A GUIDE TO LICENSING your BUSINESS in AFGHANISTAN

MARCH 2015

LICENSING PROCESS FOR

Pharmaceutical, Hotels & Restaurants and Transport Industries in Kabul



LEGAL CLINIC PROGRAM AT THE AMERICAN UNIVERSITY OF AFGHANISTAN

A Guide to Licensing Your Business in Afghanistan

Licensing Process for Pharmaceutical, Hotels & Restaurants, and Transport Industries in Kabul

AUAF Legal Clinic Program

Clinic Director: Professor Mehdi Hakimi

Authors:

Abdul Nafay Khaleeq

Edress Noorzai

Mostafa Mohammadi

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A Guide to Licensing Your Business in Afghanistan

Licensing Process for Pharmaceutical, Hotels & Restaurants, and Transport Industries in Kabul

1. Introduction

"From the perspective of the business, business licenses, permits, and registrations are the documents that prove to its stakeholders that the business is allowed to operate in its jurisdiction, that its services and products are safe and sound, and that the business pays taxes to the proper authorities (CompaniesIncorporated, n.d.)." A business license assures that the business is legitimate and accountable. Obtaining business licenses, permits, and registrations within a particular jurisdiction is crucial "for the business to open its doors and keep its doors open." Without the appropriate licenses, the business is considered illegitimate and is not allowed to operate. "If the business is incorporated, generally the owners have liability protection which limits the personal risk of financial ruin. If a business owner does not secure the proper licenses, permits, and registrations for the business, he may lose the valuable liability protections afforded by the incorporation of the business (CompaniesIncorporated, n.d.)." A company or business without a proper license or permit is not entitled to legal protection, which confronts that particular business or company with huge risks. In order to have legal protection within a particular jurisdiction, companies or businesses need to be registered and licensed while operating. Although Afghanistan, according to the World Bank Group, is ranked 183¹ out of 189 states regarding the ease of doing business within the country, it is ranked 24 in terms of ease of starting a business (Bank, 2014). This indicates that starting a business in Afghanistan is easier than in many developed countries around the world. Accordingly, this report covers the process for obtaining a business license in Afghanistan. The report focuses on three main industries: pharmaceutical, hotel and restaurant, and private transportation.

¹ The lower the number, the more business friendly the country will be (1 = the most business friendly state & 189 = the least business friendly state).

2. Legal Issues

Our team has conducted comprehensive research on how to obtain different licenses. Our focus is on three major industries, which are pharmaceutical, hotels and restaurants, and transportation. In this research, we also developed the step-by-step processes one must follow to obtain licenses for the relevant industries. The requirements to obtain different licenses, fees, and closing processes have been explored as well

3. Summary

Each one of these three industries requires different procedures under different ministries and directorates. The following is the broad picture, as well as brief summaries, of how each industry requires individuals to gain licenses.

3.1. Pharmaceutical

In this paper, a pharmaceutical business consists of importing and exporting, and owning drug stores. To own a pharmacy, one must obtain a license from the Ministry of Public Health. If one, however, decides to open different pharmacy branches in different parts of the country, one must obtain additional licenses from the Afghanistan Investment Support Agency (AISA) as well. For importing and exporting medicine, an investor shall have licenses from the Ministry of Commerce and Industry, as well as the Ministry of Public Health. It is worth pointing out that an investor cannot import or export any type of medicine. The list of legitimate drugs which may be imported or exported is on Ministry of Public Health's website.

3.2. Hotel and Restaurants

There are two types of hotels and restaurants that require a license. The first is small hotels and restaurants with little investment that are not expected to expand to other provinces. These small hotels must only obtain one license from the Hotel and Market Managing Directorate (HMMD) of Kabul Municipality. However, hotels and restaurants with large investments whose investors are expected to expand their businesses to other parts of the country, or who may want their patent rights protected, are required to also obtain license from the AISA. The HMMD issues different grades of licenses to both domestic and foreign hotels and restaurants, and gives

domestic hotels and restaurants pre-determined menus and prices. Similarly, the AISA also has three different types of licenses that carry the same significance but differ in their fee and renewal fee. The different licenses are for small, medium, and large investments. While issuing a license, the AISA requires investors to bring an agreement letter from the HMMD. The process to obtain a license ranges from four to 15 days.

3.3. Transportation

The licensing process for transportation companies starts with an application form filed by an investor requesting the establishment of the transportation company. After the Ministry approves the establishment, the investor is sent to the AISA to obtain an investment license. The AISA then processes the application and the investor is sent to the Private Sector Transport Directorate of the Ministry of Transport to undertake the technical part of the license process. After the completion of various related procedures (technical tests, vehicles registration in the relevant statistics book), the investor is sent to court to proceed with the guarantee procedure and the completion of the legal certificate. Finally, the company can start business activities when the related documents are signed and approved by the Minister of Transportation

4. Research Methodology

For the purpose of this research project, our team conducted personal interviews with responsible authorities from relevant ministries. Interviewees included Shah Faisal Marjan, AISA Research Department Head; Shafahat Arghandiwal, Licensing Officer at the AISA; Qurban Ali, Licensing Department Manager at the Ministry of Transport and Civil Aviation, and Solaiman Khil, Licensing Department Director at the Afghanistan Center for Business Registry (ACBR). Further, we looked at the main source of this report, the official website of the AISA, to examine different business licensing processes. In order to confirm the credibility of information taken from the AISA website, we also looked into different Afghan laws. These laws included the Municipality Law, Income Tax Law, Investment Law, Pharmaceutical Law, Law on Medicine, Law of Transport and Civil Aviation, Labor Law, and the Commercial Code.

