
Role of WTO in the Promotion of Trade and IPR in Afghanistan

¹Sayed Qudrat Hashimy & ² Jackson Simango Magoge

¹Student of LLM (International Law) University of Mysore,
Address: Crawford Hall, Mysuru, Karnataka, India. 570005
Email: sayedqudrathashimy@law.uni-mysore.ac.in

²Student of Law at the Law School of Tanzania,
Address: 2005/2/1 Sum, Sam Nujoma Rd, Dar es Salaam, Tanzania
Email: simangojackson@gmail.com

ABSTRACT: *Accession to the World trade organization provided Afghanistan a platform to resolve its transit-related problems via this organization. The assessment of the impact of the World trade organization agreement can result in a dynamic capability that enables the country to respond to uncertain and changing business environments and to sustain its trade activities globally. The outcome and gaps can lead Afghanistan to work efficiently to enhance export, reduce imports and protect IPR regimes. The study reveals a lack of available and reliable research concerning trade and IPR protection in Afghanistan. It makes it challenging to integrate information and draw an interpretation about the impact of WTO on trade and IPR. The study's objectives are to review the WTO agreement of business and IPR with Afghanistan and analyze the future scope of the WTO agreement on the economy of Afghanistan.*

Keywords: Afghanistan, WTO Accession, Import and exports in Afghanistan, Intellectual Property protection in Afghanistan

1.0 PROLOGUE

Afghanistan's objective to become a member was the conviction that she would grow financially and benefit from trade-related opportunities and privileges. Likewise, it was believed that its trade- and transit-related problems would collapse, which would pave a path for foreign investment. To get enrollment in the WTO, Afghanistan brought in some internal reforms related to trade, economy, and investment. Making these changes in the country paves a path for trade activities. Assessing the impact of WTO, the agreement on the trade-in Afghanistan would provide evidence that the primary purpose of WTO is to resolve disputes, equal treatment, free trade, and transit dispute settlement. Also, the study identifies the loopholes that hinder the progress of trade and the protection of IPR in Afghanistan.

After completing the accession formalities, Afghanistan has become the 36th Least Developed Country (LDC) member of WTO¹. Afghanistan is a landlocked country but strategically located at the heart of Silk Road², which can even serve as the "trade and transit hub" of Central Asia and South Asia³. It is believed that sustainable economic growth through attracting significant trade and investment cannot be achieved without broader integration into the world economy. Afghanistan National Development Strategy (ANDS) explicitly recognizes the role of trade for economic development. It highlights Afghanistan's integration into the world economy as one of the key development goals for which membership in WTO is an essential step (ANDS, 2008). Economic Growth and Poverty Reduction are the core objectives of ANDS which place greater emphasis on a free market and private sector-led economy.

¹ There are 44 countries recognized as LDC by the UN, of which 34 countries are members of WTO. Eight LDCs including Afghanistan, Bhutan, Comoros, Equatorial Guinea, Ethiopia, Liberia, Sao Tome & Principe and Sudan are currently negotiating for WTO membership. Yemen is the recent LDC member of WTO.

² The Silk Road was a network of trade routes that linked cities, trading posts, hostels and caravan-watering places. It was most active from about 300 BC to 200 AD and extended between the Eastern Roman frontier in the Middle East to the Chinese frontier, with other paths going north through Afghanistan from the Indian Ocean to the Siberian Steppe.

³ Afghanistan representative presentation to WTO, 2012

With the belief that WTO will foster economic growth through increased exports and attraction of Foreign Direct Investment (FDI), Afghanistan applied for WTO membership. Almost all trading partners of Afghanistan at SAARC, Central Asia, and West Asia are WTO members or are in the process of accession, therefore WTO membership gives Afghanistan a broader chance for fair trade through dispute settlement mechanism at WTO (MoCI, 2012). However, WTO accession requires extensive reforms to adjust to its rules and regulations to be compatible with multilateral trade regimes under the WTO. These compliance requirements themselves pose a real challenge to a Least Developed Country like Afghanistan.

In Afghanistan, the terms and conditions for the WTO Accession are intended to accomplish its development needs. These incorporate working with domestic reforms for change to profitable investments, free markets, employment, and improving the welfare of Afghans. The obligations of WTO are to be abided by all WTO Members, on a Most Favorable Nation (MFN) basis as for both trade and Intellectual Property Rights (IPR).

Article 7 of the Afghanistan Constitution endeavors the provisions of international law, international organizations, and fostering respect for international obligation concerning treaties.⁴ Afghanistan ratified the Convention concerning the Protection of the World Cultural and Natural Heritage (Paris, 16 November 1972) in 2005. The WIPO treaty was consented to on 13 September 2005 and was implemented at the end of the year. The framework of copyright is governed by the law which aims to support the right of composers, authors, researchers, and artists. The Berne Convention under the International Union for the Protection of Literary and Artistic Works ("Berne Union") is in effect in Afghanistan since 2 June 2018 (Berne Convention No. 279). However, in Afghanistan, Trademarks and service marks are registered for ten-year terms and are renewable through the Ministry of Foreign Affairs. and Article 47 of the Afghanistan Constitution states that the country shall protect Intellectual Property Rights.⁵

International Trade will enable Afghanistan to specialize and export products promoting economic well-being and increasing national income and consumption. As Afghanistan is an LDC, it can specialize in the production of a single commodity without significantly affecting its prices in the international market where the country can benefit from international trade. The products can be provided at a comparatively cheaper price attracting more business. As international trade is an engine for growth for any country, the movement of capital and dissemination of technical knowledge helps divide labor based on specialization and efficiency. Free international trade is encouraged in Afghanistan but the country also faces problems of dumping where dominating industrial countries like China dump the goods cheaply. The domestic market is getting affected because of dumping and hence strategic protection measures for anti-dumping are an urgent need in Afghanistan. Stabilization and equilibrium in the balance of payments should be ensured in Afghanistan through accession to WTO. Domestic legislation for international trade must be strengthened to act following international law as there should not be any conflict between the two. The WTO agreement also encompasses agreements related to intellectual property rights which ensure optimum protection of rights of owners of intellectual property. Countries like India achieve maximum protection of intellectual property through the principles of national treatment, minimum standards protection, and constituting procedures and national laws which that infringement and enforcement of rights that can be legitimate. The same can be applied to Afghanistan. As a component of the negotiations of accession, Afghanistan fulfilled 9 bilateral market access agreements on goods and 7 bilateral market access agreements on services. These necessities of compliance themselves represent a challenge to an LDC like Afghanistan. Alongside this, Afghanistan faces difficulties in sustaining ongoing advancement gains despite mounting political vulnerabilities, declining international grant support, and insecurity. Policy choices are limited by the weak implementation capacity of government agencies, reflecting administration imperatives, and constrained macroeconomic policy alternatives with regards to narrowing fiscal space and weak money-related transmission mechanisms. Hence, this study is conducted to assess the impact of the WTO agreement on the trade and IPR in Afghanistan.

Afghanistan received membership to the World Trade Organization (WTO) at the 10th WTO Ministerial Conference in Nairobi, Kenya, on December 17, 2015. Afghanistan is 164th in the world and 36th among the less-developed countries that have received WTO membership.

Acceding to the WTO membership is a long process; Afghanistan was admitted after 11 years of negotiations. Afghanistan is among the least developed countries in the WTO and there are some expectations that their accession might impact newly emerged industries in the country.

⁴ Article 7 of the Afghanistan Constitution, 2004 directs that the state shall observe the United Nations Charter, interstate agreements, as well as international treaties to which Afghanistan has joined, and the Universal Declaration of Human Rights. The state shall prevent all kinds of terrorist activities, cultivation and smuggling of narcotics, and production and use of intoxicants.

⁵ Article 7 of the Afghanistan Constitution, 2004 directs that the state shall devise effective programs for fostering knowledge, culture, literature and arts. The state shall guarantee the copyrights of authors, inventors and discoverers, and, shall encourage and protect scientific research in all fields, publicizing their results for effective use in accordance with the provisions of the law.

After World War II, the original intention was to create a third institution to handle the trade side of international economic cooperation, joining the two "Bretton Woods" institutions: the World Bank and the International Monetary Fund. Over 50 countries participated in negotiations to create an International Trade Organization (ITO) as a specialized agency of the United Nations. However, these negotiations failed as the draft ITO Charter extended beyond world trade disciplines.⁶

Meanwhile, 15 countries had begun talks in December 1945 to reduce and bind customs tariffs. With the Second World War having only recently ended, they wanted to give an early boost to trade liberalization and begin to correct the legacy of protectionist measures which remained in place from the early 1930s.

As a result of these negotiations, the new General Agreement on Tariffs and Trade (GATT) was born, with 23 founding members (officially "contracting parties"), in Geneva in 1947.

For almost half a century (until 1994), the GATT's basic legal principles remained much as they were in 1948, and several other meetings were held on further decreasing tariffs, among other relevant issues. For example, the Kennedy Round in the mid-sixties brought about a GATT Anti-Dumping⁷ Agreement. The Tokyo Round during the seventies was the first major attempt to tackle trade barriers that do not take the form of tariffs and to improve the system. The eighth meeting, the Uruguay Round of 1986-94, was the last and most extensive. It led to the creation of the WTO and a new set of agreements.

Essentially, the WTO is a mediator among member states facing trade problems with other member states.⁸ The GATT focuses on trade in goods, while the WTO deals with trade in services and intellectual property. The WTO was established in 1994, during which time Afghanistan was involved in a civil war and did not have a strong central government capable of joining the organization. With the emergence of the Taliban, Afghanistan's Mujahedeen government was not recognized and its representatives to the UN were not accepted. Additionally, economic sanctions were placed on Afghanistan at that time. Due to these circumstances, Afghanistan was not eligible for WTO membership. However, after the new regime was established under the leadership of Hamid Karzai, Afghanistan officially asked for membership to the WTO on November 21, 2004.

Following the official request from Afghanistan, WTO established a working party, consisting of 28 countries and led by the Netherlands, on December 13, 2004. These countries included China, Pakistan, Tajikistan, India, Japan, Russia, Saudi Arabia, and the European Union, among others; most had trade ties with Afghanistan.

Afghanistan presented its Trade Policy Memorandum on March 31, 2009, and the questions and replies were sent on July 26, 2010. The working party held five meetings which took place on the following dates: 31 January 2011; 18 June 2012; 7 December 2012; 25 July 2013; and 11 November 2015. Eventually, the Working Party presented its finalized report to WTO on 13 November 2015. Afghanistan received membership after Afghan First Deputy Chief Executive Mohammad Khan signed the protocol at the 10th WTO Ministerial Conference in Nairobi, Kenya on December 17, 2015.

2.0 A policy of Afghanistan towards the WTO

Generally, Afghanistan's goal to become a member rested in the belief that Afghanistan would develop economically and would benefit from trade-related freedoms and privileges. It was also believed that its trade- and transit-related problems would dissolve and it would be able to attract foreign investment.⁹

Afghanistan, to receive membership in the WTO, brought about some internal reforms around trade, its economy, and investments. It signed 9 bilateral agreements related to goods and 7 others related to services.

