims, and communal land rights pose substantial problems for resolving conflicts and disputes. As a result, access to land is one of the major constraints for private and public investments across all sectors. Agricultural development, and rangeland rehabilitation is severely hampered by the lack of clear tenure rights.

There is no country specific resettlement policy in Afghanistan, and both the draft Law on Managing Land Affairs. and the draft Law on Land Expropriation are yet to be approved and fully operationalized in terms of requisite implementing rules and regulations. Despite ongoing assistance and discussions, they will likely still fall short of good international practice in several areas. The lacunas in the regulatory framework are further compounded by the weak implementation capacity and coordination difficulties on the government side, and results in substantial inconsistencies in application of the law.

The Arazi leadership is aware of the issues and challenges and has responded by formulating an Operational Strategy that envisages improvements in governance and service delivery by establishing a transparent policy and regulatory framework building on the National Land Policy, moving to an administrative land registration system, and revising the Law on Managing Land Affairs and the draft Law on Land Expropriation to be more explicitly pro-poor. In May 2013, Arazi was designated as the independent government entity for land administration and management in accordance with the Cabinet Resolution # 11 dated 27 May 2013. Arazi currently has about 1,100 civil service staff, plus 200 contract staff. 300 are employed in the Kabul Central

Office, 1,000 in 34 provincial offices. Capacity building to increase their technical knowledge and performance, and improve the quality of service delivery, will be key to the success of the proposed project.

Arazi as the government's designated lead agency in the land sector will consult and coordinate with other land-related agencies, in particular Ministry of Mines, and National Environmental Protection Agency (NEPA).

Relationship to CAS/CPS/CPF

The Arazi Support Project supports all three strategic pillars of the ISN (2012-14): (i) building the capacity of the state and its accountability to its citizens; (ii) promoting growth of the rural economy and improving rural livelihoods; and, (iii) supporting growth of the formal private sector.

The land sector and the judicial approach to land registration in Afghanistan are marred by corruption. The existing system is not pro-poor and is beyond the reach of almost all Afghan citizens. Only a very small proportion of the country is covered by registered deeds under the court system. Different projects have over the last ten years made efforts to digitize the courts' land documents. However, even in the recent effort to this effect by the Afghanistan Investment Climate Facility Organization (Harakat) land records and documents are not verified in the process, nor has it any influence on the courts' performance on land issues. Arazi in its Operational Strategy emphasizes the preference of an administrative land registration system, which is facilitated by the establishment of Arazi as an independent authority. International good practice indicates that an administrative system is more efficient, effective, pro-poor and is more conducive to supporting business investment. However, the challenges for Arazi are enormous as a lot of pressure can be expected to retain the status quo, which favors the powerful and is prone to corruption.

The proposed project will especially address the Second ISN Pillar by supporting the tenure security of rural landowners and assisting with the formulation of a pro-poor land allocation policy. More than 85 percent of the Afghan population is living in rural areas and by occupying 60 percent of the working population, agriculture is by far the largest employer, which means that rural development will continue to play a crucial role for the sustainability of growth. The effective management of land is critical to Afghanistan's development particularly so as only about 12 percent of total land area is arable. The actual area under cultivation each year is substantially less than that, mainly because of shortage of irrigation water, which leads to most arable land being cropped on rotational basis.

Furthermore, the proposed project supports the Third ISN Pillar, by facilitating the access to land for private sector investment through the development of transparent procedures and monitoring land leasing. The proposed project complements the Afghanistan Resources Corridor Project (ARCP) but looks more broadly beyond the resources corridor to support private investment nationally. Under the third pillar, promotion of land access for private investment will provide for growth and development of mineral resources, infrastructure, manufacturing, communities and employment-creating sectors, viz. agriculture, construction and enterprise development.

II. Project Development Objective(s) Proposed Development Objective(s)

The Project Development Objective (PDO) is to support the Afghan Government to develop the policy and regulatory framework and build capacity to deliver transparent, pro-poor land services, through (a) raising public awareness, knowledge and understanding about laws and regulations governing the land sector; (b) developing processes and service standards for Arazi's core functions

Key Results

Arazi is strengthened and with improved capacity to deliver its public sector functions in the land sector.

This will include the establishment of a training center and the development of processes for more efficient and effective service delivery.

III. Preliminary Description

Concept Description

The project is designed as primarily a technical assistance (TA) project that will prepare and strengthen the newly independent Arazi for its tasks as a transparent and responsive service provider in the land sector. Development of policies, regulations and implementation procedures and respective staff capacity will be driven by a gender-sensitive and pro-poor approach, which will facilitate the role of the land sector in equitable economic growth and employment generation. The project will build on the assistance and earlier achievements of land sector support interventions. This particularly includes the assistance to Arazi provided under ARCP. The LGAF, currently being conducted will provide further guidance for the detailed project design. As part of the Lessons-Learned documentation, during preparation phase a comprehensive Social Assessment taking stock of earlier analytical work and pilots in dispute resolution, land registration, as well as identification of major stakeholder and political economy dimensions of land governance reforms will be conducted.

IV. Safeguard Policies that Might Apply

Safeguard Policies Triggered by the Project	Yes	No	TBD
Environmental Assessment OP/BP 4.01	x		
Natural Habitats OP/BP 4.04		x	
Forests OP/BP 4.36		x	
Pest Management OP 4.09		x	
Physical Cultural Resources OP/BP 4.11		x	
Indigenous Peoples OP/BP 4.10		x	
Involuntary Resettlement OP/BP 4.12	x		
Safety of Dams OP/BP 4.37		x	
Projects on International Waterways OP/BP 7.50		x	
Projects in Disputed Areas OP/BP 7.60		x	

V. Financing (in USD Million)

Total Project Cost:	4.95	Total Bank Financing:	0
Financing Gap:	0		
Financing Source			Amount
Afghanistan Reconstruction Trust Fund			4.95

VI. Contact point

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