5. Analysis

5.1. Afghanistan Investment Support Agency (AISA)

Legally operating a business in Afghanistan requires a business license. This license is awarded through the AISA² and is to be renewed annually. The AISA is mandated to carry out the legal processes (i.e. licensing) for all private businesses and investments in Afghanistan, as well as to provide investors with assistance and up-to-date information on Afghan business and investment opportunities. The AISA began as an agency providing licenses to companies wishing to invest in Afghanistan. It has since evolved into a pro-active institution promoting and attracting investors to Afghanistan. The licensing department within the AISA processes investment licenses and facilitates acquiring necessary permits on behalf of investors. Later, we will elaborate on each particular industry and examine whether or not they need a license from the AISA.

The process and information for getting a license from the AISA is as follows:

1. Completion of the Investment Application Form and Application Form for Tax-Payer Identification Number (TIN)

2. Registration of the Investment Application Form

3. Provision of guidance on requirements for submitting a business plan and review of project documents to ensure they are within the country's legal framework

4. Registration of investment documents in Commercial Court and announcement of investors' business/investment details in a reputable Afghan newspaper

5. Payment of License Fee and Issuance of Investment License (fees are based on the type of business and are commensurate with the amount invested)

² The structure and legality of the AISA is mentioned in Article 6 of the Afghanistan Investment Law.

in اداره حمايه سرمايه گذاري افغانستان افغانستان دپانګې اچونې دملاتړ اداره Afghanistan Investment Support Agency جواز سرمایه گذاری خصوصی License No: D-21568 شركت ساختماتي وتوليد مواد ساختماني كسوكسب اقسبال Kowkab Igbal Construction Co(K.I.C.C) عبدالغفورولد محمد كريم صديقه بنت على احمد داجواز دپورتني نومول شوي سندلرونكي تصديق كوي این سند تصدیق می دارد که دارنده آن , تشبث خود را طبق احکام قانون سرمایه گذاری خصوصی افغانستان در چه دافغانستان دخصوصي پانګې اچونې دقانون سره سم په آيسا کښې يوثبت شوی تشبث دی ، چې دافغانستان دفتر آيسا ثبت نموده مطابق احكام قوانين افغانستان د قوانينو او احكامومطابق فعاليت كوي. فعاليت مي نمايد. This license certifies that its holder has registered his /her company in accordance with the Private Investment Law of Afghanistan, and operates in accordance with Laws of Afghanistan. تاريخ صدور / Date of Issue 1392/08/25 16/11/2013 / President & CEO تاريخ اعتبار: 1393/08/24 1392/08/25 15/11/2014 16/11/2013 Figure 1: AISA License Sample Afghanistan Investment Support Agency (AISA) Authorized Agency: Responsible License Department Department: Type of License: An AISA license is for all private sector businesses, except trading companies, export & import (registered with the Ministry of Commerce & Industry (MoCI)), and small retail businesses (registered with the Municipality)

Number of Days to Obtain the License:	5 Days		
Licensing Fees: Manufacturing & Health	Initial Capital	Investment Category	Licensing Fee
Service (Industry, Agriculture,	\$5,000 - \$10,000	Small	\$100
animal husbandry,	\$10,001 - \$1,000,000	Medium	\$700
construction materials, film industry, pharmaceutical, hospital, health clinics, etc.)	\$1,000,001 – above	Large	\$1,000
Other Fees:	 \$100 from investors of manufacturing, construction, and some services sectors. \$10 for certified copies of the investment license. \$30 for advertising the investment in the Gazette. 		
Required Documents:	 An Afghan investor must present a national ID card or passport. A foreign investor must present a passport as identification but must also provide a background check through his/her embassy. Fill out the AISA Application Form (within the application form: TIN, business plan, type of business ownership, company statue of the proposed company). 		
Additional Info:	Enterprises with initial c require the approval of the before the AISA register	he High Commission	

5.2. Afghanistan Center for Business Registry (ACBR)

The first license must be obtained from the ACBR. Under the new Commercial Laws of Afghanistan (2007), individuals and businesses who want to become legal entities in Afghanistan need to register with the Afghanistan Central Business Registry within the MoCI. With one low fee, the business registration process involves obtaining a TIN, publishing business information in the Official Gazette, and getting a referral letter to any licensing agency for a low flat fee in a short period of time. This process helps and encourages businesses to enter the formal economy.

5.3. Licensing a Pharmaceutical Company or Owning a Drug Store

The whole process, to gain a license in this industry, is regulated within the Ministry of Public Health. So, we first start off with the information about this organization.



Figure 3: TIN

Ministry of Public Health (MoPH)		
Responsible Department	Health Legislation and Verification Directorate	
Tel	2100448	
Email	Aryan.kakar@moph.gov.af	
Website	www.MoPH.gov.af	
Add	Cinema Pameer, within the building of the Central Poly Clinic	

5.3.1. Steps to Acquire a License

After a potential investor gives his/her application to the MoPH, the MoPH reviews the application to check whether or not it is within the ministry's mandate. If it is, the application is signed and the investor should take the signed application to the General Directorate of Planning and Policy. This directorate then determines the appropriate directorate to handle the licensing process, (likely the Health Legislation and Verification Directorate). The Director of Health Legislation and Verification will again review the letter to determine to which department the application should be routed. He/she then signs the application and gives the application back to the investor to take to the General Verification Department. This Department then assigns a panel to study the pharmacy design and location, and to prepare a report. If the report confirms that everything accords to regulations, including the location (no other pharmacy may be located within a distance of 500 meters), the appropriate size (the pharmacy must have a square meter of space), the structure (the pharmacy must contain a dispensary room, shelves, etc.) and so on, then the Health Legislation and Verification Directorate will prepare a recommendation for the Minister of Health to grant approval. After all these steps are completed, the following should take place:

- A letter will be sent from the Pharmacies Department of the Health Legislation and Verification Directorate to the Administrative Directorate of the MoPH. This letter will describe the fees payable by investors (Afs. 5,000, Afs. 4,000, and Afs. 3,000 and Afs. 3,000, Afs. 2,000 and Afs. 1,000 for districts as mentioned above).
- 2. The Directorate will give the investor a letter to take to the Mustofiat. The Mustofiat will issue a tariff (taxes due to the investor) to take to the bank for tax payment.

