

The Fund for the Afghan People

By Jeff Rigsby

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Abstract

This chapter explores the establishment and challenges of the Fund for the Afghan People, a Switzerland-based charity created in September 2022 to safeguard part of Afghanistan's central bank reserves and facilitate cross-border transactions. Utilizing official government documentation, personal communications, and published research on Afghanistan's economy, the chapter examines the economic, political, and legal context of the Fund's creation shedding light on an often-underexplored topic. The main argument centers on the misconceptions regarding U.S. intentions and the reasons for the Fund's inactivity. The chapter concludes with recommendations for mobilizing the Fund's assets to alleviate Afghanistan's economic isolation and promote sustainable growth, including leveraging assets for renewable energy investments and improving cross-border payment mechanisms.

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Introduction

Afghanistan is often described as facing economic catastrophe, with some commentators even describing the country as having settled into a “famine equilibrium” in which “poverty and hunger as well as the humanitarian crisis have greatly worsened” (Byrd, 2022). Along with the drastic restrictions on women’s rights imposed by the new regime, stories of extreme hardship are one of the few aspects of the current situation that can still draw the attention of a distracted world.

But the reality of Taliban rule is less dramatic. The World Bank’s most recent *Afghanistan Welfare Monitoring Survey*, conducted in spring 2023, found that 62% of Afghan households faced difficulty in meeting their basic needs: a significant drop from 70% at the end of 2021, just after the Taliban’s seizure of power. Income poverty among rural households was estimated at 44%, down from 51% in spring 2020 – notably before the change of government (AWMS, 2023). In some respects, conditions for the poorest Afghans seem to have improved since the end of the war.

All is not well with the Afghan economy, but the nature of the problem is widely misunderstood. More than anything, the country now faces a crisis of isolation from global networks of trade, commerce and investment, mediated by the paralysis of Da Afghanistan Bank (DAB, the nation’s central bank), and much of its commercial banking system.

In 2022, the U.S. government took an unusual series of steps aimed at ending this disconnection, by transferring \$3.5 billion from DAB’s account at the Federal Reserve Bank of New York to a special-purpose vehicle: the Fund for the Afghan People, established in Switzerland as a nonprofit foundation.

This chapter begins with a background section reviewing the role of central banks in developing countries under more typical circumstances. It then places the recent actions of the U.S. government in a legal and historical context shaped by its response to the occupation of numerous European countries (notably Denmark) during the Second World War. It explores the reasons why Afghanistan’s central bank assets became inaccessible after the collapse of the Republic, how some of those assets were then released to endow the Afghan Fund, and why the Fund has so far failed to achieve Washington’s objectives for it. Finally, it proposes two ways in which the Fund’s assets might be mobilized to address the isolation and stagnation of the Afghan economy.

The source material for this chapter consists of official government

documentation, personal communications with key players as part of field-work conducted inside Afghanistan, and published research on the broader Afghan economy.

Background on Payments and Settlements

The world economy relies on mechanisms to transfer money efficiently across national borders, both to settle import and export transactions and to allow unrequited transfers such as foreign aid flows and remittances to family members by international migrants. For most countries, these are executed largely through relationships between banks (including central banks) known as the correspondent banking system.

A correspondent bank is one which has a standing agreement with a domestic bank (the respondent bank) to settle international movements of funds. The correspondent bank receives and pays out funds overseas on behalf of the respondent bank, which maintains an account at the correspondent bank in one or more currencies (known as a *nostro* account). The correspondent can thus execute foreign-exchange transactions as needed while “netting out” flows in both directions to minimize the need for actual cross-border transfers (BIS, 2003).

In smaller low-income countries, the national central bank often acts as the respondent bank for many such transactions, making dollars or other widely used global currencies available to importers purchasing foreign goods and services and providing local currency in country to exporters receiving revenue from buyers overseas. All parties involved are expected to comply with “Know Your Customer” (KYC) standards aimed at preventing money laundering and the financing of terrorism: an especially heavy obligation in countries like Afghanistan, where large global banks often hesitate to expose themselves to legal risk even for normal commercial transactions.

Since August 2021, this problem has dramatically worsened. On the eve of the Taliban takeover, Da Afghanistan Bank reported overseas assets of \$9.4 billion. This figure included just over \$7 billion at the New York Federal Reserve, along with smaller sums in Europe and the United Arab Emirates. Following the change of government, all these funds became effectively inaccessible. Although they do not appear to have been formally “frozen” by the actions of the United States or other governments (as discussed below), the Taliban’s universal lack of diplomatic recognition left DAB with no access to its foreign accounts.