The main aim of the WTO is to open borders for trade and reduce tariffs. Accordingly, Afghanistan has put an average of a 13.5% tariff on products, 33.6% on agricultural products, and 10.3% on non-agricultural products. Afghanistan joined the Information Technology Agreement (ITA) upon accession into WTO. This agreement asks all participants to eliminate duties on IT products covered by the ITA. Afghanistan's export tariffs will also be bound for 243 tariff lines. Of these, 29.6% are bound at 10%, 24.2% are bound at 2.5%. On services, Afghanistan has made specific commitments in 11 services sectors, including 104 subsectors.¹⁰

⁶ "Afghanistan Accession". *World Trade Organization*.

⁷ In economics, "dumping" is a kind of predatory pricing, especially in the context of international trade. It occurs when manufacturers export a product to another country at a price either below the price charged in its home market or below its cost of production. The purpose of this act is sometimes to increase market share in a foreign market or to drive out competition.

⁸ "Afghanistan Accession", Available at https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact1_e.htm

⁹ BBC, Afghanistan became a full member of the World Trade Organization, Available at https://www.bbc.com/pashto/afghanistan/2015/12/151217_wto_afghaan_membership_iy

¹⁰ "Overview of Afghanistan's commitments" (PDF). *WTO*. 13 December 2004.

3.0 Impact of Afghanistan's Membership in WTO

3.1 Resolving Disputes:

One of the aims behind establishing the WTO was to help member nations resolve their trade-related disputes.

3.2 Equal Treatment:

Joining the WTO gives Afghan exports access to all WTO member markets on a Most Favored Nation (MFN) basis. This means that Afghan exports will be eligible for the best treatment that the country provides to the goods of other WTO members.

For example, if the European Union grants the United States a low tariff on its potatoes, then Afghan exports must be given the same low tariff on exports of Bamiyan potatoes to the European Union.¹¹

3.3 Free Trade

The WTO aims to increase free trade in the world and remove obstacles toward it. Therefore, Afghanistan not only has access to the markets of 146 countries, but its exports would not face high tariffs in other countries.

3.3.1.1 Transit Dispute Settlement

Afghanistan is a landlocked country that has caused difficulties in the area of trade. Joining the WTO provides Afghanistan with a forum to resolve its transit-related problems via this organization. WTO rules will not force Pakistan to revise the Afghanistan–Pakistan Transit Trade Agreement to allow Afghanistan access to Indian markets.

3.3.1.2 Threat to Newly Emerged Industries

Governments in some countries that have recently started to become industrialized try to increase tariffs on imported goods for the domestic industries to survive in rivalry with foreign industries; however, Afghanistan, due to getting WTO membership, would not be able to increase tariffs on imported goods. Thus, newly emerged domestic industries could suffer in competition with foreign industries and could be defeated by imported goods. Some believe that this may lead to increased unemployment in the country.

3.3.1.3 Ending Subsidy

The WTO emphasizes eliminating agricultural and industrial subsidies, which could have a deep impact on Afghanistan's agricultural and industrial exports. Afghanistan will not be able to put high tariffs on imports.

4.0 Trade and Economic Profile of Afghanistan

Afghanistan is a landlocked, war-torn, and aid-dependent economy. 652864 square kilometers is the total area of the country and 30 million is the populace of the country out of which 78% are living in the rural territories and it is an agrarian economy (75% of populace; World Bank). Afghanistan's economy is molded by fragility and aid dependence. The private sector is narrow; with employment moved in low-profitability agriculture (44% of the labor force works in agribusiness and 60 percent of families earn from farming). Development of private areas and diversification is compelled by political vulnerabilities, declining international grant support, and insecurity. Policy choices are limited by the weak implementation capacity of government agencies, reflecting administration imperatives, corruption, and business environment (Afghanistan was positioned 173rd of 190 nations in 2020, Doing Business Survey).

Establishments and property rights that are weak restrict monetary inclusion and access to finance in Afghanistan, where the private sector has a share of three percent of GDP. The country has a structural trade deficit dependent on grant inflows. 75% of public spending is dependent on grants and security expenditures (national security and police) are 28% of GDP in 2019 and the public expenditure was 57% of GDP. A significant portion of production, exports, and employment, and includes opium production, smuggling, and illicit mining accounts for the illicit economy.

The industry in Afghanistan is at a primal stage. The industrial production of the nation incorporates textiles, furniture, soap, carpet, fertilizers, shoes, leather, non-alcoholic drinks, natural gas, and cement. The industrial products of the nation are predominantly implied for domestic consumption. Afghanistan, as indicated by the UN classification of nations is perhaps the poorest country on the planet and is categorized both as a Least Developed Country (LDC) and a Land-Locked Developing Country (LLDC). Measures like Human Development Index (HDI) places Afghanistan at a low degree of human advancement when measured by education, health, and living standards. The HDI in 2020 positioned Afghanistan 169th out of 187 nations and the Gender Development Index (GDI) places Afghanistan in group five, which is the lowest group of nations in terms of gender equality (Human Development

¹¹ "Why Afghanistan Should Join WTO?", Archived from the original on 2021-03-16, Available at <https://web.archive.org/web/20160316034654/http://moci.gov.af/en/page/8774>

Index Report, 2020). These measures mirror the consequences of many years of contention which has obliterated a large part of the agricultural and industrial capacity of the country.

4.1 Exports and Imports

In 2019, the estimation of merchandise exports from Afghanistan amounted to \$870 million. Commodity exports from Afghanistan diminished by 1.58% compared to 2018. Merchandise exports diminished by \$ 14 million (the estimation of merchandise trades from Afghanistan added up to \$884 million in 2018). The estimation of merchandise imports to Afghanistan added up to \$ 8.56 billion in 2019. Merchandise imports to Afghanistan expanded by 15.6% contrasted with 2018. Imports of goods grew up by \$ 1.16 billion in 2019 (the estimation of merchandise imports to Afghanistan was equivalent to \$7.4 billion in 2018).

The larger portion of exports of the country consists of dried fruits, fresh fruits, saffron, rags, leather, and precious stones to the target markets such as India, Pakistan, Kazakhstan, United Arab Emirates, Uzbekistan, etc. The nation's imports incorporate nearly everything from food to mechanical products, heavy machines, automobiles, and energy. The Afghan Government has perceived the significance of trade with its neighbors and has attempted to incorporate with them through membership in territorial associations like the South Asian Association for Regional Cooperation (SAARC) to which Afghanistan became a member in the year 2007, and Afghanistan is an observer from 2012 in Shanghai Cooperation Organization (SCO).

The nation conceded to minimum tariffs, but, it has not had the option to catch an important share in the markets for its exports. The South Asian Free Trade Area (SAFTA) was signed by SAARC member states as indicated by which the Non-Least Developed Contracting States (NLDCS), namely, Pakistan, India, and Sri Lanka and the other five Least Developed Contracting States (LDCs) including Afghanistan would reduce tariffs to 20% and 30%. Notwithstanding this Afghanistan has consented to Preferential Trade Arrangement (PTA) with India, as per which it has consented to decrease its tariffs for some fundamental goods like tea, sugar, medicines, cement imported from India.

5.0 Intellectual Property in Afghanistan

In the early times, there were some provisions related to IPR under the Commercial Law of Afghanistan which protected very few IPRs. However, the "Trademarks Regulation" was constituted in 1960 which was not effective. There were no regulations related to Patents, Copyrights Design and Geographical Indication. For a very long time the Ministry of Commerce, Ministry of Information and Culture, and commercial courts dealt with IPR in an unorganized manner. Because of the unorganized way of dealing, there was a lack of awareness about the importance of IP among the citizens, organizations, and industries in the country.

After the Government understood the significance of the implementation of IPR regulation in Afghanistan, the Ministry of Commerce and Industry (MoCI) proposed to the Economic Committee of the Council of Ministers in 2006. The proposal was made based on copyright laws existing in various countries such as the United States, European countries such as Germany and France. As Islamic traditions prevail strongly in Afghanistan, the copyright legislation of Arabic countries such as Egypt, UAE, and Qatar were studied (The Clean State, 2003). The main aim of this legal foundation was to encourage and register patents, trademarks, industrial designs, and geographical indications and to have access to IPRs globally. In 2009, the MoCI proposal was approved by the council of ministers to institute a department of IP.

The IPR regime focuses on the following:

- To strengthen the capacity of Afghanistan by formulating IP regulations
- To build the capability of the IP Department within MoCI
- To develop and build up IPRs and raise public awareness

The country needs technical assistance and capacity building through receiving equipment and support from WIPO along with participation in workshops and meetings through WIPO. Receiving training through international organizations in the field of IPR can boost the strengthening of IPR. Implementation of IPR poses major challenges and problems such as a weak IP department with limited resources, a weak judicial system, lack of public awareness and financial resources to boost the IPR system in the country. Article 47 of the Afghanistan Constitution states that the country shall formulate effective programs for fostering knowledge, culture, literature, and arts. A guarantee of copyrights of inventors, authors, and discoverers shall be given by the country which shall protect and encourage scientific research in all fields (Article 47 of Constitution of Afghanistan, 2004). Since Afghanistan acceded to the WTO, it becomes evident that the country can act per the international treaties related to trade and intellectual property. But the role and progress of international developments are limited in Afghanistan as their implementation has been restricted due to a lack of constitutional and authoritative legislature. Unconstitutional amendments and actions are not monitored by authorities and courts. Afghanistan has not had any legislation on patents and copyrights in the past and trademark legislation has not been administered appropriately and effectively to date.

However, after many efforts, full implementation of the TRIPS Agreement was started on 1 January 2019. Articles 3, 4, and 5 of the TRIPS Agreement applied from the date of accession to the WTO and WIPO. After the accession to WTO, it was one of the main commitments of Afghanistan to reform its existing trademarks framework. Any country needs to amend and update its IPR laws to act by the TRIPS agreement. Though the trademarks regulation existed in Afghanistan, its accordance with TRIPS was challenging as the country did not confirm licensing trademarks and trademark validity (Seddiqi, Hafizullah, 2020). This subsequently results in loopholes for increasing corruption and decreasing foreign investments. Hence, these deficiencies have to be fixed by Afghanistan to ensure legal and administrative protection of IPR.

For IPR, Article 10 of the Constitution of the Islamic Republic of Afghanistan mentions that the state shall “encourage and protect the safety of capital investment and private enterprises following the provisions of the law and market economy”. Also, Article 11 states that “matters concerning foreign and domestic trader governed by law concerning the economic requirements of public interest and the country”.

Accession to WTO and TRIPS leads to the organization of laws and regulations in the state which also strengthens the constitution of the country concerning provisions of IPR and international trade. It is therefore important to implement an IPR regime with effectiveness. It will boost and strengthen the IPR department of Afghanistan and inclusion of subjects on IPR in the education system can help students in schools, universities, and research centers gain awareness of the framework. Publishing articles and news through media can increase public awareness making the individuals, companies, and organizations function within the framework of IPR and international trade. Criteria must be developed for the identification and approval of claimed intellectual innovations. A comprehensive training program must be provided to judges, advocates, and authorities of IPR (Seddiqi, Hafizullah, 2020). A sound IPR framework can boost economic growth and its implementation is significant for Afghanistan.

