



Independent Joint Anti-Corruption Monitoring & Evaluation Committee (MEC)

FOURTH SET OF RECOMMENDATIONS AND BENCHMARKS

**SIXTH MISSION OF
INDEPENDENT JOINT ANTI-CORRUPTION MONITORING AND
EVALUATION COMMITTEE (MEC)**

6-20 JULY 2012

FOURTH SET OF RECOMMENDATIONS AND BENCHMARKS

The sixth mission of MEC occurred in Kabul from July 6 – 20, 2012 and was the inaugural mission for new Committee members appointed in June 2012. During the mission MEC conducted two stakeholder meetings of government representatives and civil society representatives respectively, in addition to a series of meetings with key stakeholders.

The work of the Committee culminated in the development and endorsement of an additional seventeen recommendations and benchmarks, touching on a variety of corruption related issues in Afghanistan, including:

1. transparency and accountability measures (public inquiries, strengthening civil society, oversight of border control),
2. public awareness (anti-corruption curriculum, public awareness campaigns),
3. assessments and investigations (Afghanistan Investment Support Agency resignations, Supreme Foodservice audits, corruption risk assessment for the Ministry of Communication and Information Technology),
4. administrative effectiveness (business licensing, public expenditures system, term limits for acting appointments), and
5. International and military assistance (tax exemptions, sub-contracting).

These recommendations bring the total number of MEC recommendations and benchmarks to 73 and 74 respectively.

The following are the recommendations and benchmarks of the sixth MEC mission:

A: Strategic Level:

1. Elimination of Obstacles Regarding the Interpretation of Legislation

Most ministries, independent institutions and their provincial units claim that laws - particularly those related to financial issues - are complicated and sometimes translated from foreign languages, which generates problems and the implementation by various institutions according to their individual interpretations. This has resulted in a number of cases where the Attorney General's Office (AGO) has started investigations and laid charges against those who are not guilty. Sometimes the interpretation of these laws is also problematic for the Supreme Court and the Court has asked the technical assistance of line ministries in clarifying legislation. Therefore, it is recommended that:

Impact 4.1: Legislation would be clarified and rule of law would be improved.

Recommendation 4.1: In order to clarify new laws, drafting agencies should attach Explanatory Memorandum for all new, and some existing, legislation after the legislation has been drafted, and before it is sent to the Ministry of Justice (Taqnin). The Explanatory Memorandum for previous legislation should follow a rough schedule of 3-4 Explanatory Memorandums every 6 months. This may include the *Procurement Law*, the *Anti-Money Laundering Law*, and the *Anti-Corruption Law*, etc.

Benchmark 4.1: A process should be established for the drafting of Explanatory Memorandum by the drafting agency for all new pieces of legislation before it is passed on to the Taqin Department of the MoJ. Explanatory Memorandums prepared by all institutions drafting new legislations and send to the MoJ for further clarification.

2. Introducing of a Public Inquiry Act:

In most mature democracies, there is a mechanism for the independent and transparent review of events (or a set of events) where there is a public interest in determining “what happened” in order to restore/enhance public confidence, and/or a need for policy recommendations from the people to avoid similar occurrences in the future. This function is exercised in a variety of manners in different jurisdictions, including public inquiries, royal commissions, congressional inquiries, judicial investigations, and inquests. Generally, these inquiries do not have criminal implications and cannot make findings of liability, as they operate as a parallel procedure focused on the public interest aspect of an event.

Inquires of this nature are often conducted according to a legislative base that provides the procedural framework and powers of inquiry, including the power to subpoena witnesses, compel evidence, and conduct searches.

In Afghanistan, Article 64 of the *Constitution* provides the President with authority to establish commissions to improve the administration of the country in accordance with the provisions of the law, but there is no legislation that is clearly directed to independent and transparent public inquires, or that provides clear powers to compel evidence necessary to a public review.

MEC believes that government transparency and accountability, and the public interest more broadly, would be served by framework legislation that provides for the conduct of public reviews similar to those found in mature democracies around the world.

Impact 4.2: A legal base established for future public inquiries.

Recommendation 4.2: The Office of Administrative Affairs (OAA) and Council of Ministers should determine which ministry should draft the Act; and the designated ministry should draft a public inquiry act and submit it to the MoJ for review by 1st Hamal 1392 (21st March 2013).