- **3.** When the investor has paid the tariff at the bank, the bank will issue a receipt and the investor will return and show this receipt at the Mustofiat.
- **4.** The Mustofiat will then provide the investor a letter to take back to the Health Legislation and Verification Directorate.
- **5.** On receipt of this letter, this Directorate will grant permission to build the pharmacy or to rent the shop in which the pharmacy will be located.
- **6.** A supervising panel from the Pharmacies Department of that Directorate will be sent to the area to visit and study the pharmacy itself.
- 7. This Directorate will then furnish the investor letters to take to:
 - The Azadi printing house (request that the printing house provide a stamp with the pharmacy's name on it)
 - The Afghan Advertising Agency (requesting the advertising agency to provide an illuminated sign with the pharmacy's name on it)
 - The Kabul Mustofiat (requesting determination of the pharmacy's tax liabilities)
 - The Pharmacy Affaires Directorate (requesting confirmation that a pharmacist has been contracted by the pharmacy to work there)
- 8. The pharmacy owner must show bank receipts, reply to letters (from the Mustofiat, the Afghan Advertising Agency, and from the Azadi printing house), and send those replies to the relevant departments of the Health Legislation and Verification Directorate. The investor must also present invoices for medicines that have been purchased, showing that department which companies the medicines were purchased from
- **9.** A panel will be sent from this Directorate (usually from Pharmacies Department) to the pharmacy's opening ceremony to officially inaugurate the pharmacy
- **10.** The pharmacy will open in front of the panel, but the presence of a pharmacist is required for the pharmacy's inauguration

Important Information:

- Foreign citizens are not allowed to establish a pharmacy.
- The pharmacy license holder must purchase medicines before the inauguration ceremony and have them ready on the shelves for demonstration.

- A pharmacy is required to have a professional pharmacist on staff to run the pharmacy. Pharmacist contracts are dealt with by the Pharmacies Department of the Health Legislation and Verification Directorate.
- Usually, the pharmacy license holder will form a private agreement with a professional pharmacist covering working hours, salary, etc.
- The license holder writes a letter requesting the Health Legislation and Verification Directorate to approve the nominated pharmacist by checking that the pharmacist is registered with the Directorate.
- The pharmacist should be registered in and licensed by the Health Legislations and Verifications Directorate.

An agreement must be signed between the license holder and the pharmacist. The agreement (contract) must have photos of the pharmacist and signatures, and receive confirmation (signed and stamped) by the Pharmacies' Department and the Director of the Health Legislation and Verification. To reiterate, a professional pharmacist must be on staff for a pharmacy to engage in commercial activities.

МоРН		
Responsible Department	Pharmacy Affaires Directorate	
Tel	020-2100358	
Email	Aryan.kakar@moph.gov.af	
Website	www.moph.gov.af	
Add	Joy Shier Street, beside Maiwand Hotel	

5.3.2. Pharmacy Law and Regulations

Importing medicines and medical equipment, irrespective of their country of origin, is only permitted if the medicines and medical equipment are registered in the National Licensed Drugs List of December 2007 that can be found on the Ministry of Public Health website. Importing medicines and medical equipment not listed on the legal medicine list may be allowed in special cases by proposal of the General Directory of Pharmacy Affairs, and approval of the National Medicine and Food Board.

Who has legal authority for the licensing system?

The Ministry of Public Health has legal authority for this licensing system, and specifically, the General Directory of Pharmacy Affairs.

What is the legal basis?

This licensing system is enabled by the Law "On Medicine", of 4 November 2008; the Regulation No. 39 "On Production and Import of Medicines and Pharmaceuticals" of 19 February 2007; and the Regulation No. 916 "Pharmaceuticals Activity" of 8 January 2007.

Who is eligible to apply for a license?

All persons, holding either a business license obtained from the MoCI or an activity license for engaging in the import of medicines, obtained from the General Directory of Pharmacy Affairs, are eligible to apply for a permit to import medicines.

5.3.2.1. Documents Required

- 1. Application letter from the trader³.
- 2. Trader's Business License from the MoCI.
- 3. Pro forma statement of drugs to be imported from the foreign selling company.

The process differs for Afghans and for foreigners, but a particular procedure has not been established in this regard.

Note: A pro forma is an early permission for importing goods. This is prepared, maintained, and kept by the Procurement and Planning Department of Pharmacy Affaires Directorate when they register medicine from producing/importing companies. A pro forma contains information such as:

- Name of selling company and its home country
- Name of purchaser
- Specifications of medicines
- Quantity, kind of medications, and prices
- Types of payment
- Types of packing

³ Afghanistan Investment Law, Art. 11

• Valid duration of the pro forma

The process takes from two to five months. Seven signatures are required; the final signature being that of the Director of the Pharmacy Affaires Directorate.

Cost (Fee):

- Pro forma registration commission 0.075x total cost changed to Afs. according the market exchange rate
- 2. \$100 registration fee of each new item (drug) charged only once

The license is renewable each year. The renewal process is lodged with the MoCI (including its costs).

5.3.2.2. Step-by-Step Process

- The trader who plans to import the medicines submits an application letter to the Minister of Health attached with his/her Business License from the MoCI stating he/she needs a permit to import specific medicines into the country.
- 2. The MoPH assesses the letter to make sure that the request is within the mandate of the Ministry.
- If the request is within the Ministry's mandate, the Minister issues an order on the letter, carried by the importer, to the Pharmacy Affaires Directorate to take action according to the regulations to issue the permit.
- 4. As all pharmaceutical (medicine producing companies) are registered with this directorate, the Pharmacy Affairs Directorate checks whether or not the company from which the trader plans to import the medicines is a registered company.
- If the company is registered with the Pharmacy Affaires Directorate, the Pharmacy Affairs Directorate processes its pro forma. This pro forma is referred to the Experts Board by the Generic Drug Department.
- 6. After a review, the Board makes an appropriate decision on it.