5.1 Copyrights

Since 2008 copyright in Afghanistan has been governed by the law on the support the right of authors, composers, artists, and researchers (Copyright Law).¹²In 1958, Afghanistan ratified the Agreement on the Importation of Educational, Scientific, and Cultural Materials, with Annexes A to E and Protocol annexed (Florence, 17 June 1950). In 1979, it accepted the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris, 14 November 1970) and in 2005 it ratified the Convention concerning the Protection of the World Cultural and Natural Heritage (Paris, 16 November 1972).¹³ It acceded to the WIPO treaty on 13 September 2005, which came into action at the end of the year.^{14,15}

In November 2003, the Copyright World Journal reported that a group, the Intellectual Property Working Group of the Afghanistan Transitional Commercial Law Project, had been working on setting up the first patent or copyright system for the country and updating its trademark laws. It is a joint project of the Center for International Management Education (CIME) and the American Bar Association's "Asia Law Initiative" (ABA-Asia).¹⁶ Since 2 June 2018, the Berne Convention is in effect in Afghanistan.¹⁷

As of 2005, Afghanistan has no official copyright relations with the United States,¹⁸ resulting in works published in Afghanistan not being copyrighted in the United States, and vice versa. In October 2007, the US Department of Commerce and the Afghanistan Ministry of Commerce and Industry signed a joint agreement to establish a forum for commercial cooperation including establishing intellectual property rights protection and enforcement.¹⁹

In 2005, Deputy-Minister of Information and Culture Sayed Aqa Husain Sancharaki stated that copyright law was forthcoming, which prompted the National Independent Commission for Radio and Television Broadcasting to

¹²"Afghanistan: Law Supporting the Rights of Authors, Composers, Artists and Researchers (Copyright Law)". *Wipo.int*. Retrieved 25 May 2021

¹³"Ratified and non Ratified conventions by country". *UNESCO*. Retrieved 25 May 2021.

¹⁴Publications - MEISCA Intellectual Property Express: MEISCA Intellectual Property express: Issue 42 Archived 25 May 2021, at the Wayback Machine

¹⁵ "Archived copy" (PDF). Archived from the original (PDF) on 2007-09-01. Retrieved 25 May 2021, Available at https://web.archive.org/web/20070901204207/http://www.copyright.org.au/pdf/acc/updates_tocs/toc/u05n06toc.pdf

¹⁶"The clean slate : Drafting Afghanistan's first copyright laws". *Copyright World*: 22–25. November 2003. Archived from the original on 2021-06-07

¹⁷"Berne Notification No. 279, Berne Convention for the Protection of Literary and Artistic Works, Accession by the Islamic Republic of Afghanistan". WIPO. 2018-03-02. Retrieved 2021-07-04.

¹⁸ *International Copyright Relations of the United States*. U.S. Copyright Office, Available at https://en.wikisource.org/wiki/International_Copyright_Relations_of_the_United_States

¹⁹"U.S. Department of Commerce and the Afghanistan Ministry of Commerce and Industry Joint Statement on Commercial Cooperation" (PDF). 2007-10-07. Archived from the original (PDF) on 2021-08-11, Available at https://web.archive.org/web/20080911062606/http://trade.gov/static/afghanistan_jointstatement.pdf

circulate a statement requesting that media outlets either pay royalties or cease distributing material that had been created by Radio Television Afghanistan as the outlet began transforming to a public broadcaster. It was later pointed out that RTA had no right to make such an autonomous declaration.^{20,21}

The move was criticized by the heads of Ayna TV and Tolo TV, who argued that the cost of royalties meant that potential independent media outlets could not afford to broadcast, and the lack of independent media in the country meant broadcasters relied on RTA footage to play "a significant cultural role...filling this void". The act contradicted the ministry's edict to "promote national culture and traditions" by outlawing the broadcast of the majority of the country's traditional films, music, and programming.²²

5.2 Trademark

In recent years, the Islamic Republic of Afghanistan increasingly has attracted foreign business, including companies from the post-Soviet countries. An important moment when doing business in Afghanistan is obtaining rights to trademarks. It is possible to obtain them only by registering a trademark in Afghanistan.

Since Afghanistan is not a party to the Madrid Agreement²³ or the Protocol²⁴ thereto, as well as to other international and regional organizations, it is only possible to register a trademark following national procedure. In such countries, the national registration procedure is the only possibility to obtain protection for the trademark. As a rule, it includes a range of mandatory stages, namely:

- Filing application with the national patent office;
- Examination of the application;
- Making decisions upon the results of the conducted examinations;
- Publication in the official bulletin;
- Issuance of the title of protection (trademark certificate).

It is essential to indicate all goods and services for which the trademark is intended to be used in Afghanistan, as well as the classes of the ICGS corresponding to them. In the application for registration of the trademark, exclusive right can only apply to goods and services specified in the certificate of registration.

If the application is recognized as meeting all the requirements and the entire consideration process is successful, then the Department decides to register the trademark. The applicant pays the registration fee, and upon applying to the Department he receives a certificate of registration of the trademark. There are restrictions on the registration of trademarks in Afghanistan as in most Islamic countries. Following Islamic traditions, registration of trademarks, which are associated with alcohol, pork, as well as services of various drinking establishments and nightclubs, is not allowed.

5.3 Patents

Patent law is not in force in Afghanistan so far, and it is expected to come into force in near future. Unfortunately, at present, there is a legal vacuum in this field. Hence, it is not possible to file patent applications in Afghanistan at present. It is often a practice that a Cautionary Notice must be published in the local newspaper stating that such and such invention is related to a particular matter/field which belongs to such and such inventors/company. Although the publications of cautionary notices are not registered in any official registers, and it is only an advertisement but it could be a base for claiming priority right in the future when the patent law comes into force in the country. Therefore, the publication should be in detail, and not in a short form. If it is published in short form, it may not serve the priority purposes. The application of Afghanistan to join the WTO obliges it to have a proper working intellectual property system. Afghanistan lacks manufacturing facilities and basic infrastructure. In theory, patents promote innovation and recognize unsung inventors. However, in reality, they mostly help large corporations

²⁰"The National Independent Commission for Radio and Television Broadcasting involves itself in copyright regulation". *Internews Newsletter on Freedom of Journalism in Afghanistan* (8). December 2005.

²¹"Training workshop on Copy Right held by the National TV and ABU". *Internews Newsletter on Freedom of Journalism in Afghanistan* (15). October 2006.

²² Ibid

²³ The Agreement was established in 1891 for the purpose of providing a mechanism that would allow for a single and inexpensive international trademark registration and to eliminate the need for filing, prosecuting or maintaining separate registrations in multiple countries. Registration of a mark under the Agreement provides for the legal equivalent of registration in member countries designated by the mark owner. If the trademark office of the designated country does not communicate a refusal of registration to WIPO within 12 months (extended to 18 months under the Protocol) the mark will have the same protection as registered national marks in that country. The Agreement also provides for a simplified renewal system since registration to renew and chances to the original registration affecting all the countries included in the registration can be made through a single filing with WIPO.

²⁴ The Protocol was adopted in 1989 to correct the perceived deficiencies in the Agreement. However, the Protocol maintains the initial intention of the Agreement, to create a system of simple and inexpensive international trademark registration. Therefore, while only 57 countries are presently part of the agreement, a total of 74 countries including the U.S. are party to either both the Agreement and the Protocol or to the Protocol by itself.

to protect their business assets. The application process can be expensive and time-consuming due to the technical subject matter, and local governments cannot afford that. However, to join the WTO, Afghanistan must establish IP protection to facilitate trade and provide ground rules for international disputes.

Officially, the WTO – via the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) – sets out minimum requirements for its members on copyright, geographical indications, industrial designs, integrated circuit layout designs, patents, plant varieties, and trademarks, trade dress, and trade secrets. Afghanistan has never formally had a patent system and historically lacks a rule of law, particularly concerning trade and commercial law. Afghanistan needs to provide a mechanism to register and record inventions.

6.0 Accession Process to WTO of Afghanistan

The accession in 2004 to WTO was applied by Afghanistan with the following objectives:

- a) Protect steady and non-discriminatory access to exports of Afghanistan
- b) Protect non-discriminatory transit for Afghan exports
- c) Exercise control over unfair treatment of Afghan goods and services in foreign markets
- d) Economy modernization
- e) Develop and grow economy
- f) Growth in fiscal revenue
- g) Augmentation of the transparency and rule of law in the system along with good governance

Working Party was set up in 2004, however, the process of accession was moderate and sluggish. Afghanistan has gained huge progress starting from 2009 through multilateral and bilateral tracks. On March 31, 2009, intending to start conversations within the structure of the working party, Afghanistan presented the ‘Memorandum on the Foreign Trade Regime’ (MFTR) portraying its present laws and policies identified with trade in goods, services, intellectual property, and government procurement (WTO, 2009). Negotiation of accession sped up since the working party meeting which was held in 2010. Afghanistan effectively occupied with the negotiation while explaining the scope of questions acknowledged from Canada, EU, and the US and in regards to their investment and trade structure September 2012.

Afghanistan dispatched service negotiations in June 2011 and submitted the products offer during the first week of October 2012 to begin respective bilateral negotiations on merchandise toward the end of 2012 (WTO, 2013). On 25 July 2013, which was the fourth gathering of the Working Party, WTO members praised Afghanistan for its strong responsibility coordinated by its specialized contributions to propel its WTO accession negotiations to closure (WTO, Dec 2013). At the agribusiness plurilateral negotiations, led by the WTO Secretariat on 25 July, members encouraged the obligation of Afghanistan to tie export endowments at zero and welcomed the way that its domestic support was amassed in the "Green Box" (i.e., domestic aid for farming that is permitted without limits as it does not mutilate trade, or at most causes insignificant distortion) (WTO, 2013).

Afghanistan’s accession was approved in the year 2016. For goods, Afghanistan has undertaken tariff commitments and concessions that bind tariff rates for all products on average at 13.5 percent. The average is 33.6 percent for agricultural products and the average is 10.3 percent for non-agricultural products. Afghanistan has made explicit commitments in 11 services sectors, with 104 subsectors. Full execution of the TRIPS Agreement started from January 2019 for which from the date of accession, articles 3, 4, and 5 of the TRIPS Agreement were applicable. Any progressions made in-laws, guidelines, and practices of Afghanistan in the momentary period would not bring about a lesser level of consistency with the provisions of the TRIPS Agreement that existed on the date of accession. Afghanistan looked for technical help to guarantee its ability to uphold its TRIPS- a consistent legal regime, upon the lapse of the transition period.

The economy of Afghanistan has steadily improved in the last decade due to the return of a large number of wealthy ex-pats, the modernization of the nation's agriculture sector, and the establishment of more trade routes with neighboring and regional countries²⁵. The billions of dollars in international assistance that came from ex-pats and outside investors saw this increase when there was more political reliability after NATO became involved in Afghanistan's reconstruction²⁶. The nation's GDP (PPP) stands these days at about \$70 billion with an exchange rate of \$20 billion (2017), and the GDP per capita (PPP) is about \$2,000²⁷. It imports over \$6 billion worth of goods but exports about \$1 billion worth of legal products²⁸, mainly fruits, and nuts.

²⁵Javed Hamim Kakar (2018), "Afghanistan's commercial goods arrived in Turkey through Lapis Lazuli route", Pajhwok Afghan News.

²⁶Pajhwok Afghan News (2007), "Afghanistan receives \$3.3b remittances from expats", October 19, 2007.