Benchmark 4.2: Draft public inquiry act is submitted to the MoJ by 1st Hamal 1392 (21st March 2013).

3. Introducing an Anti-Corruption Module into the Curricula of Schools and Universities

According to the Islamic religion, spreading feelings of integrity and truth are the core elements of fighting corruption. People should understand what corruption is and its implications for them, their children and for the country as a whole. Educational institutions are the best place to learn about corruption, including schools, religious schools (Madrassa), universities, and mosques (masjids), which will enable Afghan children and the young generation to recognize bribery, embezzlement, misuse *et al.* as negative activities, fight such activities in an educated manner and not engage in such practices.

A comprehensive country-wide educational program that includes anti-corruption as a module needs to be developed by respected scholars and incorporated into the curricula of schools and universities in Afghanistan. The development of the curricula should ensure that the content is simple enough for the student to understand and to empower students to act against corruption and mitigate their participation in corrupt practices.

Impact 4.3: People are aware of the negative consequences of corruption and have the tools to better fight corruption.

Recommendation 4.3: The Ministry of Education, the Ministry of Higher Education, the Ministry of Hajj and Religious Affairs and the Ministry of Culture in consultation with relevant civil society organizations shall develop a comprehensive educational module on anti-corruption and enter it in the curricula of schools and universities by 11 Jadi 1391 (December 31st 2012) and enter it into effect for the school year of 1392.

Benchmark 4.3: A comprehensive educational module on anti corruption is entered into the curricula of schools and universities by 11 Jadi 1391 (December 31st 2012) and enters into effect for the school year of 1392.

4. Supporting Civil Society in the Fight against Corruption:

Civil Society is one of the mechanisms that can effectively improve the linkages between the Government of the Islamic Republic of Afghanistan (GIRoA) and the people of the country.

Civil society oversight is more effective than other oversight bodies and MEC will try to work with civil society organizations. Given their activities, civil society monitoring and evaluation of government and international institutions will prove useful and effective. When civil society is supported by the government and international institutions, civil society can:

- Effectively raise the level of public awareness
- Ease public concerns about abuse of positions of state power
- Allow people to understand and access their legal rights

Impact 4.4: Civil Society fight against corruption strengthened.

Recommendation 4.4: In order for Afghan civil society to be compliant with the civil society provisions of the United Nations Convention on Anti-Corruption (Chapter II *Preventive Measures*, Articles 10 and 13) and to be in line with national legislation, the international donor community should increase their financial and technical support to civil society in the fight against corruption from 1th Meezan 1391 (20th September 2012).

Benchmark 4.4: International donor community's financial and technical support to civil society organizations active in enhancing transparency and accountability is increased by 1st Meezan 1391 (20th October 2012).

5. Countrywide Anti-Corruption Public Awareness Campaign:

It is undeniable that all types of corruption are prohibited by the holy religion of Islam and the cultural values of the people of Afghanistan.

Raising awareness among citizens is one of the most important factors that could bring a fundamental change in people's beliefs and behaviors and prevent corruption, especially in a country like Afghanistan with the majority of the population being Muslim, a religion that strictly prohibits corruption. In fact, all types of corruption are seriously forbidden from the Islamic perspective, as well as the cultural and social values of Afghan people.

The Ministry of Hajj and Religious Affairs, the Council of Religious Leaders, and the Ministry of Information and Culture are invited to play a vital role as agents of change in passing anti-corruption messages to people throughout the country. The Ministry of Haj and Religious Affairs through Mosques and religious scholars - especially during Friday Prayers and through audio/video media (TV/Radio programs) - can highlight anti-corruption provisions from the Islamic perspective based on holy verses of the Quran and the Hadith. Meanwhile, the Ministry of Information and Culture through media (TV/Radio), especially RTA and government publications such as newspapers, gazettes and magazines can play a major role in public awareness which will definitely decrease the level of corruption in Afghanistan.

Thus, MEC expects all ministries to help people to fulfill their duties by devising and implementing effective public-awareness programs.

Impact 4.5: All Afghans are aware of their rights and the fight against corruption is strengthened.