After the medicines have been imported into the country and are at the Customs House:

1. The trader informs the Pharmacy Affaires Directorate about the arrival of the specified medicines in the Customs House via an application letter.

- An expert panel or a professional representative of this Directorate who is already assigned to the Customs House takes samples of medicines after they are recorded, stamped, and sealed by the Customs House in care of the Pharmacy Affairs Directorate.
- 3. The samples taken to the Directorate by the representative of that directorate are sent to the Laboratory Department for a quality check.

When the quality of the medicines is confirmed, the Directorate issues the trader an import permit for medicines to be taken from the Customs House

5.3.3. Sale of Medicines

Once the medicines have been taken from Customs House:

The importing company or the trader submits an application letter to Pharmacy Affaires Directorate requesting a sales price for the medicines.

The Directorate issues an order and the trader/importer takes it to the Procurement Department, from which the necessary documents needed for price determination are attached to a letter and sent to the accounting department. The prices are then determined.

5.4. Licensing Hotels and Restaurants in Kabul

Acquiring license for hotels and restaurants in Kabul takes place through two main institutions: the Hotels and Markets Managing Directorate (HMMD) of Kabul Municipality and the Afghan Investment Support Agency (AISA). Some believe the Ministry of Information and Culture also plays a role in issuing licenses for hotels and restaurants, but this is not true⁴. The AISA and HMMD are the only two institutions that issue licensing for hotels and restaurants. The two types of licenses are for investors wanting to expand their businesses throughout the country and those who want their patent rights protected. The name of their hotel or restaurant is registered in the Official Gazette of Afghanistan. Small hotels and restaurants with small investments, whose investors do not intend to expand their businesses, may obtain a license from the HMMD only. For the purpose of this report, we focus only on big hotels and restaurants.

5.4.1. Kabul Municipality Licenses

⁴ Ministry of Information and Culture Official Website <u>http://moic.gov.af/en/page/1326</u>

The main and most important license for any hotel or restaurant is issued by Kabul Municipality's HMMD. Without this license, no hotel or restaurant can operate in Kabul city (Arghandiwal, 2015).

5.4.1.1. General Requirements for Licensing

Kabul Municipality's HMMD is responsible for issuing licenses for hotels and restaurants in Kabul⁵. The directorate issues different types of licenses; namely: 1st grade, 2nd grade, 3rd grade, 4th grade, and 5th grade. The cost of a particular license differs based on its grade. The fee is collected only once at the time the hotel begins its activity, and the fee is determined based on the number of people that a particular hotel can accommodate. A 1st grade license costs Afs. 60/person; a 2nd grade license costs Afs. 40/person; a 3rd grade license costs Afs. 30/person; a 4th grade license costs Afs. 20/person; and a 5th grade license costs Afs. 10/person. However, the licenses fee for foreigners investing in Afghanistan ranges from Afs. 300/person to Afs. 60/person. Moreover, hotels and restaurants must be in suitable areas so that the local population is not disturbed by their locations. Hotels and restaurants shall also be in compliance with international norms and standards. Further, if a particular hotel or restaurant is located in a high multi-story building, the first floor shall have a market and/or a supermarket. All domestic hotels and restaurants are subject to predetermined fixed prices and menus set by Kabul Municipality, while foreigners' hotels and restaurants are exempt from this rule. In order to receive a license for a particular hotel or restaurant, an investor needs to have a number of documents prepared.

5.4.1.1.1. Documents Required

The required documents are as follows:

5.4.1.1.1.1. Afghan Investor

If the investor is an Afghan, he/she needs:

- 1. An application letter
- 2. Health cards for all the staff issued by the $MoPH^6$
- 3. A building and construction plan

⁵ Municipal Law, Art. 16(38)

⁶ Afghanistan Labor Law, Art. 13(4)

- 4. A parking lot plan for vehicles
- 5. Work permits for all staff issued by the Ministry of Labor and Social Affairs⁷

5.4.1.1.1.2. Foreign Investor

If the investor is a foreigner, besides the above documents, she/he also must have:

If the hotel or restaurant is new:

- 1. A copy of the President's and Vice Preisdent's valid passport and visa
- 2. Proof of residency
- 3. An AISA license
- 4. A work permit from the Ministry of Labor and Social Affairs
- 5. An original ID card of a contact person (who must be an Afghan)

If it is a franchisee, she/he will also need to have:

- 6. The company's Board Resolution attested by the Afghanistan Embassy
- Legal Power of Attorney, attested by the Afghanistan Ministry of Foreign Affairs 5.4.1.2. Step-by-Step Process

The process starts with the investor submitting a license application letter for a hotel or restaurant to Kabul Municipality's HMMD. The Directorate, after reviewing the application, sends the application to the district office in the district where the hotel is located. The relevant district office, after confirming the details of the hotel's location and mapping the area, submits a confirmation report back to the HMMD. Next, the Agency for Environment Protection studies and reviews all the relevant documents to check whether working conditions⁸ are in compliance with the environmental health system and if health conditions for personnel are appropriate. Working and health conditions shall be checked and observed periodically by the Ministries of Public Health and Labor and Social Affairs⁹. Once the Agency approves and clears the documents, the Craftsmen Central Council, an independent institution, and the Hotel Management Association, an institution which deals with issues of hotel management and

⁷ Afghanistan Labor Law, Art. 6(1) & 13(6)

⁸ Afghanistan Labor Law, Art. 107 & 108

⁹ Afghanistan Labor Law, Art. 113(2)(3)

restaurants services, privileges, rights, fees, and solutions to problems, must confirm the professionalism and competencies of the staff. A joint committee, consisting of members from both institutions, visits and observes the hotel and determines the grade of the license to be issued. A license's grade is determined on the basis of the hotels' quality, activity, design, and decoration. A license requires six signatures, with one belonging to the HMMD. This process can range from four to 15 days (Marjan, 2015).