²⁷ Central Intelligence Agency (2018), "Afghanistan". The World Factbook, Available at <https://www.cia.gov/the-world-factbook/countries/afghanistan/>

²⁸TOLONews (2021), "Afghan Exports Dropped 21% in Last Fiscal Year", Available at <https://tolonews.com/business-170752>

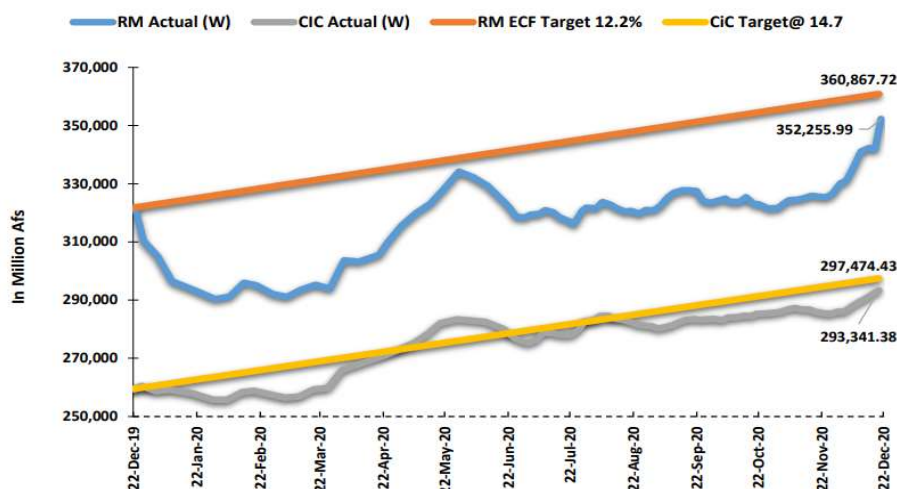
Despite holding over \$1 trillion in proven untapped mineral deposits, Afghanistan remains one of the least developed countries in the world. Its unemployment rate is over 23% (Central Intelligence Agency, 2018) and about half of its population lives below the poverty line²⁹. Many of the unemployed men join the foreign-funded militant groups or the world of crime, particularly as smugglers.

7.0 Afghanistan economic conundrum

In the latest ECF agreement signed between IMF and Da Afghanistan Bank (DAB), Reserve Money (RM) and Net International Reserves (NIR) are set as quantitative targets. DAB applies the quantitative theory of money to determine the level of reserve money (RM) to maintain domestic price stability, which indeed is one of the key responsibilities of the central bank.

Ceilings for RM and CiC are based on projected economic growth and projected inflation for the period under consideration. For the fiscal year 1399 (2020), the ceilings for reserve money and currency in circulation are set as 12.2% and 14.7% respectively (Da Afghanistan Bank, 2021).

7.1.1 Figure 4.18: Reserve Money and currency in circulation during FY 1399 (2020)



Source: Monetary Policy Department/DAB

7.2 Monetary Aggregates

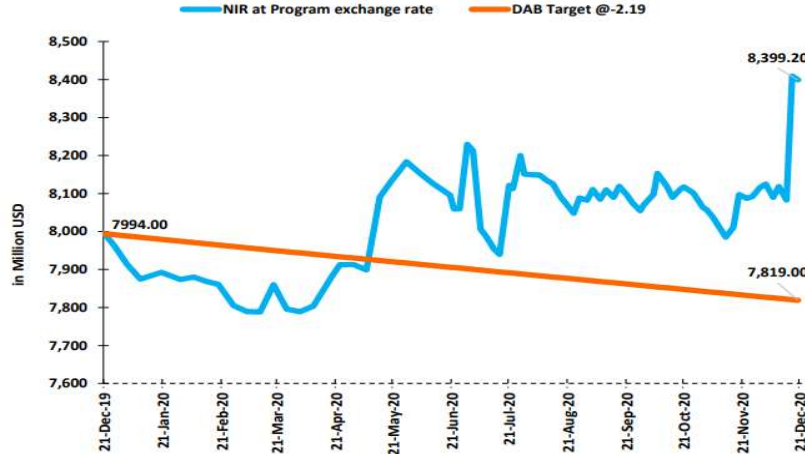
Narrow money and broad money are compiled based on the Monetary and Financial Statistics Manual and Compilation Guide (MFS Guide). Narrow money (M1) includes currency outside depository corporations and demand deposits, while broad money (M2) includes narrow money components and other less liquid assets or quasi money. The narrow money (M1) grew by 12% at the end of the fiscal year 1399 (2020) as compared to 6% of the last year. Currency outside depository corporations, which accounts for 49% of M2, grew by 13.29%, slightly lower than the 13.7% growth of the same period in the previous year, showing the difference of Afs 33,205.64 million. Demand deposits, which are other components of M1, experienced 9.69% growth at the end of FY 1399 (2020), while it had negative growth of 1.6% in the same period of the previous year. The main reason for high demand deposits is end-year outstanding salary payments by the Ministry of Finance (MoF) and projects implementation due to Covid-19 during FY 1399 (2020). Demand deposit in comparison with the previous year in the same period shows a difference of Afs 22,286.14 million.

7.3 Net International Reserve (NIR):

Da Afghanistan Bank holds international reserves, which consist of monetary gold, reserve position, and holdings of Special Drawing Rights (SDR) with the IMF, as well as major foreign exchange such as US dollars, Euro, Great British Pound, and other currencies. The Net International Reserves (NIR) of Afghanistan, which is expressed in terms of the US dollar, is defined as reserve assets minus reserve liabilities. NIR increased by 5.06% and had an accumulation of USD 404.74 million at the end of FY 1399 (2020). NIR floor was set at USD 7,819.00 million, while in actual case, NIR in program exchange rate compiled weekly, reached to USD 8,399.20 million at the end of the period under review (Da Afghanistan Bank, 2021).

²⁹ The Global Economy (2020), "Afghanistan Unemployment rate - data, chart", Available at https://www.theglobaleconomy.com/Afghanistan/Unemployment_rate/

7.3.1 Figure 4.19: Actual and target NIR (Net International Reserve) during the FY 1399 (2020)



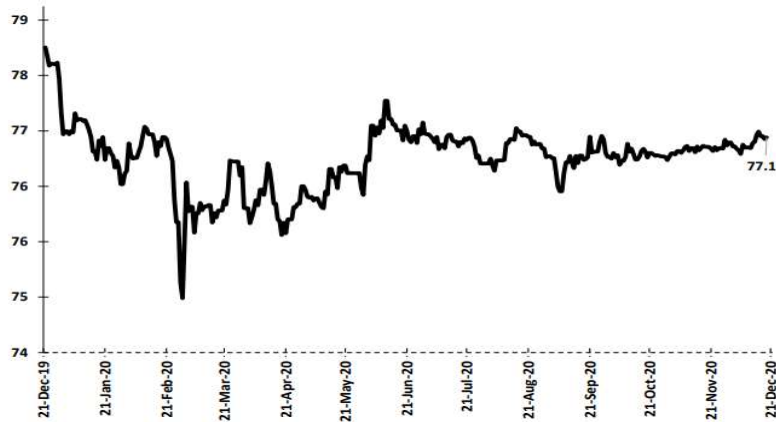
Source: Monetary Sector, Monetary Policy Department

Foreign Exchange Market:

7.3.2 Foreign Exchange Rates:

Da Afghanistan Bank’s (DAB) primary objective is to maintain price stability. To achieve and maintain this objective, DAB puts its focus on utilizing its monetary instruments via open market operations. During the FY 1399 (2020), Afghani relatively depreciated against the Euro, Swiss Frank, Great British Pound, and Chinese Yuan, but appreciated against SD, Indian rupee, Pakistani Rupee, Iranian Toman, United Arab Emirates dirham, and Saudi Riyal (Da Afghanistan Bank, 2021). Daily exchange rates of Afghani against USD and other key currencies for the FY 1399 (2020) are graphically presented as below:

Figure 4.20: Daily average ex- rate of Afghani against USD during FY 1399 (2020)



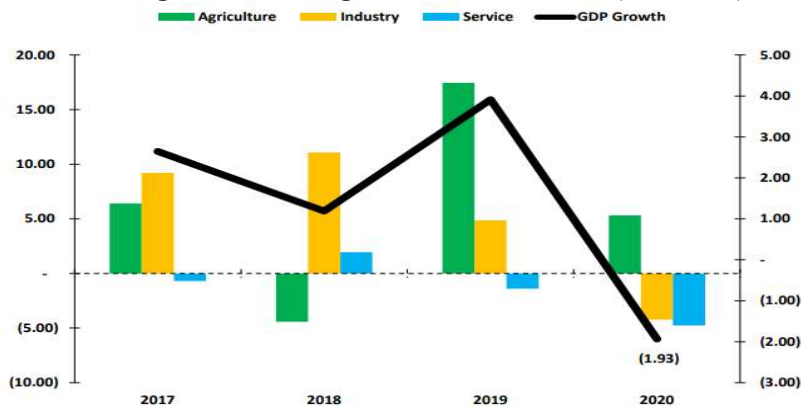
Source: Monetary Sector, Monetary Policy Department

7.4 Inflation Trend

7.4.1 Annual GDP

2020 posed economic challenges of enormous proportions to the struggling Afghan economy. COVID19 outbreak and the subsequent restriction measures pushed the economy of Afghanistan deep into recession. The economic activities began to slow down in early 2020 and were exacerbated further when the Afghan government imposed a nationwide lockdown in March in an attempt to contain the outbreak. Moreover, the existing political turmoil and security uncertainties amplified the negative economic effects of the Corona outbreak and quarantine. The declining trend of economic activities in Afghanistan which started in early 2020 remained persistent throughout the second quarter with the worst impact on the livelihoods of the vulnerable and poor population of the country, resulting in unprecedented increases in unemployment and poverty. The security unrest picked up in 2020, coupled with the outbreak of COVID19 acted as a catalyst for worsening the overall economic conditions (Da Afghanistan Bank, 2021).

7.4.2 Figure 4.21: GDP growth from 2017-2020 (1396-1399)



Source: NSIA/Monetary Policy Department, DAB staff calculation

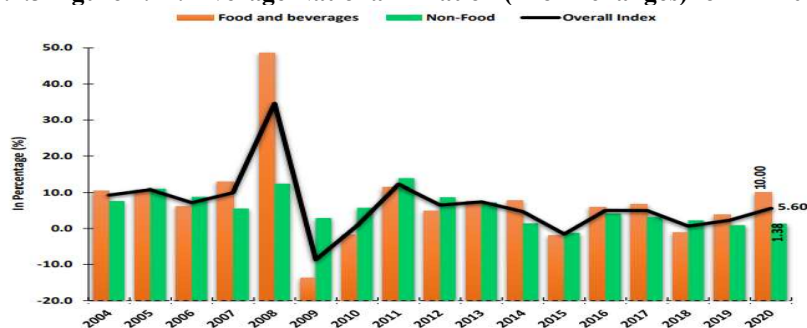
Afghanistan GDP growth showed a downward trend at the end of 2020 and economic growth was lower as compared to 2019. A downward trend in the agriculture sector and also a weak performance by services and industry sectors caused the economic growth to turn down to -1.9% in 2020 which shows a significant decrease from 3.9% in 2019.

