



To His Excellency the President of the Islamic Republic of Afghanistan

Saturday, February 01, 2014

Your Excellency,

We, the members of the Civil Society Natural Resources Monitoring Network were concerned to read from media reports that you are considering passing the new mining law by decree. We are writing to respectfully urge that the law be returned to parliament rather than being passed by decree in its current form.

There is an understandable desire to develop the mining sector in Afghanistan to support economic growth and increased tax revenues; we support that objective. However, everything in our long experience of working on these issues, in Afghanistan and around the world, shows that there is a great danger that without strong oversight and regulation, mining could harm rather than benefit the Afghan people and act to destabilise an already fragile security situation. Other countries have shown how corruption and conflict caused by mining can easily lead to decades of insecurity and environmental damage.

While the law has some positive aspects, we have real concerns about a number of significant gaps, and believe its impact could be greatly strengthened through a limited number of targeted amendments. We recently contributed to a detailed analysis of the law, which included the input of

the network members. This analysis identified a number of opportunities to strengthen the law. Of these, the most important were:

- a requirement for a clear and transparent bidding process, to maximise the value of Afghanistan's natural assets and encourage deals with reputable companies in the sector, and with criminal sanctions for actions by government officials to favour one company over another;
- publication of mining contracts and related documents (putting the decision to publish contracts contained in Presidential Decree 45 of 2012 into law); publication of the real, beneficial ownership of mining companies, to ensure that improper deals cannot be hidden behind shell companies;
- a ban on armed groups being involved in mining or the minerals trade, to help prevent Afghanistan ever falling into a situation like that in eastern Congo, where small armed groups have fought for decades fuelled by natural resources;
- a requirement that an appropriate level of consultation with local communities, and assessments of the environmental and social impact of a project, should be carried out before a license is granted, even if it is not fully detailed.
- stronger mechanisms to resolve conflicts with local communities – which will help prevent disruption of mining revenues and reduce support for the insurgency;

Together these measures could greatly increase the funds coming to the Afghan government, and prevent disruption of mining from local conflict. They will do nothing to deter investment by the sort of responsible, well-capitalised companies that Afghanistan needs: indeed, a credible, well governed mining regime will help attract them.

Afghanistan has won significant praise in the last two years for joining the application process of the Extractive Industries Transparency Initiative, and for the decision to publish mining and oil contracts. However, we feel strongly that passing the law by decree without any changes would represent a major step back from the progress that has been made. We would prefer for the law to be returned to parliament for amendments to fill the gaps identified above. However, if the law is to be passed by decree, we respectfully ask that the government incorporate amendments to address the most important concerns raised above before it is passed by Your Excellency.

With sincere best wishes,

Members of the Natural Resources Monitoring Network