HMMD, Kabul Municipality		
Relevant Law	Kabul Municipality City Service Law	
Tel	+93 (0) 799 025 299	
Address	Above Shiraz Hotel, Deh Afghanan, in front of Kabul Municipality	

5.4.2. AISA Licenses

The license issued by the AISA is mandatory for an investor (Afghan or foreigner) who wants his/her business to expand within the country and to be recognized and legally protected. It is not mandatory for small hotels and restaurants.

5.4.2.1. Requirements for Licensing

The AISA license for domestic hotels and restaurants is almost always (about 98% of the time) obtained by big hotels and restaurants whose investors want to invest a large amount of money and be recognized not only in Kabul, but throughout the country. By holding an AISA license, those investors can expand their business to any province of Afghanistan. All hotels and restaurants possessing an AISA license are registered with the Afghanistan Central Business Registry (ACBR) of the Ministry of Commerce and Industries (MoCI), which then adds the names and details of those hotels and restaurants into the Official Gazette of Afghanistan. The Official Gazette serves as a patent protection for these hotels and restaurants. After registering, no other natural or legal person in Afghanistan can use the hotel or restaurant name. Owners of small hotels and restaurants need not bother to obtain an AISA license because they invest very little and will likely not expand their business to other parts of the country (Marjan, 2015).

5.4.2.1.1. Documents Required

The documents required for an AISA license include:

5.4.2.1.1.1. Afghan Investor

If the investor is an Afghan, he/she needs:

- 1. An agreement letter from Kabul Municipality's HMMD.
- 2. The original ID card of the Pesident, Vice-President, and shareholders
- 3. Legal Power of Attorney (if the Pesident and Vice-President are not present)
- 4. Four normal size photos of each the President and Vice-President
- 5. A copy of an official rental agreement or owner's equity letter

5.4.2.1.1.2. Foreign Investor

If the investor is a foreigner, besides the above documents, she/he also need have:

If the hotel or restaurant is new:

- 1. Copies of the President's, Vice-President's, and shareholders' valid visa and passport
- 2. An original ID card of a contact person (who must be an Afghan)

If it is a franchisee, she/he will also need to have:

- 3. The company's Board Resolution attested by the Afghanistan Embassy
- 4. Legal Power of Attorney, attested by the AISA
 - 5.4.2.2. Step-by-Step Process

Any investor who wishes to obtain an AISA license must obtain an agreement letter from Kabul Municipality's HMMD. After obtaining the agreement letter, she/he will apply to the AISA for the license. To make the process easy and quick, the AISA has departments from both the ACBR and the Ministry of Finance (MoF) within its building. A certificate is sent online to the ACBR through these departments to gain the approval. When approved by the ACBR, the certificate comes back to the ACBR's department within the AISA building. At the same time, the information of the hotel or restaurant is sent to the MoF through its department to obtain a TIN for the investor thorough which she/he shall pay all annual taxes for their hotel or restaurant¹⁰. After getting the Certificate and TIN, the AISA issues a license to the investor. Licenses have different fees and renewal fees based on the investment. All AISA licenses are renewed annually.

¹⁰ Income Tax Law, Art. 86

During renewal, the investor is obliged to present a clearance statement of the hotel or restaurant's taxes. The AISA issues three types of licenses, including:

Minimum Investment by Dollar (\$)		New License Fee	Renewal Fee
Small Investment	50,000	700	350
Medium Investment	1,000,000	1000	500
Large Investment	10,000,000	1000	500

5.4.2.3. Process of Closing or Changing the Ownership of a Hotel or Restaurant

For changing the ownership of a hotel or restaurant, the current owners of the hotel or restaurant, along with the new owners, shall go to the AISA to make all required changes. Requirements for a change in ownership include:

- 1. Presence of all shareholders of the hotel (current and new ones)
- 2. Original ID cards of the President, Vice-President, and shareholders (both current and new).
- 3. Legal Power of Attorney
- 4. Two normal size photos of the new President and/or Vice-President
- 5. An agreement letter from Kabul Municipality's HMMD

In case someone wants to close a hotel or restaurant, the presence of the President, Vice-President, and shareholders is mandatory as a closing form is filled by agreement of the President, Vice-President, and shareholders. A clearance letter is required from the MoCI stating that the hotel or restaurant is removed from the database, and from the MoF stating that the hotel or restaurant has cleared all taxes.

5.5. Licensing a Transportation Company

To start a transportation company, an investor can apply to either the Ministry of Transportation and Civil Aviation or the AISA, depending on which would be better for the investor to proceed with first. In order to start acquiring a license, the investor must submit an application form (picture 1) to the Ministry of Transportation Private Sector Transport Directorate to request for the establishment of a transportation company (Ali, 2015). After the Minister's agreement, the investor is sent to the AISA to obtain an investment license. Next, the AISA processes the application internally and asks for some documents (which are explicitly mentioned below on the AISA Required Documents), and then issues the license for the transportation company. After the application process, the investor is sent to the Private Sector Transport Directorate of the MoTCA to follow the technical part of the licensing process. The technical process includes the presence of 30 new vehicles for technical inspection. Next, the investor presents the vehicles' documents, including the vehicle registration booklet, ownership documents, and route booklet (see MoTCA requirements). The company's director or one of the company's shareholders should provide these documents. After completion of the vehicles-related procedures (technical tests; vehicle registration in relevant statistics books), the investor is sent to court to proceed with the guarantee procedure and complete the legal certificate. After the legal certificate is obtained from Commercial Court, the investor must officially inform the Private Sector Transport Directorate using a letter from the court. Finally, the company can start its activity when the related documents are signed and approved by the Minister of Transportation (Ali, 2015)

5.5.1. Institutions

In order to establish a transportation company the investor is required to have an additional agreement from the Ministry of Transport and Civil Aviation, Private Sector Transport Directorate, beside the investment license from the AISA. See the tables below for contact information for these two institutions.