The contribution of GDP sectors shares reached to, Agriculture 27.01%, Industry 12.47%, and Services 56.07%. Overall, negative growth was largely the result of the frightening decline in the agriculture sector. of which the growth rate decreased to 5.31% compared to 17.46%. Growth in the industry sector decreased to -4.22% compared to 4.85%. The impacts of the services sector on the overall economic growth were also negative as the sector's growth rate decreased further to -4.76% in 2020 from -1.39% observed in 2019 (Da Afghanistan Bank, 2021).

Overall inflation in the non-food category increased to an average of 2.65% from -0.13% in the fourth quarter of 2020 compared to the same quarter of the previous year. This increase was due to higher prices of tobacco, clothing, housing, furnishing, household goods, health, communication, and information and culture increased over the one year. In the mentioned category, the highest increase was noted in the price index of tobacco and communication, which increased to 4.07% and -0.30% on average from -1.90% and -5.48% respectively.

Core inflation also shows an upward slope in the fourth quarter of 2020 compared to the fourth quarter of 2019. Trimmed mean which is the most common measure of core inflation, jumped to 5.18% from 2.55%. In addition, the CPI inflation excluding bread and cereals, oil and fats, and transportation, increased to 5.33% in the fourth quarter of 2020 from 2.31% in the same period of the previous year (Da Afghanistan Bank, 2021).

7.4.3 Figure 4.22: Average National Inflation (Y-o-Y changes) for FY 2020



Source: NSIA/Monetary Policy Department, DAB staff calculation

7.5 External Sector Developments

Afghanistan's external sector continued to recover concerning many aspects during FY 1399, mainly supported by an improved trade deficit and a notable increment in grants inflows to the government sector as well as a moderate improvement in services account-related receipts. The trade deficit improved on a year-on-year basis, with a reduction in merchandise imports due to following the slowdown in domestic economic activities as a result of the COVID19 pandemic, despite earnings from merchandise exports recording a year-on-year decline during FY 1399 (Da Afghanistan Bank, 2021).

Meanwhile, compensation of employees together with investment income inflows and workers' remittances depicted a substantial reduction during the year under review. While net official transfers (Operating and development) had upward trends mainly due to higher official cash receipts from both multilateral and bilateral donors during the

FY 1399. However, in the financial account, a substantial increase was observed in foreign direct investment (FDI) outflow, and FDI inflows continue to worsen further in the year under review. With the increased inflows to the government sector in the form of grants (current transfer) and increased inflows in the form of foreign investments, the Central Bank of Afghanistan was able to build up gross official reserves during FY 1399 (Da Afghanistan Bank, 2021).

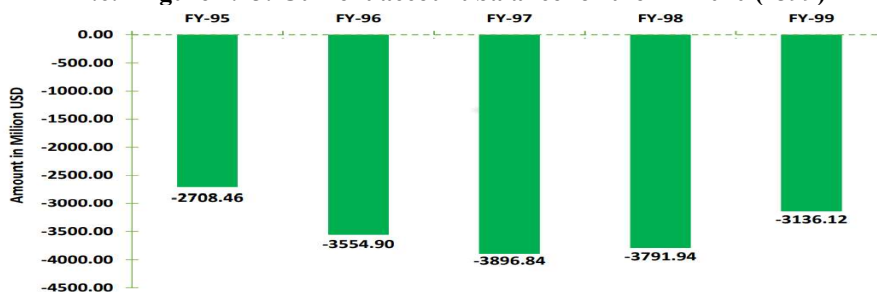
7.6 Balance of Payments

7.6.1 Current Account

The current account deficit (including official transfers) narrowed by 17% and reached a value of USD 3,136.12 million in the FY 1399 from a value of USD 3,791.94 million recorded in the preceding year, reflecting the improvement of official transfers and accelerating in services account related receipts.

Base on year-on-year comparison the deficit of trade balance on BoP bases narrowed by 6% and stood at a value of USD 5,506.86 million in the FY 1399 compared with a value of USD 5,855.03 million recorded in the FY 1398. In the period under review export of goods and services dropped by 3% and reached a value of USD 1,476.31 million in FY 1399 from a value of USD 1,515.76 million recorded in the last year. While, import of goods and services declined by 5% and stood at a value of USD 6,983.16 million in FY 1399 compared with a value of USD 7,370.79 million recorded in the last year (Da Afghanistan Bank, 2021).

7.6.2 Figure 4.23: Current account balance for the FY 2020 (1399)



Source: NSIA/Monetary Policy Department, DAB staff calculation

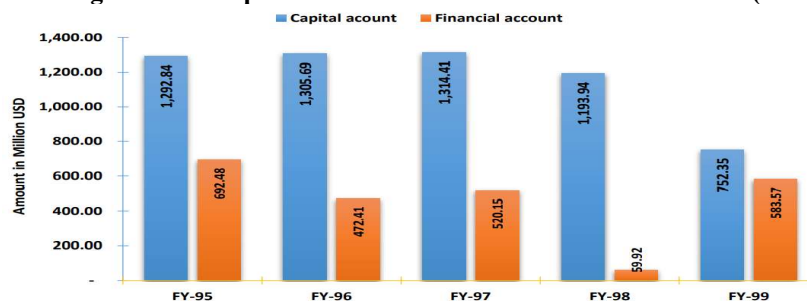
7.7 Capital Account

Inflows to the capital account decreased by 37% and reached a value of USD 752.35 million in the FY 1399 from a value of USD 1,193.94 million recorded in the FY 1398, as a result of lower inward of capital transfers to the government sector (Da Afghanistan Bank, 2021).

7.8 Financial account

Under the financial account of the Balance of Payments (BOPs), foreign investment is an important component that consists of foreign direct investment (FDI), foreign portfolio investment (FPI), and Other Investments (Da Afghanistan Bank, 2021).

7.8.1 Figure 4.24: Capital and Financial Account for the FY 2020 (1399)

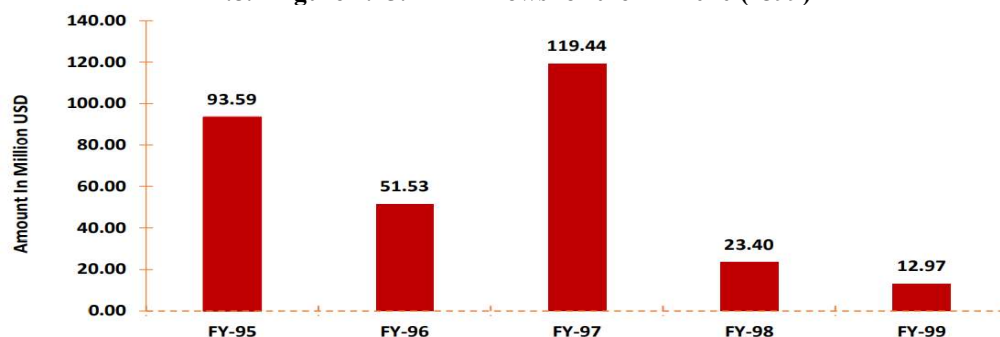


Source: Monetary Policy Department, DAB staff calculation

Considering the statistics, FDI inflow stood at a value of USD 12.97 million in FY 1399 from a value of USD 23.40 million recorded in FY 1398. While FDI outflow reached a value of USD 37.23 million in FY 1399 in comparison with a value of USD 26.32 million recorded in the last year. In the meantime, portfolio investment exhibits USD 63.24 million which reflects insertion of Afghanistan investment in foreign countries during the FY 1399 from the value of USD - 14.62 million recorded in the FY 1398.

Afghanistan’s other aggregated financial assets abroad dropped to a value of USD 34.89 million in FY 1399 from a value of USD 37.21 million recorded in FY 1398. Other aggregated financial liabilities, followed an upward trend and stood at a value of USD 299.27 million in the FY 1399 from a value of USD -8.18 million recorded in the previous year. The financial account balance as a total stood at USD 583.57 million in FY 1399 which was well above the value of USD 59.92 million recorded in FY 1398 (Da Afghanistan Bank, 2021).

7.8.2 Figure 4.25: FDI inflows for the FY 2020 (1399)



Source: Monetary Policy Department, DAB staff calculation

7.9 Developments in Merchandise Trade

7.9.1 Trade-in Goods

The trade-in goods accounts registered a deficit of USD 5,760.92 million in FY 1399, 3% lower than a deficit of USD 5,912.29 million recorded in the previous year as a result of a higher contraction in exports of goods of 10% compared to that of goods imports of 5%.

Table 4.2: Direction of External Trade for the FY 2020(in Million USD)

Country Name	Exports	% Share	Imports	% Share	Trade Balance
Pakistan	214.69	28%	736.73	11%	-522.03
India	394.29	51%	490.96	8%	-96.68
Iran	7.47	1%	1110.95	17%	-1103.48
Germany	5.35	0.7%	88.23	1%	-82.88
China	55.34	7%	984.47	15%	-929.13
Malaysia	-	0%	114.48	1.8%	-114.48
Vietnam	6.66	0.86%	27.46	0.42%	-20.80
UAE	-	0%	155.03	2%	-155.03
Turkey	-	0%	61.23	0.94%	-61.23
USA	-	0%	48.66	1%	-48.66
Common Wealth	8.81	1%	1932.31	30%	-1923.50
Japan	-	0%	184.09	3%	-184.09
Other Countries	84.11	11%	603.04	9%	-518.92
Total	776.73	100%	6537.64	100%	(5760.92)

Source: NSIA and DAB staff calculations

7.9.2 Table 4.3: Direction of External Trade for 2019 (in Million USD)

Country Name	Exports	% Share	Imports	% Share	Trade Balance
Pakistan	298.04	35%	1058.01	16%	-759.97
India	410.14	47%	404.91	6%	5.22
Iran	14.62	2%	1247.26	18%	-1232.64
Germany	10.88	1.3%	75.82	1.12%	-64.94
Common Wealth	9.47	1%	1633.78	24.1%	-1624.31
China	31	4%	1156.68	17%	-1125.68
UAE	-	0%	130.14	2%	-130.14
Vietnam	9.37	0%	71.99	1.92%	-130.14
Turkey	0	0%	66.02	0.97%	-62.61
Japan	0	0%	201.21	2.97%	-201.21
Malaysia	0	0%	319.98	5%	-319.98
USA	0	0%	49.73	0.73%	-49.73
Other Countries	80.31	9%	360.58	5.32%	-280.27
Total	863.83	100%	6776.12	100%	(5796.40)

Source: NSIA and DAB staff calculations

7.10 Exports of Goods

Total exports of goods dropped at a value of USD 776.73 million in FY 1399 compared with a value of USD 863.83 million recorded in FY 1398. This decline in total exports of goods originated mainly from the lower export of fresh fruits, medical seeds, carpet, and rugs products during the period under review. Exports of fresh fruits significantly declined by 54% and stood at a value of USD 55.05 million in FY 1399, from a value of USD 119.86 million recorded in FY 1398.