Recommendation 4.5(a): MoHRA, Council of Religious Leaders and Ministry of Information and Cultural Affairs shall start a countywide anti-corruption campaign through the Mosques and religious scholars and the Ministry of Information and Culture shall start a countywide anti-corruption campaign through media (TV/Radio), especially RTA and government publications such as newspapers, gazettes and magazines in coordination with MEC from 11th Asad 1391 (01/08/2012) until 10th Jauza 1392 (30th May 2013).

Recommendation 4.5(b): Ministry of Hajj and Religious Affairs, Council of Religious Leaders and Ministry of Information and Cultural Affairs, in cooperation with its provincial departments should conduct trainings and seminars for Mullahs (religious leaders) and Madrasa teachers starting from 1st Meezan 1391 (22/09/2012) until 1st Jauza 1392 (21st May 2013).

Benchmark 4.5(a): A countywide anti-corruption campaign started by 1st Meezan 1391 (22/09/2012) and continued until 1st Jauza 1392 (21 May 2013).

Benchmark 4.5(b): At least 12 training programs and/or conferences per province conducted from 1st Meezan 1391 (22/09/2012) until 1st Jauza 1392 (21/05/2013).

B: Tactical Level:

6. Implementation of the Presidential Executive Commission on Transparency and Accountability at Borders, Airports and Customs Depots (BACD)

Afghanistan is a land locked country and has long borders with its neighboring countries and a large number of border crossings. Controlling these crossings is not only difficult, but the existence of corrupt officials within government institutions has made it impossible. Similarly, the existence of corrupt officials within government institutions, such as, the

airports, and customs depots leaves it open for the diversion of customs revenue, drug trafficking, the illegal import and export of weapons and explosives, bribery, extortion, visa fraud, fuel smuggling, medicine smuggling, crossing of insurgents' and their supplies, and bulk cash flows, *et al.* These activities fuel insurgency and increase corruption in the country. In order to improve the situation and increase transparency and accountability, H.E. the President of Afghanistan established a Presidential Commission on Transparency and Accountability on Borders, Airports and Customs Depots (BACD) in August 2011. Based on MEC's assessment the establishment of the commission has not yet been implemented.

Impact 4.6: Transparency and accountability increased on the borders, in airports and in customs depots.

Recommendation 4.6: The Office of Administrative Affairs and other relevant institutions are required to take all necessary action to implement the Presidential Executive Commission on Transparency and Accountability at Borders, Airports and inland Customs Depots.

Benchmark 4.6: The Office of Administrative Affairs (OAA) with the instructions from H.E. the President of Afghanistan formally names the members of the BACD; the Minister of Finance convenes the first meeting of the BACD; and BACD Terms of Reference are drafted and approved by the BACD Commission prior to 1st Meezan 1391 (22nd September 2012).

7. Referrals of monitoring reports to the monitored institutions

Most of the GIRoA institutions at the National and Sub-national levels have complained that there are number of inspection bodies who have monitored or inspected their institutions with the purpose of oversight without presenting a specific case/issue as the relevant monitoring bodies only share their findings with their own leadership, but not the relevant institution. It is extremely vital that all relevant monitoring bodies submit a summary of their oversight findings enabling National and Sub-national GIRoA institutions to be aware of their weakness and faults and to take the necessary actions in accordance with their internal policies and procedures. In addition, this will enhance the coordination and collaboration of monitoring bodies and the institutions.

Impact 4.7: The institutions' level of trust in those conducting audits will be increased. Institutions will be better aware of their weaknesses and can implement changes accordingly.

Recommendation 4.7: Starting from 1st Aqrab 1391 (20th October 2012), all of the relevant inspection bodies should submit a copy of their oversight findings with institutions which will have been monitored by them within 15 working days of completing an audit, unless otherwise provided by the law.

Benchmark 4.7: Reports on monitoring submitted to the relevant monitored institutions within 15 days of completing an audit, or within the time limit established by the law.