AISA	
Responsible Department	Licensing Directorate
Tel:	020-2103404
Email:	info@aisa.org.af
Website	www.aisa.org.af

Add:	East Part of Chaman-e-Hozory, near National Olypic		
Ministry of Transportat	Ministry of Transportation and Civil Aviation		
Responsible Department	Private Sector Transport Directorate		
Tel:	020-2201828 020-2103064		
Email	arasikh@motca.gov		
Website:	www.motca.gov.af		
Add:	Karta-e-Mamorin, beside the Silo Building, Kabul		

5.5.2. Required Documents

In order to obtain a transportation license, the investor must fulfill requirements of both the AISA and the Private Sector Transport Directorate of the Ministry of Transportation.

5.5.2.1. Documents Required by the Ministry of Transport and Civil Aviation

- Vehicle registration from the Kabul Traffic Department
- Ownership documents for vehicle and custom importation papers showing duties paid
- Route booklet from the Private Sector Transport Directorate
- AISA investment license
- Provision of 30 new vehicles or proof that investor's capital is equivalent to the cost of thirty new vehicles
- All papers related to vehicles from the customs house must be in the name of the company director or one of the shareholders
- The vehicles' registration papers must be in the name of the company director or one of the company shareholders

• Also present should be the ownership documents of the company's important sections, such as technical workshops

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ك قريه	كارته ونمبرسر		قريه	كارته ونمبرسرك
علاقه دارى	ىشھر		علاقه دارى	ناحيه
ولسوالى	ولايت		ولسوالى	شهر
ولايت	محل کار		ولايت	ولايت
	تمبر تليفون		نمبر تليفون	محل کار
خواهم این شرکت	سیورت و هوانوردی ج ۱.۱. ، المللی تحت نام احمد یار تر ن بنا برمشکلات که دارمی م ت متذکره را بالای مرجع مرد.	ک شرکت باربری بین یجاد نموده بودم اکثور مرحمت تان نخواهد بوه	دارم اینکه یا رلایت کابل ا للخا قرار ده	محترما : عرض میں مرکزیت و را مورد م
خواهم این شرکت	نسپورت و هوانوردی ج .۱.۱ المللی تحت نام احمد بار تر ن بنا برمشکلات که دارمی . ت متذکره را بالای مرجع مر	ک شرکت باربری بین یجاد نموده بودم اکثور مرحمت تان نخواهد بوه	دارم اینکه یا رلایت کابل ا للخا قرار ده	محترما : عرض میں مرکزیت و را مورد م
خواهم این شرکت	سیورت و هوانوردی ج ۱.۱. ، المللی تحت نام احمد یار تر ن بنا برمشکلات که دارمی م ت متذکره را بالای مرجع مرد.	ک شرکت باربری بین یجاد نموده بودم اکثور مرحمت تان نخواهد بوه	دارم اینکه یر رلایت کابل ا نیا قرار ده بیداز لطف و	محترما : عرض میں مرکزیت و را مورد م
فواهم این شرکت پوطه امر عنایت	تسپورت و هوانوردی ج .۱.۱ ، المللی تحت نام احمد یار تر ن بنا برمشکلات که دارمی - ت متنکره را بالای مرجع مر د.	ک شرکت باربری بین یجاد نموده بودم اکنور یم امید امراغو شرکت مرحمت تان نخواهد بو با اح	دارم اینکه یر رلایت کابل ا نیا قرار ده بیداز لطف و	محترما : عرض میں مرکز پت و نر امورد ہ فرمانید پ

Figure 4: Application Letter

5.5.2.2. Documents Required by AISA

5.5.2.2.1. Domestic License

This type of license is issued only to Afghan investors to operate within Afghanistan. The required documents include:

- Original ID Card of President, Vice-President, shareholders, and contact person
- Presence of President, Vice-President, and shareholders
- Legal Power of Attorney (if President, Vice-President, or shareholders cannot be present)
- Four normal size photos of President and Vice-President (total of eight photos)
- Copy of official rental agreement/owner equity letter
- Agreement letter from the Ministry of Transportation and Civil Aviation

5.5.2.2.2. Foreign License

This type of license is issued only to foreign investors willing to operate within Afghanistan and the required documents include:

- Copies of the President's, Vice-President's, and shareholders' valid visa and passport
- Original ID card of contact person (who must be Afghan)
- Original ID Card of President, Vice-President, or shareholders (if any of them is Afghan)
- Presence of both President and Vice-President with shareholders
- Legal Power of Attorney (if President, Vice-President, or shareholders cannot be present)
- Four normal size photos of President and Vice-President (total of eight photos)
- Copy of official rental agreement/owner equity letter
- Agreement letter from the Ministry of Transportation and Civil Aviation

5.5.3. Duration and Renewal of Licenses

Although licenses are renewed by the AISA on an annual basis, confirmation by the Large Taxpayer Office and the Medium Taxpayer Office of the MoF is required to verify that a company has paid all necessary taxes. After receiving the verification letter from the MoF, the license will be renewed in two hours. The new license fee for small investment is \$750, for medium investment is \$1000, and for large investment is \$1000. The renewal fee for small investment is \$350, for medium investment is \$500.

5.5.4. Closing or Changing the Ownership of a Transport Company

During the closing process the presence of the President, Vice President, and shareholders are necessary because they complete an agreement form to close the company. Letters from the Ministry of Commerce and MoF are then required to confirm the tax clearance of the company.

6. Conclusion

Although less secure, Afghanistan is becoming more business friendly day-by-day. Though the environment for businesses is not 100% desirable, starting a business in Afghanistan is getting easier and easier. The government has made considerable efforts to eliminate sophisticated systems and bureaucracies for registering businesses and getting licenses. In terms of registering

businesses, Afghanistan has made tremendous progress and is above many developed countries in world rankings lists released by the World Bank. However, despite this progress, there is still much to be done in the business sector. Starting a business might be easy, but Afghanistan, in terms of sustaining businesses, is 183 out of 189 countries in the rankings. Afghanistan needs to address a number of issues in order to improve its position. First, Afghanistan is in dire need of updating its business laws and policies, and must take its business relations with other countries into consideration. Second, Afghanistan needs to remove ambiguities within its laws that give institutions and implementers room to receive bribes. Finally, most business are required to obtain two, three, or sometimes even four licenses; this is a huge challenge and obstacle for businessmen. The government should address these complexities and, similar to the AISA, make a "one-stop shop" within different institutions for licensing different types of businesses.

