

Commercial law in Afghanistan and



Commercial law in Afghanistan and doing business

Trade Regulations, Customs and Standards

Import Tariffs

The Afghan Customs Department collects tariffs on all imported goods and some goods intended for export from Afghanistan. The structure of the Tariff Schedule meets Afghanistan's obligations under the International Convention on the Harmonized Commodity Description and Coding and Classification System, commonly known as the Harmonized System. This ad valorem tariff is levied as a fixed percentage of the determined customs value for duty purposes, which in the case of imported goods is the CIF (cost, insurance, freight) value, and in the case of goods intended for export is levied as a fixed percentage of the FOB (free on board) value. Afghan tariff rates remain some of the lowest in the region reflecting, officials say, the government's intention to establish and open, market-based economy.

Trade Barriers

Trade with Afghanistan is complicated and cumbersome. Customs regulations and procedures are neither transparent nor consistent (see below). The World Bank 2014 Doing Business Report ranks Afghanistan 184 out of 189 in trading across borders. The Public Procurement Law covers government procurement (October 2005) which stipulates that procuring entities establish a domestic procurement requirement and provides a bid price incentive to entities that have a resident representative and paid Afghan taxes. The Hydrocarbons Law of 2009 and the Minerals Law of 2009 provide that if Afghan goods and services are similar and equivalent in quality, quantity, and price to imported foreign goods and services, contractors are obligated to purchase and procure Afghan goods and services.

Import Requirements and Documentation

All imported goods and products must submit a customs declaration accompanied by an invoice or other proof of the price actually paid as well as a certificate of origin, and shipment documentation (e.g., original bill of lading, packing list). Transit permission is required for shipments transiting through Pakistan; the Transit Department at the Ministry of Commerce and Industries (MoCI) oversees transit permission. Importers and exporters must consider whether supporting documentation should be sought from 'interested' Ministries prior to Customs declaration; e.g., armored vehicles require Ministry of Interior (MoI) certification; communication equipment requires the approval of the Ministry of Communications (MoC); and, medicines require Ministry of Public Health certification.

Temporary Entry

Articles 113 and 114 of the Afghan Customs Code cover the temporary entry goods. Temporary importation can be either with total or partial relief of import duty.

Goods that are subject to total relief of import duty from customs duties are personal belongings, tools of the trade of a skilled worker, including musical instruments, artistic and sporting equipment passengers and goods

that temporarily replace goods exported for repair, and in general, any goods that at the end of the temporary importation period would have no anticipated market in Afghanistan.

All other goods will be taxed at 3 percent of the monthly total customs duty if the goods were being imported.

Labeling and Marking Requirements

Afghanistan currently has no laws or regulations governing labeling and marketing requirements for products.

Prohibited and Restricted Imports

The Customs Law of 2005 authorizes the government to prohibit or restrict the import of goods to protect public morality; preserve public security; protect the environment, health, and life of human, animals or plants; protect national treasures of artistic, historic, or archaeological value; or protect industrial and commercial property or other state interests.

Under this law, Afghanistan currently prohibits the import of alcoholic drinks, live pork and pork products, cotton seeds, and narcotics and illegal drugs. Licenses, permits, or approvals are required to import medicines, medical equipment, cosmetics, pharmacy tools, veterinary medical instruments, veterinary drugs, biological materials, pesticides, printed books, brochures, leaflets and other printed matter, films, telecommunications equipment, armored vehicles, arms, ammunition, military equipment, narcotics and precursor chemicals, endangered species, and ozone depleting substances.

Pesticides, petroleum products, and iron/steel products are also subject to testing at the border.

Customs Regulations and Contact Information

Customs regulations and procedures in Afghanistan are neither transparent nor consistent. Basic record keeping is conducted using the UNCTAD developed Automated System for Customs Data (ASYCUDA) which is intended to cover all entry/exit points in the country. However, basic communications and support for automated processes are hindered by lack of reliable electricity at major crossing points and the long and porous border. Traders face unclear procedures at the borders as well as extra-legal duties and bureaucratic obstructions. Coordination between customs and other government authorities is minimal. Customs reform efforts are underway to establish standardized fees and procedures for incoming goods, as well as streamlined procedures for exports, and a trained cadre of professional staff.