8. Verification of Tax Exemptions

Verification of tax exemptions for imported goods is a major concern for the Afghanistan Custom Department (ACD)/Ministry of Finance and other relevant institutions in Afghanistan. Based on the Military Technical Agreement (MTA) between Afghanistan and the International Security Assistance Forces (ISAF) in 2002, all permissible goods imported

to Afghanistan for NATO/ISAF are exempted from any kind of inspection, check and verification, as well as, customs duties and taxes. As a result, unnecessary and non-permissible goods enter Afghanistan and are sold in the markets. It has clearly been mentioned in the MTA that permissible goods are exempted, but if there is no inspections, check and verification, how permissible and non-permissible goods can be verified. It has been seen that containers importing food stuff for NATO/ISAF, have also contained non-permissible goods. Supply of such goods distorts normal trade and economy of the country and with the escapes from taxes, providing opportunities for various corruptions. On 14th Sunbala 1390 (5th September 2011), the upper house of the Afghan parliament urged the cancellation of the MTA agreement; that requires urgent and relevant actions to be taken.

Hence, both the Afghan Government and the International Community are required to strengthen their procedures, rules and regulations and to form a joint verification team that will verify imported goods. The MTA itself is a complicated agreement and its implementation is problematic as well; therefore, it needs to be reviewed.

In the strategic partnership with the United States, the Afghanistan government decided to review past bilateral security agreements within 12 months. Within the framework of this review the Afghan government should review and revise the MTA.

Impact 4.8: Bilateral and multi-lateral agreements reviewed and opportunities for low quality imported goods eliminate.

Recommendation 4.8: GIRoA and the international community shall review the MTA 2002 Agreement in order to eliminate opportunities for corruption in relation to the importation of tax exempted goods by 12th Saur 1392 (1st May 2013).

Benchmark 4.8: The MTA 2002 Agreement reviewed and revised by 12th Saur 1392 (1st May, 2013).

9. Comparative Public Expenditure Tracking Survey (PETS) Between On and Off-budget Road Projects

The main result of the July 2012 Tokyo Conference is an increased focus on aid effectiveness and a framework of mutual accountability. Despite the results of the 2010 Kabul Conference which requires at least 50% on-budget allocation of resources, international donor agencies are still using directly implemented off-budget projects to build key infrastructure in Afghanistan. The expenses of implementing such projects are much higher than through the government's budget, structure and control.

Donors often grant projects outside the government budget to contractors who, without feeling responsibility, sell those contracts to sub-contractors and make a remarkable amount of money. Sometimes, these projects are sold to several sub-contractors, which results in low cost and low quality projects being handed over to the relevant government agency. Such expenses have attracted a lot of public attention, but the government has not been successful in getting information about the expenses of these types of projects (be it a school, clinic or roads, etc.). The overall cost of creating such projects outside the governmental budget is much higher compared to projects funded by the government. This gap has increased as a result of sub-contracting and lack of effective control.

There are a number of relevant diagnostics that have been conducted in the past years that will prove the assessment of such projects.

Impact 4.9: level of on- or off-budget aid effectiveness is verified

Recommendation 4.9: A joint committee comprised of the Ministry of Public Works, Ministry of Rural Rehabilitation and Development (MRRD), Kabul City Municipality, Independent Directorate of Local Governance (IDLG), US Army Corps of Engineers, World Bank, Asian Development Bank and other relevant institutions should request technical assistance from the World Bank or other donors to conduct a comparative assessment using the Public Expenditure Tracking Survey methodology that will demonstrate the amount of leakage on both on- and off-budget infrastructure projects. In addition, all governmental institutions in close coordination with donors should monitor all off-budget projects to prevent open and hidden corrupt misconducts.

Benchmark 4.9: A joint committee consisting of Ministry of Public Works, MRRD, Asia Development Bank, World Bank and other relevant institutions is formed and conduct a PETS for a select number (e.g. 10 on-budget and 10 off-budget) of on- and off-budget construction projects until 30th Qaus 1391 (20th December 2012) and the comparative Expenditure Report issued by 1st Hoot 1391 (18th February 2013).

10. Issuance of Counterfeit Commercial and Investment Licenses are an Opportunity for Corruption:

The National Anti-corruption Strategy includes an important discussion on the issuance of counterfeit licenses to owners who lack the official requirements for commercial activities, do not live in the country, or have already passed away etc. Unfortunately, there has not been sufficient attention regarding the implementation of this strategy; and the process of issuing licenses in this manner still continues. These licenses have been misused in importing goods illegally and have also been misused in getting contracts for projects which have been funded by foreign aid. The authorities who have not paid attention in this regard are responsible for this.