7. Bibliography

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Pharmaceuticals Activities, Regulation No. 916, 08 January 2007.

Production and importation of Medicines and Pharmaceuticals, Regulation No. 39, 19 February 2007.

Solaiman, Khil. (2015, February 20). Licensing Department Director. (M. Mohammadi, Interviewer)

Afghanistan Civil Code

Afghanistan Investment Law

Afghanistan Labor Law

Afghanistan Income Tax Law

Afghanistan Transportation Law

Afghanistan Pharmaceutical Law

Afghanistan Law on Medicine

8. Appendices

8.1. Appendix A: Pharmaceutical Company

Step-by-Step Process for	• The potential investor submits his/her application to the MoPH with relevant documents
Obtaining a License	 The aplication packet is taken to the General Directorate of Planning and Policy Next, the packet is taken to the Director of Health Legislation to be signed Then, the packet is submitted to the Health Legislation and Verification Directorate, which assigns a panel to study the pharmacy design and location, and to prepare a report If the requirements are met (no other pharmacy within 500 meters, appropriate size, structure, etc.), the Directorate prepares a recommendation letter for the Minister of Health to grant
	approval
Institutions	 Ministry of Public Health ✓ Health Legislation and Verification Directorate ✓ Pharmacy Affaires Directorate AISA Ministry of Commerce and Industry ✓ ACBR Department
General Requirements	 Foreign citizens are not allowed to establish a pharmacy Certification acknowledging pharmaceutical expertise approved by Ministry of Higher Education for owning drug store Application letter from the investor Investor's Business License from the MoCI Pro forma statement of drugs to be imported from the foreign selling company, which should include the following: ✓ Name of selling company and its home country

	 ✓ Name of purchaser
	✓ Specifications of medicines
	\checkmark Quantity, kind of medications, and prices
	✓ Types of payment
	✓ Types of packaging
	\checkmark Validity and duration of the pro forma
	• Filling out the AISA Application Form. Within the application
	form:
	✓ TIN
	✓ business plan
	✓ type of business ownership
	\checkmark statue of the proposed company
	• Enterprises with initial capital of US \$3 million and above require
	the approval of the High Commission of Investment before the
	AISA may register them
Documents	• The original ID Card of the President, Vice-President, and
required from Afghan investors	shareholders
Aighan investors	• Presence of both President, Vice-President, and Shareholders
	• Legal Power of Attorney (if President, Vice-President, or
	shareholders cannot be present)
	• Four normal size photos of President and Vice-President (a total
	of eight photos)
Documents	When importing/exporting medicine: All the aforementioned documents
required from	are required, plus:
foreign investors	
	 Passport A background shack through the investor's embagay.
	 A background check through the investor's embassy Preferable, bank account statements
	Preferably bank account statements
Obtaining Fee	• MoPH: Afs. 18000 in total (Afs. 5,000, Afs. 4,000, and Afs.
	3,000, and Afs. 3,000, Afs. 2,000 and Afs. 1,000 for districts)
	• MoCI: Pro forma registration commission 0.075x total cost, \$100

	registration fee of each new item (drug) charged only once	
	• AISA: \$100 for small, \$700 for medium, and \$1000 for large	
	businesses	
Renewal Fee and	Tax Payment to Ministry of Finance	
Requirements	• Clearance letter from the MoF, clarifying that the business has	
	paid all taxes and dues	
Change in	Attendance of President, Vice-President, and shareholders	
Ownership	• Photos and Tazkira copy of current and new Presidents	
	• Contract stating the transfer of ownership	
Dissolution	Consensus amongst President, Vice-President, and shareholders	
	• Tax Payment to the MoF	
	• Clearance letter from the MoF, clarifying that the business has	
	paid all taxes and dues	
	• Clearance letter from the CBR, clarifying that the business is	
	removed from the database	
Address and	МоРН	
Contact	Health Legislation and Verification Directorate	
	✓ Phone: 2100448	
	✓ Email: Aryan.kakar@moph.gov.af	
	✓ Website: www.MoPH.gov.af	
	✓ Address: Cinema Pameer, within the building of the Central Poly	
	Clinic	
	Pharmacy Affaires Directorate	
	✓ Phone: 020-2100358	
	✓ Email: Aryan.kakar@moph.gov.af	
	✓ Website: www.moph.gov.af	
	✓ Address: Joy Shier Street, beside the Maiwand Hotel	

8.2. Appendix B: Hotels & Restaurants

Step-by-Step	Kabul Municipality:		
Process for	• An application letter is submitted to Kabul Municipality's		
Obtaining a License	HMMD		
	• The application is sent to the district office where the hotel is		
	located, confirming the details of the hotel's location and maps of		
	the area; a confirmation is submitted to the Directorate		
	• Next, the Agency for Environment Protection checks working		
	conditions for conformity with the environmental health system,		
	including the health conditions of personnel		
	Then, the Craftsmen Central Council and Hotel Management		
	Association confirms the professionalism and competencies of		
	the staff and determines the grade of the license to be issued		
	• Lastly, the application packet is brought back to the HMMD for a		
	final signature		
	AISA:		
	• Get an agreement letter from Kabul Municipality's HMMD		
	• Submit an application to the AISA		
	• A certificate will be sent online to the ACBR for approval		
	through its department in the AISA		
	• At the same time, all information of the hotel or restaurant is sent		
	to the MoF through its department in the AISA to get a TIN		
	• Finally, after getting the Certificate and TIN, the AISA issues a		
	license to the investor		
Institutions ¹¹	1. Kabul Municipality's HMMD		
	2. Relevant District Office (where the hotel or restaurant		
	operates)		
	3. Agency for Environment Protection		
	4. Craftsmen Central Council		
	5. Hotel and Management Association		
L			

¹¹ Institutions are listed in chronological order based on the step-by-step process.