Exports of medical seeds and others dropped by 11% and stood at a value of USD 356.56 million in FY 1399 from a value of USD 399.24 million recorded in FY 1398. Exports of handmade carpet and rugs products declined by 33% and reached a value of USD 16.65 million in FY 1399 from a value of USD 24.9 million recorded in the last year. Export of wool and animal hair, karakul skin, and oilseeds products also contributed to the overall decline in total exports of goods (Da Afghanistan Bank, 2021). Meanwhile, the expansions recorded in exports of leather and wool products helped ease the decrease in total exports of goods. Exports of leather and wool products continued to rise fairly by almost 1% and reached a value of USD 43.48 million in FY 1399 from a value of USD 43.16 million recorded FY 1398 (Da Afghanistan Bank, 2021).

7.11 Imports of Goods

Import of goods declined to a value of USD 6,537.64 million in FY 1399 from a value of USD 6,776.12 million in the last year. All major commodity groups recorded a downturn following the slowdown in domestic economic activities as a result of the COVID19 pandemic even as the government has started to gradually open the domestic economy in selected areas of the country (Da Afghanistan Bank, 2021).

Considering the data, imports of goods registered an almost 4% decline in the year under review. In particular, imports of industrial supplies decreased by 32% and stood at a value of USD 553.52 million in the FY 1399 from 815.90 million recorded in FY 1398, largely on account of the decreases in metal production (39%), cement (28%) and fertilizer (23%)

Imports of fuel and lubricants dropped by 3% and stood at a value of USD 1,049.92 million in FY 1399 from a value of USD 1,078.01 million in FY 1398 mainly due to lower demand for petroleum oil by the restriction in international flights and land transportation during the FY 1399.

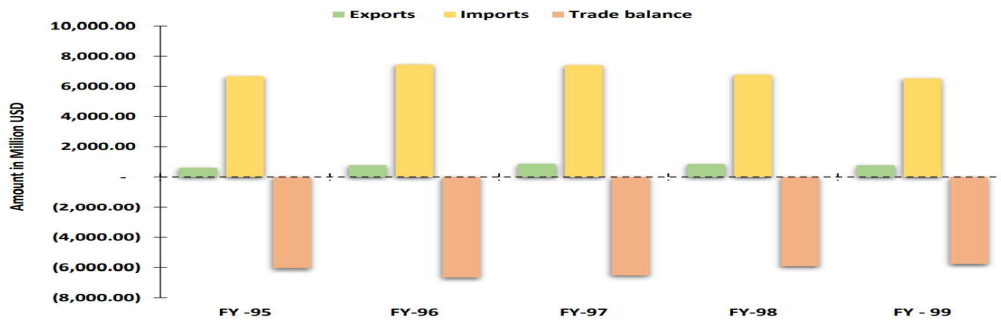
Imports of consumer goods also decreased by 3% and stood at a value of USD 2,407.35 million in the FY 1399 from a value of USD 2,489.80 million recorded in the FY1398, largely due to decreased demand for imports of tea 34%, vegetable oils 31% and fabrics 16% during the period under review. Vice versa, imports of capital goods grew by 6% and reached a value of USD 2,526.85 million in FY 1399 compared to a value of USD 2,392.40 million recorded in FY 1398 (Da Afghanistan Bank, 2021).

7.11.1 Table 4.4: Merchandise Trade in Million USD for the FY 2020

Years	FY 1395	FY 1396	FY 1397	FY 1398	FY 1399
	Total Share (%)	Total Share (%)	Total Share (%)	Total Share (%)	Total Share (%)
Imports	6,672.39 (100%)	7,448.14 (100%)	7,406.60 (100%)	6,776.12 (100%)	6,537.64 (100%)
Industrial supplies	536.47(8%)	883.27(12%)	825.68(11.1%)	815.90(12%)	553.52(8%)
Fuel and Lubricants	1078.73(16%)	877.65(11.8%)	949.78(12.8%)	1078.01(15.9%)	1049.92(16.1%)
Consumer goods	2120.44(32%)	2,981.46(40%)	2,904.23(39.2%)	2489.80(36.7%)	2407.35(36.8%)
Capital goods and others	2936.75(44%)	2,705.75(36%)	2,726.90(36.8%)	2,392.40(35%)	2526.85(39%)
Exports	613.80(100%)	783.93(100%)	875.24(100%)	863.83(100%)	776.73(100%)
Carpets &Rugs	52.51(8.6%)	23.74(3%)	22.35(2.6%)	24.9(2.9%)	16.65(2.1%)
Food Items	269.91(44%)	441.51(56.3%)	417.69(47.7%)	396.53(45.9%)	360.02(46%)
Leather & Wool	55.00(9%)	23.13(3%)	42.32(4.8%)	43.16(5%)	43.48(5.6%)
Medical seeds & others	236.38(38.5%)	295.55(37.7%)	392.88(44.9%)	399.24(46.2%)	356.56(46%)
Trade Balance	-6,058.58	-6,664.21	-6,531.36	-5,912.29	-5,760.92

Source: NSIA and DAB staff calculations

7.11.2 Figure 4.26: Trade performance and Trade balance for the FY 2020



Source: NSIA/DAB staff calculation

7.12 External Debt

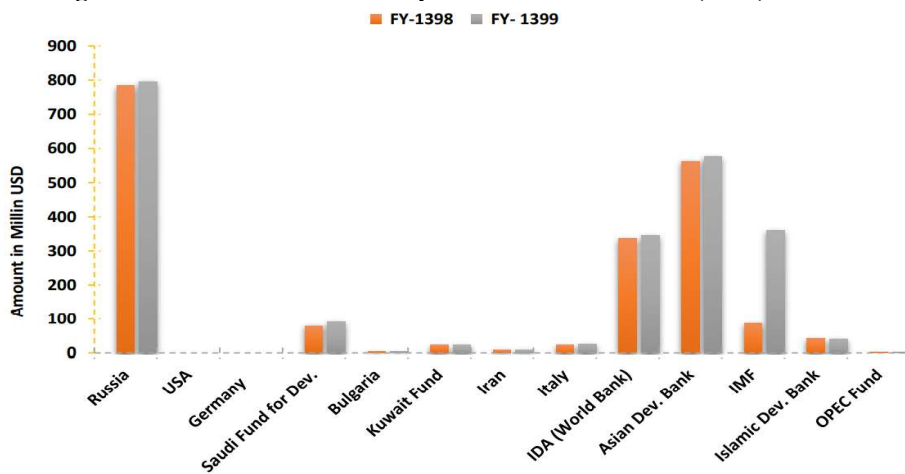
Afghanistan’s external debt stood at a value of USD 2,273.59 million at the end of FY 1399, recorded an increase of USD 316.96 million over its level at the end of FY 1398, mainly on account of a rise in official borrowings. The World Bank and Asian Development Bank as a major multilateral creditor to Afghanistan made USD 1.67 million debt release on principles as well as USD 0.13 million as services charges during the year under review (Da Afghanistan Bank, 2021).

7.12.1 Table 4.5: External Debt for the FY 2020 (in million USD)

	FY 1398	% Share	FY 1399	% Share
Total external debt	1,956.63	100%	2,273.59	100%
Bilateral	924.41	47.25%	949.60	41.77%
Paris Club	785.11	40.13%	796.03	35.01%
Russian Federation	785.11	40.13%	796.03	35.01%
United States	-	0%	-	0%
Germany	-	0%	-	0%
Non-Paris Club	139.30	7.12%	153.57	6.75%
Multilateral	1032.22	52.75%	1324	58.23%
of which: IDA (World Bank)	337.06	17.23%	345.48	15.20%
Asian Development Bank	563.25	28.79%	576.89	25.37%
International Monetary Fund	87.69	4.48%	359.60	15.82%
Islamic Development Bank	42.68	2.18%	40.54	1.78%
OPEC Fund	1.53	0.08%	1.49	0.07%

Source: MOF and DAB staff calculations

7.12.2 Figure 4.28: External Debt Comparison for the FY 2019 (1398) & FY 2020 (1399)



Source: NSIA/DAB staff calculation

Net International Reserves

The foreign international reserves include four items; monetary gold, reserve position in the fund, SDRs (special drawing rights of the IMF), and foreign currency assets accumulated by Afghanistan and controlled by the Central Bank of Afghanistan (Da Afghanistan Bank).

The Net International Reserve (NIR) is measured as Gross International Reserves (GIR) minus reserve-related liabilities. At the end of FY 1399, the level of Afghanistan’s GIR has steadily increased by 11.48% and stood at a value of USD 9,478.49 million from the amount of USD 8,502.15 million registered in the previous year.

7.12.3 Table 4.6: Net International Reserves for the FY 2020 (in million USD)

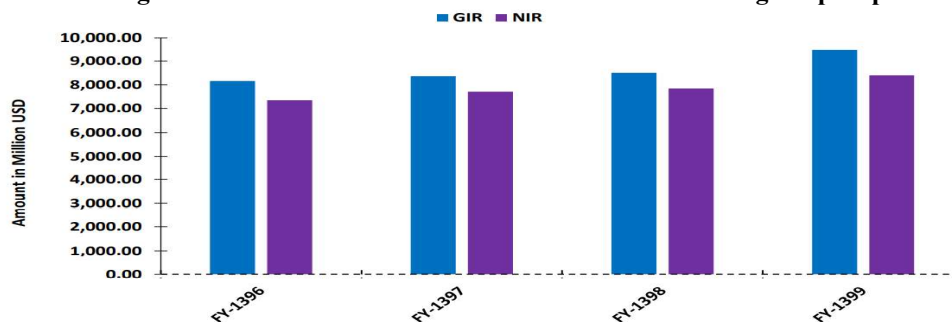
Changes on the previous quarter	FY 1396	% change	FY 1397	% change	FY 1398	% change	FY 1399	% change
Net international reserves (in million US Dollars)	7,345.36	7.67	7,704.98	4.90	7,846.07	1.83	8,399.20	7.05
Reserve Assets	8,159.01	8.19	8,362.42	2.49	8,502.15	1.67	9,478.49	11.48
Reserve Liabilities	813.65	13.14	657.44	-19.20	656.08	-0.21	1079.29	64.51
Commercial bank deposits in foreign currency	750.66	15.90	598.08	-20.33	600.32	0.37	693.51	15.52
Nonresident deposits in foreign currency	0.14	0.00	0.14	0.00	0.14	0.00	0.14	-0.06
Use of Fund resources	62.85	-11.87	59.22	-5.77	55.62	-6.08	385.65	593.35
Gross Intl. Reserves (in months of import)	13.15		13.55		15.06		17.40	
Net Intl. Reserves (in months of import)	11.83		12.48		13.89		15.42	

Source: DAB staff calculation

Afghanistan’s GIR jumped by a record of USD 976.35 million during the year under review. The NIR has also followed an upward trend and surged to the value of USD 8,399.20 million in the FY 1399 from a value of USD 7,846.07 million recorded in the FY 1398, it showed for about USD 553.13 million increments in the country’s NIR (Da Afghanistan Bank, 2021).

The Use of Fund Resource significantly increased to a value of USD 385.65 million in FY 1399 from a value of USD 55.62 million recorded in the previous year. The reserve liability of non-resident deposits in foreign currency almost remained unchanged in FY 1399. The current position of Afghanistan Net International Reserves (NIR) is the best cushion for conducting a sound and appropriate monetary policy in the country.