Standards

The Afghan National Standards Authority (ANSA) is an independent agency established in 2005 responsible for the establishment, maintenance, dissemination and enforcement of national standards and technical regulations. ANSA is a correspondent member of the International Standards Organization (ISO).

Afghanistan generally relies on international standards for its technical requirements. In early 2011, the Supreme Council of Standards was established on the basis of the Afghan National Standards Law (September 2010). Since then, 51 national standards, developed by nine technical committees have been adopted including standards for

gasoline, diesel, kerosene, construction materials, gas, medicines and metrology. No technical regulations have yet been developed or adopted under this law. ANSA issues a quarterly magazine (National Standards Magazine) where it publishes a catalog of recently approved standards.

Trade Agreements

The Government of Afghanistan has signed 31 bilateral trade and investment agreements and memoranda of understanding, 10 bilateral economic agreements, and five tripartite agreements.

Among these agreements are bilateral Trade and Economic Cooperation Economic Cooperation Agreements with Russia and Turkey, a Bilateral Reciprocal Promotion and Protection of Investments Agreement with Turkey, a Bilateral Preferential Trade Agreement with India (superseded by SAFTA – see below), and a Bilateral Investment Treaty with Germany. Afghanistan has signed a bilateral Investment Incentive Agreement with the United States to encourage and protect investment activities in Afghanistan through the provision of insurance and investment guarantees under the OPIC program. In 2004, a Trade and Investment Framework Agreement (TIFA) was signed with the United States which established a framework to discuss economic relations between the U.S. and Afghanistan.

Since that time, there have been annual meetings of the U.S. – Afghanistan Council on Trade and Investment, established under the auspices of the TIFA, to further the bilateral cooperation needed to achieve Afghanistan's goals of creating an environment conducive to economic reform, private sector development and trade expansion. The Afghanistan Pakistan Trade and Transit Agreement (APTTA) came into force on June 12, 2011.

The purpose of the agreement is to facilitate the movement of goods between and through the respective territories of the signatories. The main provisions of the agreement include freedom of transit through the territory of each contracting party 31 via pre-defined routes; facilitation of clearance procedures; establishment of technical requirements for admittance of road vehicles and drivers; and elimination of customs duties and taxes on all goods in transit and means of transit and transport regardless of destination or purpose.

Afghanistan is a member of the Economic Cooperation Organization (ECO, 1993) and the Central Asia Regional Economic Cooperation (CAREC, 2005). It became a full member of the South Asian Association for Regional Cooperation (SAARC) in the spring of 2007. In January 2011, President Karzai signed the Agreement for the South Asia Free Trade Area (SAFTA), a free trade agreement among Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka. Afghanistan became a full member of SAFTA on August 7, 2011. Under SAFTA, Pakistan, India and Sri Lanka will be required to lower tariffs immediately on many Afghan exports, with the other SAFTA countries (Bangladesh, Bhutan, Maldives, and Nepal) to follow suit over a five-year period. Under SAFTA, Afghanistan has currently duty free access to India for all traded goods except cigarettes and alcohol (which is prohibited anyway) and 5 percent to Pakistan on no sensitive goods.

Afghanistan developed and notified SAARC members of its tariff reductions in August 2011. The schedule reduced customs duties for non-sensitive goods from the original rates down to 5 percent in equal installments over a period of 10 years (August 2011 to August 2021).

Pdf for current rates. Afghan products enjoy duty-free and quota free access under an LDC Market Access Initiative with Canada and a Generalized Preferences Treatment agreement with Japan. Afghan products also enjoy an “Everything but Arms” (EBA) agreement with the European Union. As a least-developed country, Afghanistan is eligible for duty-free access to the U.S. market for approximately 5,700 products under the Generalized System of Preferences (GSP) program. Afghanistan applied to the World Trade Organization (WTO), became an observer in 2004, and is in the process of accession.

While all bilateral negotiations have closed, the country must also enact extensive legal reforms (more than 30 new laws and regulations) to bring its trade regime into compliance with WTO agreements.

Sources: <https://www.trade.gov>