	6. AISA	
General	• Should be located in a suitable area (locals should not be	
Requirements	uncomfortable with its existence)	
	In compliance with international norms	
	• If multi-story building, first floor shall be a market/super market	
	• The market/supermarket should follow fixed price and menus	
	from Kabul Municipality (foreigners are exempt from this	
	requirement)	
Documents	Application letter	
Required from Afghan Investors	• Health cards for all staff	
Aighan investors	Building documents or construction plan	
	Parking lot	
	• Working permit for all staff	
Documents	In addition to the above documents	
required from foreign investors	• Copy of passport and valid visa of President, Vice-President and	
ioreign investors	shareholders	
	Resident permit	
	AISA license	
	Work permit	
	• Original ID of contact person (shall be an Afghan)	
	In case it is a franchise	
	• Board Resolution attested by Afghanistan Embassy in that	
	particular country	
	• Legal Power of Attorney attested by the Ministry of Foreign	
	Affairs	
Obtaining Fee	Hotel and Market Managing Directorate Licenses	
	• 1 st grade Afs. 60/person (capacity of people)	
	• 2 nd grade Afs. 40/person	
	• 3 rd grade Afs. 30/person	
	• 4 th grade Afs. 20/person	

	• 5 th grade Afs. 10/person		
	AISA Licenses		
	• Small investment (US \$50,000) US \$700		
	• Medium investment (US \$1,000,000) US \$1000		
	• Big investment (US \$10,000,000) US \$1000		
Renewal Fee and	Hotel and Market Managing Directorate Licenses		
Requirements	• No renewal required		
	AISA License		
	• Small investment US \$350		
	Medium investment US \$500		
	• Big investment US \$500		
	Requirements		
	• Clearance letter from the MoF, clarifying that the business has		
	paid all taxes and dues		
Change in	For both institutions		
ownership	• Presence of all shareholders (current and new)		
	• Original IDs of the President, Vice-President, and shareholders		
	(current and new)		
	• Legal Power of Attorney if the above persons are not present		
	• Two normal size photos of the President and/or Vice-President		
	• Agreement letter from the HMMD (relevant for the AISA		
	licenses)		
Dissolution	Presence of President, Vice-President, and all shareholders		
	Completed closing form		
	• Clearance letter from the MoCI indicating that the name of a		
	company or business is removed from the database		
	• Clearance letter from the MoF indicating that the company or		
	business has paid all taxes and dues		
Address and	HMMD		
Contacts	• Above the Shiraz Hotel, Deh Afghanan, in front of Kabul		

Municipality
• Mobile: +93 (0) 799 025 299
Afghanistan Investment Support Agency
Phone: 020-2103404
Email: info@aisa.org.af
Official Website: <u>www.aisa.org.af</u>
Address: East of Chaman-e-Hozory, near National Olympics Stadium

8.3. Appendix C: Transportation Company

Step-by-Step	• Submit an application letter to the Ministry of Transportation
Process for Obtaining a License	 Receive approval from the Minister of Transportation and Civil Aviation
	• Investor is then sent to the AISA to obtain an investment license
	• Documents are presented to the AISA to obtain the license
	• The investor is sent back to the Private Sector Directorate of the
	Ministry of Transportation to follow the technical parts of the
	licensing process
	• Then the investor is sent to the Commercial Court to proceed with
	the guarantee procedure and complete the legal certificate
	• Finally, the company can start its activity when the related
	documents are signed and approved by the Minister of
	Transportation
Institutions	Ministry of Transportation and Civil Aviation
	✓ Private Sector Transport Directorate
	• AISA
	 ✓ Licensing Department
General Requirements	• Vehicle registration and vehicle ownership documents
•	AISA investment license
	• 30 new vehicles

	• The vehicles' registration papers from the traffic department and customs house
	• Ownership documents for company's important sections, such as technical workshops
	Legal certificate from the Commercial Court
Documents required from Afghan investors	• Original ID card of President, Vice-President, shareholders, and contact person
	• Presence of both President, Vice-President, and shareholders
	• Legal Power of Attorney (if President, Vice-President, or shareholders cannot be present)
	• Four normal size photos of President and Vice-President (total of eight photos)
	Copy of official rental agreement/owner equity letter
	Agreement letter from Ministry of Transportation and Civil
	Aviation
Documents required from foreign investors	• Copy of passport with valid visa of President, Vice-President, and shareholders
	• Original ID card of contact person (must be an Afghan)
	• Original ID Card of President, Vice-President, or shareholders (if any of them is Afghan)
	• Presence of both President and Vice-President with shareholders
	• Legal Power of Attorney (if President, Vice-President, or shareholders cannot be present)
	 Four normal size photos of President and Vice-President (total of eight photos).
	 Copy of official rental agreement/owner equity letter
	 Agreement letter from the Ministry of Transportation and Civil
	Aviation

Obtaining Fee	Small Investment	\$750	
	Medium Investment	\$1000	
	Large Investment	\$1000	
Renewal Fee	Small Investment	\$350	
	Medium Investment	\$500	
	Large Investment	\$500	
Change in Ownership	Presence and agreement of President, Vice-President, and stakeholders		
Dissolution	 Presence and agreement of President, Vice-President, and stakeholders A letter from MoF to confirm the tax clearance of the company 		
Address and	Ministry of Transport and Civil Aviation		
Contacts	Department: Private Sector Transport Directorate		
	• Phone: 020-2201828 / 020-2103064		
	• Email: <u>arasikh@motca.gov</u>		
	• Website: <u>www.motca.gov.af</u>		
	• Address: Karta-e-Mamorin, beside the Silo Building, Kabul		
	Afghanistan Investment Support Agency		
	Phone: 020-2103404		
	Email: info@aisa.org.af		
	Official Website: <u>www.aisa.org.af</u>		
	Address: East of Chaman-e-Hozory, near National Olympics Stadium		