One of the methods for evading taxes and customs is the use of counterfeit commercial licenses, which means that the number of estimated actual traders and commercial companies in the country are less than 20,000. However, according to the Afghanistan Central Business Registry (CBR) 33,869 businesses have been registered during the period of 2003 – 2012. This implies that many of these licenses (almost half) can be deemed counterfeit or inactive. In recent years, thousands of vehicles have been imported in the name of fake companies, whose incorrect addresses have caused several financial, administrative and security problems. So far, none of the authorities have paid attention to solving and preventing these issues. The anti-corruption strategy states that all virtual licenses should be declared invalid, but this was also not implemented.

Abusers have imported goods illegally using fake licenses and are trying to supply their goods in markets without paying taxes and customs. The lack of attention by the relevant authorities who are responsible for this raises the following questions:

- Do Ministry of Commerce, Ministry of Economic, Chamber of Commerce and Industries, and other relevant authorities know the number of the legal licenses issued to traders and companies?

- Do the license-issuing authorities know whether the registered companies actually exist? Do they have access to their companies' addresses or the nature of their activities? Or Do they ignore fraudulent activities happened and escape from taxes occurred?

For instance:

- Can the relevant authorities provide information needed by the Traffic Department regarding the existence of some companies?

It will be very difficult to find convincing answers to the license-related questions. The answer to all these questions will be no. Thus, not taking procedures seriously paves the way for corruption.

Impact: 4.10: Clean investors are protected from the fraudulent activities of fake investors; government revenues increases and accurate statistical data will assure the economic planning and it's functionality throughout the country.

Recommendation 4.10: The Ministry of Commerce, Ministry of Finance and Afghanistan Investment Support Agency (AISA) should publish the overall turnover of commercial and investment firms, as well as individual traders, should verify whether firms are still active or not through renewal of their licenses and should remove firms from the CBR who are not active. Firms who have not renewed their license or who have not provided the required reports should be removed from the CBR after 3 months.

Benchmark 4.10: Actual presence of the traders and investments and turnover of them published and functionality of firms verified by the end of each year starting from 30th Hoot 1391 (20th March 2013).

11. Prohibition of Sub-contracting in Infrastructure Projects:

The system of multiple levels of sub-contracting has been identified as a factor in facilitating corruption by contracting oversight organizations, including the US' SIGAR and Task Force 2010/Shafafyat and Government Accountability Office. There have also been cases highlighted by the media(i.e. Gardez-Khost highway) in which there have been a series of sub-contracts for major projects that are finally passed down to an implementer for a price that is far below the actual project costs. This results in a delivered service or good that is of low quality and not to the standards required or desired by the beneficiaries. Such practices are not only fraudulent, but increase the perception of massive corruption in international assistance. In accordance with Article 54 of the *Procurement Law* of Afghanistan subcontracting should be no more than 20% of the total contract.

The Tokyo Conference Declaration of July 2012 states in Article 15 that: "The International Community aims to limit the practice of sub-contracting in all specialized and Labor-intensive projects to only one vertical level to reduce overhead costs and improve transparency". All contracts need to comply with this statement as well as the Article 54 of the *Procurement Law*.

Impact 4.11: Subcontracting in the majority of infrastructure projects is eliminated which leads to the elimination of waste and fraud in the infrastructure sector. The improved economic development in Afghanistan is enhanced.

Recommendation 4.11: All contracts should contain a provision that declares the contract null and void if the legal limits of subcontracting are breached.

Benchmark 4.11: From 1st Meezan 1391 (20th September 2012) all contracting authorities both national and international will include a contract provision that declares the contract null and void if it violates the legal limits of subcontracting.

12. Ministry of Communication and Information Technology (MCIT) Conduct a Corruption Risk Assessment:

Transparency and integrity in all contracting issues are essential in Afghanistan. An Integrity Management System (IMS) for all contracting issues in the country will help institutions function effectively and efficiently. Such a system will ensure that the people, systems, processes, and resources that ensure integrity are in place. It will also respond to the various stages of contracting issues; from the design of new contracts, to the tendering, bidding, award, implementation, monitoring, and evaluation of contracts. In order to put an IMS in place there should be a corruption risk assessment to find gaps and opportunities in the current integrity and transparency systems of institutions.