7.12.4 Figure 4.29: Gross and Net International Reserves during the past periods



Source: DAB staff calculations

7.13 Fiscal Sector Development

The financial sector of the monetary policy directorate is responsible to keep coordination between fiscal and monetary policy implementation units of the Ministry of Finance (MOF) and Da Afghanistan Bank (DAB). The key objective in the fiscal area is to achieve a sustainable increase in revenue collection to permit the gradual takeover of externally financed operating & development spending and ensure an expenditure allocation consistent with the Afghanistan National Peace and Development Framework (PDF). The other goals are included improvement in public expenditure management, fiscal policy formulation, efficiency in public enterprises, taxes, and customs administration. While monetary policy is responsible to maintain price stability by smoothing Afghani (Afs) exchange rate volatility.

Resembling the other emerging and under developing economies around the world, Afghanistan continuously faces a budget deficit, and this time it is severe due to the effect of the COVID-19 pandemic on both expenditure and mostly revenue generation. The total core expenditure increased about Afs 22 billion at the end of FY- 1399, and there is a notable decrease of Afs 7.4 billion in total revenue collection. Total revenue at the end of the fiscal year 1399

decreased to Afs 393.3 billion from Afs 401 billion in 1398 by including other revenue and grants Afs 40.5 billion budget deficit is being observed. However, as a result of the reallocation of the budget due to the COVID-19 pandemic, the estimated budget for the fiscal year 1399 was 453.8 billion Afs.

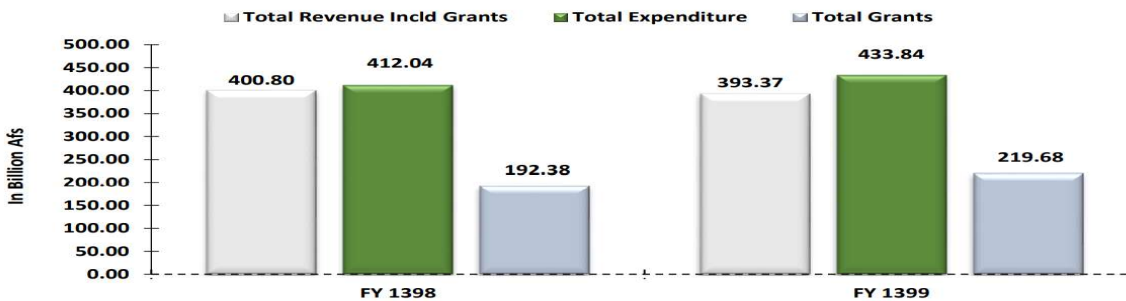
7.13.1 Table 4.7: Budget and expenditure of the FY 1399, and 1398, amounts in the table are in Billions of Af and rounded off

National Budget (Amounts in billion Afs)			
	Estimated FY- 1399	Actual FY- 1398	Actual FY- 1399
Expenditure	428.38	412	434
Operating	289.11	273	274
Development	139.27	139	160
Budget	415.98	401	393
Internal Sources	208.90	208	174
External Sources	207.08	192	220
Deficit	-12.40	-11	-40.5

Source: MoF Financial Statement/MPD Staff Calculation

Donor contributions are used to finance both operating and development expenditure, the main donor contributors to the government are ARTF, LOTFA, and CSTC-A. The total grants allocated to operating and development expenditure represents an increase of Afs 27 billion.

7.13.2 Figure 4.30: Comparison of Total Revenue including grants, Total Expenditure, Total Grants between FY 2019 (1398) & FY 2020 (1399)

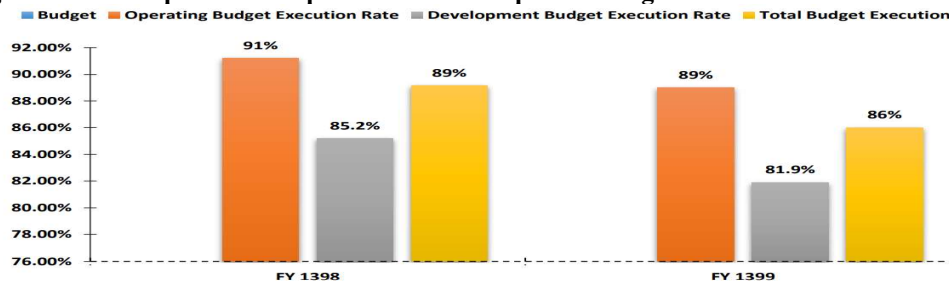


Source: MoF Financial Statement/MPD Staff Calculation

Budget Execution Rate

During the period of FY 1399, the government spent 86% of the total Afs 453.8 billion of the allocated budget, while comparing to 89% of the total Afs 445.8 billion of allocated budget in FY 1398 representing nearly increase of 9.5% in overall budget execution rate relatively.

7.13.3 Figure 4.31: Comparison of Operation & Development Budget Execution Rates for FY 1398 & 1399



Source: MoF Financial Statement/MPD Staff Calculation

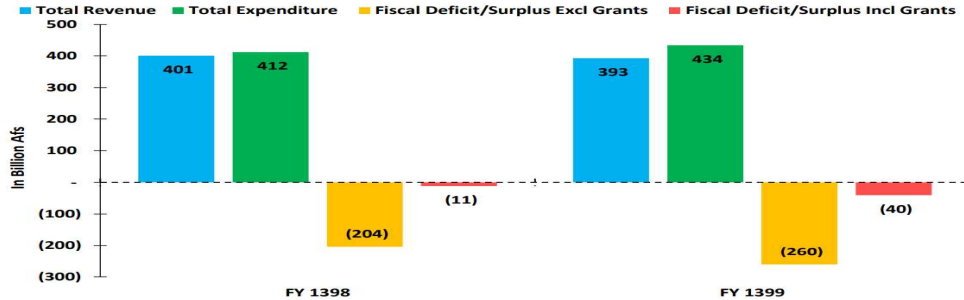
This increase is attributed to several factors particularly due to an increase in overall budget reallocation, processing of expenses by the National Procurement Authority, security condition in provinces, and good performances by the budgetary units. The operating budget execution rate indicates a 2.4% increase from Afs 269 billion at the end of FY 1398 to Afs 276 at the end of FY 1399, however, the allocated budget was Afs 446 billion in FY 1398 while it was about Afs 453.8 billion at the end of FY-1399. The development budget execution rate represents an increase of 24% comparing both Afs 129 billion of FY 1398 and Afs 161 billion of FY 1399 (Da Afghanistan Bank, 2021).

7.14 Core Budget (Deficit & Surplus)

The total core budget represents approved development and operating budget, it was calculated Afs 428 billion at the beginning of the fiscal year 1399 but due to the COVID-19 pandemic it was revised and after mid-year review, it is reallocated to Afs 453.8 billion that showed about 6% increase from Afs 428 billion which was at the beginning of the FY-1399, while in FY-1398 it was Afs 399.

This major change in the budget is a result of high budget approval and reallocation for FY 1399 due to the COVID-19 pandemic. The overall budget before the donor’s contribution had a deficit of Afs 260 billion in FY 1399 compared to Afs 204 billion deficit at FY 1398. Meanwhile, donor contributions funding and grants increased from Afs 192 billion in FY 1398 to Afs 220 billion for FY 1399 (Da Afghanistan Bank, 2021).

7.14.1 Figure 4.32: Comparison of total revenue, expenditure, and Fiscal deficit between FY 1398 & FY 1399



Source: MoF Financial Statement/MPD Staff Calculation

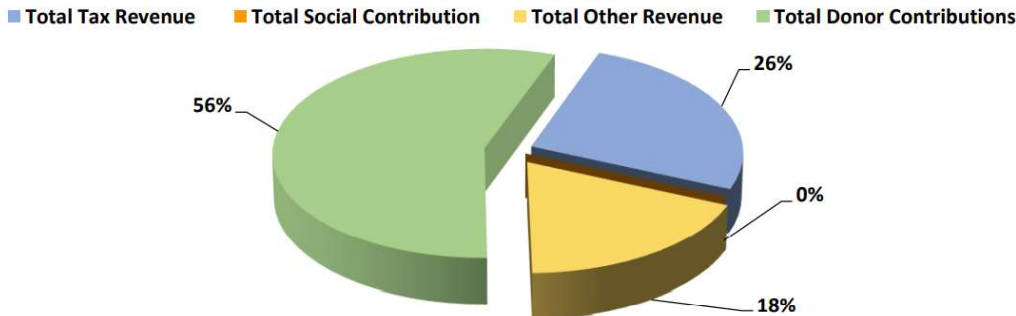
The total annual external source funding amount in FY 1399 represents significant raise from Afs 203 billion of FY 1398 to Afs 225 billion in FY 1399, indicating an 11% increment in annual planned external sources and it is as a result of; IMF Extended Credit Facilities, other funding for COVID-19 pandemic as a grant, and donor’s contribution on annual basis. Including grants, there is Afs 40.5 billion of budget deficit in FY-1399 compared to Afs 11 billion deficit in FY-1398.

7.15 Total Revenue

During FY 1399 total revenue including grants decreased considerably to Afs 393 billion, where it was reached Afs 401 billion in FY 1398, this change indicates a notable decrease of Afs 7.4 billion or 2% in FY 1399 compared to the previous year. Annual collection of planed domestic sources indicates Afs 35 billion drop, down from Afs 208 billion in FY 1398 to Afs 174 billion in FY 1399, leading to a 17% decrease comparatively.

To meet FY 1399 budget deficit, the total domestic revenue, grants, and donor contribution plays a vital role and similarly, revenue collection steers to the annual budget surplus. Moreover, the negative trend in total revenue collection of FY 1399 was as a result of the COVID-19 pandemic affecting mostly administrative fees, fixed taxes, income taxes, custom revenue, revenue collected from sources under claims, and retirement contributions, however, there had been an increment in the sale of goods and services, income from capital property, miscellaneous revenue, and extractive industries during the FY 1399 (Da Afghanistan Bank, 2021).

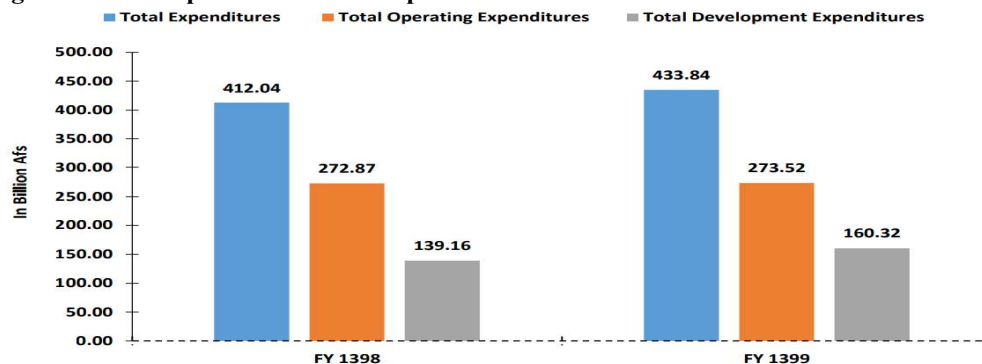
7.15.1 Figure 4.33: Components of Total Revenue for the FY -1399



Source: MoF Financial Statement/MPD Staff Calculation

Furthermore, total core expenditure represents a 15% increase from Afs 412 billion of FY 1398 to Afs 434 billion in FY 1399 indicating Afs 22 billion rises in the overall development and operating expenditure compare with the previous year, this is mostly as a result of an increase in supplier expenditures and capital expenditures. In addition, operating expenditures indicate a mild increase of 0.24% from Afs 272.9 billion of FY 1398 to Afs 273.5 billion in FY 1399, Meanwhile, development expenditures show 15% raise from Afs 139 billion of FY 1398 to Afs 160 billion in FY 1399 indicating Afs 21 billion which is a notable change in development expenditure compare to the same period of last year. The core expenditures are classified into development and operating expenditures which are allocated in eight different sectors such as; security, governance, education, health, agriculture, social protection, infrastructure, and economic governance, moreover, the sector-wise expenditure is provided for both operating and development budget, while increased expenditure on economic development, defense, public services, governance (public order and safety), health and education sectors are in line with the ANPDF priority (Da Afghanistan Bank, 2021).

Figure 4.34: Comparison of Total Expenditures for FY 1398 & FY 1399



Source: MoF Financial Statement/MPD staff calculation

CONCLUSION

The Afghanistan Government has joined the WTO and as a member of the WTO, and a least developed country (LDC), Afghanistan must meet certain international legal standards. After Afghanistan has become a signatory to the Berne Convention or Agreement on Trade-Related Aspects of Intellectual Property (the TRIPs Agreement), it is subjected to these international instruments through its membership in the WTO.

When Afghanistan joined the WTO, it accepted all of the WTO agreements in a single undertaking, including TRIPs. Under the TRIPs Agreement, WTO member states must comply with the substantive obligations of the main conventions of WIPO, namely the Paris Convention on industrial property, and the Berne Convention on copyright in their most recent versions. As an LDC though, the WTO agreement allows countries different periods to delay the application of its provisions. For example, LDCs are granted a longer transition period than developed countries, with a delay until 1 January 2006 and the possibility of an extension of this date.

As there are no patent or copyright system in the past, global intellectual property law harmonization needs to take place. Another important consideration in drafting the new law is compatibility with the legal principles already in place. The Islamic Foundation of law in Afghanistan is referred to as the “Islamic Sharia.” Protection of folklore has been a controversial area of copyright law. For a country like Afghanistan, with over 1,000 years of folklore, such protection was attractive. Our research unearthed no good model to follow. If anything, folklore in the future may be a subject of sui generis legislation. However, keeping in mind Afghanistan’s current position, we proposed a simple folklore provision for inclusion into the copyright law.

This provision provides a non-exclusive list of folklore items such as oral expressions, including tales, popular poetry and riddles, architectural forms, and tangible expressions, including items such as jewelry, carpets, and textiles. The provision also dictates that the Transitional Islamic State of Afghanistan is the “Author” of these works, and charges it with protecting such works by all legal means. We are still debating the inclusion of a provision that would provide an automatic license enabling the Afghan people to exercise an author’s rights in these folkloric works. As the Afghanistan Government continues to reinstall government operations in the wake of the Taliban leadership, the opportunity for corruption is palpable. The abuse of a newly-established law is especially possible. There are two interrelated copyright issues unique to Afghanistan as an LDC: fair use and anti-circumvention provisions. Although LDCs certainly produce copyrighted works, they tend to import more works than they produce. Accordingly, while Afghanistan’s copyright law must provide sufficient protection for owners of copyrights, it is essential that laws not be so restrictive to limit the ability of the local populace to use copyrighted works.

In 2002, the UK Government think tank, the Commission on Intellectual Property Rights, which focuses on IPR policy and developing countries, published a report entitled Integrating Intellectual Property Rights and Development Policy. This sparked a healthy debate on the appropriate strength of IPRs in developing countries, including copyright protection and the level of fair use allowed. Afghanistan is still considering whether they want to create individualized offices for copyright, trademark, and patent governance, or whether they want to create one clearinghouse governing all areas of IP.

Since Afghanistan is one of the LDCs currently, the accession to WTO gives responsibilities and commitment to abide by the terms and conditions such as domestic reforms for transformation to a productive market economy, attracting investments and creating jobs, and improving the welfare of Afghans. Afghanistan should abide by the WTO obligations considering the MFN principle concerning both trade and IPR. The major focus of the study will hence be to analyze and ascertain the impact of the WTO agreements on trade and IPR in Afghanistan.

Strong legislation under the purview of WTO and WIPO should be passed to bring IP legislation to Afghanistan. When the Intellectual Property Working Group members have completed their modification of the copyright laws to suit Government officials, they will disengage, and the Government officials will be left to formalize the processes and procedures of forming functional, central, and regional copyright offices, whether independent or part of a centralized intellectual property office. Project team members will, however, continue to be available to consult with Government officials as needed. With clear and concise regulations, the administrative and judicial personnel will have to be properly trained to implement and enforce the copyright laws daily. By providing a large group of administrative personnel, managers, and judicial authorities with comprehensive initial training, local Afghans will be then equipped to train future generations.

Because the actual implementation of the laws and regulations is probably more important than the laws and regulations themselves, training the Afghans who will be working in the central and/or regional copyright offices and judicial bodies will be critical to the success of establishing international trade and IP system in Afghanistan. Equally as critical is educating the Afghan people on their new rights. There is a rich tradition of music, poetry, and textile arts in Afghanistan. There are also contemporary filmmakers, photographers, writers, etc who will benefit from copyright law. It remains to be seen whether an author's autonomy in his work, which we in the developed world may take for granted, will be intuitive to the Afghan people or not.

While Afghanistan continues to face significant challenges, a steady influx of foreign direct investment is likely to be of substantial assistance to the country's future. Also, Afghanistan faces different uncertainties and difficulties. A heavy burden is imposed by COVID-19 which has brought about a decline in the economy, public finances, and investments. Revenues have been significantly lost because of lockdown measures which prompted the closing of trade avenues within the country and the borders. The crisis brought about by the pandemic prompted a decline in overall Economic Growth in Afghanistan. Rebuilding of confidence has been hampered, notwithstanding, by testing security and political conditions, and vulnerabilities in regards to future international support. Economic recuperation will rely upon a partnership between the public authority and its international accomplices. To assist with re-establishing confidence in the private sector and gain international support, the government needs to show significant advancement in income, private sector reforms, and anti-corruption.

REFERENCES:

- *Afghanistan: Law Supporting the Rights of Authors, Composers, Artists and Researchers (Copyright Law)*". WIPO.int. Retrieved 25 August 2021 *Afghanistan Accession*", Available at https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact1_e.htm
- *Berne Notification No. 279, Berne Convention for the Protection of Literary and Artistic Works, Accession by the Islamic Republic of Afghanistan*". WIPO. 2018-03-02. Retrieved 25 August 2021
- *BBC, Afghanistan became a full member of the World Trade Organization, Available at https://www.bbc.com/pashto/afghanistan/2015/12/151217_wto_afghaan_membership_iy*
- *Balachandran V. (2003), WTO and Trade in services some issues, Vol 45.*
- *Bhadauria, Sanjiv (2015). Impact of World Trade Organization on Foreign Trade in India, New Man International Journal of Multidisciplinary Studies, Vol.11, 50-56.*
- *Central Intelligence Agency (2018), "Afghanistan". The World Factbook, available at <https://www.cia.gov/the-world-factbook/countries/afghanistan/>*
- *Cato Journal, Cato Journal, Cato Institute, vol. 19(3), pages 425-437, Winter.*
- *Javed Hamim Kakar (2018), "Afghanistan's commercial goods arrived in Turkey through Lapis Lazuli route", Pajhwok Afghan News.*
- *Dipankar Dey (2006), From GATT to GATS: A Historical Perspective by The ICFAI University Press.*

- *International Copyright Relations of the United States*. U.S. Copyright Office, Available at https://en.wikisource.org/wiki/International_Copyright_Relations_of_the_US
- Lakhani, Faraz & Syed, Anwar & Shaikh, Naveed & Shaikh, Faiz. (2012). *Impact of WTO Reforms on Trade Agreements on Cotton and Clothing in Pakistan*. Modern Applied Science. 6. 10.5539/mas.v6n12p27.
- Mahmood, Zafar. (1998). *WTO and Pakistan: Opportunities and Policy Challenges*. The
- Michael Finger, J. (1999), "The WTO's Special Burden on Less Developed Countries,"
- Mitsuo Matsuhita (2004), *Governance of International Trade Under World Trade*
- *Organization Agreements relationships between World Trade Organisation Agreements and other Trade Agreements* by, *Journal of World Trade* 38(2): 185_2010,2004
- *Overview of Afghanistan's commitments" (PDF)*. WTO. 13 December 2004.
- *Publications - MEISCA Intellectual Property Express: MEISCA Intellectual Property express: Issue 42 Archived 25 August 2021, at the Way Back Machine Archived copy" (PDF) Archived from the original (PDF) on 2007-09-01.*
- *Pakistan Development Review*. 37. 687-701. 10.30541/v37i4Ipp.687-701.
- Pajhwok Afghan News (2007), "Afghanistan receives \$3.3b remittances from ex-pats", October 19, 2007.
- Parthaprathim Pal (2012), *The world trade organization and its impact on India*, GATT to WTO: High Expectations from the Organization, Indian Institute of Management Calcutta, Available at <https://www.researchgate.net>
- Russell Mille and Scott Gallacher (2002), *The GATS framework and trade-in professional (legal) services*, *The ICFAI Journal of International Business Law*, Vol, II, No. 3 Retrieved 25 August 2021, Available at https://web.archive.org/web/20070901204207/http://www.copyright.org.au/pdf/acc/updates_tocs/toc/u05n06toc.pdf
- *Ratified and non-Ratified conventions by country"*. UNESCO. Retrieved 25 August 2021.
- Seddiqi, Hafizullah (2020), *Afghanistan Legislative Commitments to the WTO: A Deeper Look at Afghanistan's Compliance with TRIPS*, *Indiana Journal of Global Legal Studies*, Vol. 27, Iss.2, Article5, Available at: <https://www.repository.law.indiana.edu/ijgls/vol27/iss2/5>
- Second Komawar (2003), *WTO law on technical barriers to international trade*, Vol 38; 455, 2003.
- *The clean slate: Drafting Afghanistan's first copyright laws"*. *Copyright World*: 22–25. November 2003. Archived from the original on 2021-08-21
- *The National Independent Commission for Radio and Television Broadcasting involves itself in copyright regulation"*. *Internews Newsletter on Freedom of Journalism in Afghanistan* (8). December 2005.
- *Training workshop on Copy Right held by the National TV and ABU"*. *Internews Newsletter on Freedom of Journalism in Afghanistan* (15). October 2006.
- TOLONews (2021), "Afghan Exports Dropped 21% in Last Fiscal Year", Available at <https://tolonews.com/business-170752>
- *The Global Economy* (2020), "Afghanistan Unemployment rate - data, chart", Available at https://www.theglobaleconomy.com/Afghanistan/Unemployment_rate/
- *U.S. Department of Commerce and the Afghanistan Ministry of Commerce and Industry Joint Statement on Commercial Cooperation" (PDF)*. 2007-10-07. Archived from the original (PDF) on 2021-08-25, Available at https://web.archive.org/web/20080911062606/http://trade.gov/static/afghanistan_jointstatement.pdf
- *Why Afghanistan Should Join WTO?"*, Archived from the original on 2021-08-25, Available at <https://web.archive.org/web/20160316034654/http://moci.gov.af/en/page/8774>