Based on a MEC Secretariat visit on 27/05/12, and reports of the MCIT, MCIT plans to launch a satellite into space to strengthen and improve communication within and outside of Afghanistan. Launching a satellite into space will take years with costs to the Government of Afghanistan ranging between US\$200-300 million as well; a number of international companies will compete to obtain the contract. Since the contract is a long term contract, the MEC is concerned that there might be loopholes and gaps in the current contracting system of the MCIT, which will provide opportunities for irregularities and corruption.

Impact 4.12: Better understanding of contracting procedures and reduced loopholes in the system.

Recommendation 4.12: In order to fill loopholes and prevent opportunities for corruption in the MCIT contracts; it is important that MCIT conduct a vulnerability to corruption assessment of the contracting procedure for the telecommunication satellite to find the loopholes and opportunities that need to be strengthen.

Benchmark 4.12: The MCIT shall conduct a vulnerability to corruption assessment in the contracting procedures for the telecommunication satellite by 11th Jauza 1392 (31st May 2013).

13. Until the direct contact of customers with the public servants is not cut or reduced; bribery will continue:

Direct contacts of people with civil servants open space for civil servants to engage in corrupt practices and to make demands for illegal benefits from customers.

Similarly, in most of Afghanistan government institutions public servants use very old systems for receiving and registering documents; they register all the incoming and outgoing documents in books rather than computers. Sometimes these documents do not reach to the

responsible authorities and when people ask about their documents they face a lot of problems finding them, which causes delays in their activities.

An assessment of ministries with providing significant services to the biggest number of customers and may have vulnerabilities to corruption is required and procedural changes (including automation where feasible) to limit the monopolization of civil servants is needed. Tighter internal control and limiting the discretion of individual public servants receiving and registering documents (one stop shop mechanism) needs to be put in-place. This mechanism will help institutions to properly register all the incoming and outgoing documents and will create a shield between public servants and those who seeks services. The adaptation of the mechanism will enhance effectiveness of civil servants and will reduce opportunities for them to engage in corrupt practices. It is important to remove the ‘human factor’ (Reducing direct contacts with the civil servants) from the point of contact with the public. The computerization (automation) of registration and handling of documents is in place in three government institutions as a pilot project, and upon its successful implementation should expand to other institutions.

Impact 4.13: Direct contact of the customer with civil servants is reduced and the application process simplified.

Recommendation 4.13: The pension department of the Ministry of Labour, Social Affairs, Martyrs and Disabled, the land distribution department of the Ministry of Refugees and Repatriation, the identity card and traffic license department of the Ministry of the Interior, Examination and graduation certificate departments of the Ministry of Higher Education, Herat Governor’s office, and Civil Service Commission should start with the introduction of a computerized one stop shop mechanism for dealing with requests of citizens from 1 Aqrab 1391 (22 October, 2012). Similarly, those institutions should ensure that the introduction of the one-stop-shop mechanism reduces the volume of applications lost and application response times.

Benchmark 4.13: A computerized one stop shop mechanism is in place in mentioned ministries by 1st Aqrab 1391 (22 October 2012).

14. Legislation Creating Term Limits for the Acting Appointments of High Ranking Public Officials:

Merit-based recruitment ensures that the best person for a job is selected on the basis of their abilities, skills, experience, and standard of work performance as they relate to the selection criteria. Similarly, principles of equal opportunity aim to ensure that individuals have the chance to compete fairly with others for positions, and are not denied employment opportunities because of biased attitudes or procedures, restrictive job requirements or physical barriers that discriminate against them.

In Afghanistan, many high ranking public officials are appointed to acting positions to circumvent the required merit based and equal opportunity procedures; such as, heads of customs departments and district governors. Although, Afghan legislation creates term limits of six months for all public officials, including high ranking public officials, with the possibility of a 6-month extension (Para 2, Article 7 of the *Civil Servants Law*) some public servants are appointed to acting positions for a period of time in one location and then transferred to another acting position. The situation is vulnerable to misuse and abuse,

therefore, legislation on limiting public officials' including the authority and free hand of high ranking officials in relation to appointments is required.

Impact 4.14: Public offices are not abused/misused and are staffed by competent and qualified staff appointed on the basis of merit and equal opportunity.

Recommendation 4.14: All public institutions should avoid acting appointments; the Independent Administrative Reform and Civil Service Commission (IARCSC) in consultation with other public institutions should ensure the implementation of existing legislative provisions on the acting positions (Para 2, of Article 7 of the *Civil Servants Law*) and should prepare a legislative proposal that prohibits consecutive acting appointments in one position and consecutive acting appointments of one public official to different positions in different locations.

Benchmark 4.14: Acting appointments avoided by the relevant institutions and a legislative proposal prepared and sent to the Taqnin/MoJ by 1st Qaus 1391 (20th November 2012).

C: Operational Level:

15. Audit of Supreme Foodservice:

The military logistics firm Supreme is the main supplier of goods and services to the US forces in Afghanistan. Since 2005 Supreme has been awarded \$8 billion in contracts and until recently imported all of the US military's food into Afghanistan. It was awarded a sole-source contract in 2010 for two more years and \$4 billion. Supreme is also responsible for running the military dining facilities in Forward Operating Bases as well as being a prime importer of fuel into Afghanistan. Supremes' operations are so large in Afghanistan that it operates the two largest structures in the country - its warehouses.

Supreme is not an American firm by origin, its main operations are in the Netherlands, Switzerland, and Dubai and it is a German legal entity. Although it is not as common a name as was Haliburton its counterpart in the Iraq war, US and NATO military efforts have become completely dependent on the firm.

The firm recently has come under scrutiny by the US Congress and the Department of Defense for billing disputes in the amount of approximately \$750 million out of the total amount awarded since 2005. The Defense Logistics Agency formally wrote to Supreme in December 2011 stating that it had overpaid the company, and demanding a refund of \$756.9 million. However, this only focuses on Supremes' overcharging for goods and services and there are potentially other areas of fraud and corruption alleged against Supreme that have been brought to MEC's attention. For example, the Upper House of the Afghan parliament stated that "one of the biggest contractors of the International Forces in Afghanistan, the Supreme Global had paid [a small amount of payable taxes] to government after the issue was raised by the House". Given that the firm has serious allegations made against it for fraud and corrupt behaviour, there should be a much more thorough audit and investigation of Supreme including its past and present import activities. A thorough examination of Supreme is necessary as it is becoming an even more critical supplier of goods and services in a period of diminishing resources with the pull-out of forces in Afghanistan.

Impact 4.15: More efficient use of resources by the remaining NATO forces in the country and reduced vulnerabilities to corruption in a critical component of international efforts in Afghanistan

Recommendation 4.15: Shafafiyat Task Force and SIGAR, in conjunction with the CAO, should start conducting performance and fraud audits of Supreme operations by 1st Qous 1391 (20th December 2012) and report their findings to the government of Afghanistan and relevant international community.

Benchmark 4.15: Performance and fraud audit has been conducted by 10 Hamal 1392 (31st March 2013).

16. Resignation of the High Ranking Officials from the Afghanistan Investment Support Agency (AISA):

The issue of the resignation of seven young and well qualified high ranking officials from the Afghanistan Investment Support Agency (AISA), the institution that has direct connection to the economic growth of Afghanistan, is important. The private sector has an obvious role in the development of Afghanistan and is thus interested in finding out the truth of the allegations from both sides. As a result, MEC welcomes the decision of H.E. the President to appoint a high level commission to investigate the resignation and emphasizes the importance of a fair and transparent investigation process. MEC also deems it necessary that the Afghanistan Chamber of Commerce and Industries cooperate with the appointed commission.

Recommendation 4.16: The Chamber of Commerce and Industries should cooperate with the commission set up to investigate the case of the resignation of seven high ranking officials from the AISA. The decision shall be published, as well as all the files collected or submitted during the work of the commission.

Benchmark 4.16: The Chamber of Commerce and Industries starts to cooperate with the commission in the investigation. The findings of the commission are published by the commission within 4 working days after the commission has submitted its report to H.E. the President.