This made overseas transactions all but impossible for the country's smaller commercial banks, which had typically relied on DAB (where they kept legally mandated deposits) to help them settle international payments during the Republic. And although a handful of large institutions, particularly Afghanistan International Bank (AIB) and Afghan United Bank (AUB), maintained direct correspondent relationships with foreign banks that allowed them to settle payments without DAB's intermediation, the overseas balances of many of these banks shrank dramatically after the change of government,¹ forcing most traders (as well as relief agencies and migrants sending remittances) to rely on airlifts of cash or the informal *hawala* payment system.²

In response to this crisis, the World Bank put in considerable effort after the Taliban takeover to set up a specialized entity, the Humanitarian Exchange Facility, to handle Afghan payments and settlements. However, this project seems to have been abandoned by late 2023, when its status was recorded as “Dropped” (World Bank, 2023). Evidently the Bank – and its dominant shareholder, the United States – believed another solution was on the horizon.

By then, in fact, the U.S. government had already created the preconditions for a different approach, with a large share of DAB's assets transferred away from the central bank's control to an independent entity in Switzerland. Although the Fund for the Afghan People has so far failed to resolve the problem of cross-border payments, it is worth examining why it was originally expected to do so – and how it was possible for Washington to establish the Fund at all.

1 AIB's outstanding balances with other banks fell from 18.3 billion afghanis at the end of 2021 to 4.8 billion afghanis at the end of 2023, of which more than half was held by a single institution: UK-based Crown Agents Bank, which, in turn, handled AIB's main correspondent relationship with Citi (AIB, 2024). AUB, although more domestically oriented than AIB in the past, reported overseas balances of 5.4 billion afghanis at the end of 2023 (AUB, 2024). Over a third of these are maintained with banks in Uzbekistan and Tajikistan, which an AUB officer says has allowed the bank to settle Breshna Sherkat's ongoing payments for imported electricity (AUB Official, personal communication, 2023). The proposed assistance from the Afghan Fund in making these transfers has apparently not been needed.

2 First developed in medieval India and now widely used in much of the Islamic world, the *hawala* system is not fundamentally different from the cross-border money transfer services offered by licensed banks. Although *hawala* providers work without written contracts (often in jurisdictions where contracts might be difficult to enforce in any case) and can offer anonymity to their clients, the process of “money transfer without money movement”, managed by recording and netting out debits and credits accrued within a provider network, is much the same (IMF, 2003).

A Political and Legal Dilemma

The early media coverage of the Afghan Fund's creation, while inaccurate in some important respects, sparked lasting outrage among humanitarian advocates and the Afghan public. In February 2022, the White House announced, without giving details, that a \$3.5 billion portion of the central bank assets held in the United States would be made available "to benefit the Afghan people". The remainder of the U.S.-based DAB funds, a slightly larger sum, would remain at the New York Federal Reserve Bank to cover damages sought by victims and relatives of the attacks of 11 September 2001, as well as insurance companies that had paid claims connected to them (White House, 2022).

Not surprisingly, many were appalled by the suggestion that President Biden planned to give half the central bank's assets to American victims of terrorism. "No one should claim the administration's plan is in the best interests of the Afghan people", a typical editorial commented (*Guardian*, 2022). And although the State Department's published comments seem to have given no basis for this, it was also widely reported that the \$3.5 billion exempted from the asset freeze might be made available for humanitarian relief (CNN, 2022). That caused alarm for a different reason: it was easy to anticipate that tapping this source of funds would simply crowd out other sources of aid, draining the reserves for no useful purpose.

But the administration's actions had an entirely different aim, which became clear only in the aftermath of the immediate media furor. As noted, not all of Afghanistan's overseas reserves in August 2021 were located in the United States. Assets of over \$2 billion were held in various other countries, where they remain today. And although it has often been claimed that these funds were also "frozen" after the Taliban takeover, this is not strictly true. No official measures are known to have been taken to immobilize the DAB assets held on deposit with non-U.S. banks. But so long as the Islamic Emirate of Afghanistan (IEA) remains unrecognized, there appears to be no legal mechanism to make those funds accessible to anyone.

For the more than \$7 billion held in the United States – over \$1 billion in the form of physical gold at the New York Fed (Subramanian, 2021), with the rest invested in U.S. Treasury securities – the situation is more complex.

Alone among the countries that held custody of the Republic's reserves, the U.S. offers clear statutory guidelines for releasing the assets of foreign central banks in cases where a government is unrecognized or its legitimacy

is disputed. Under amendments to the Federal Reserve Act passed in April 1941, these can be made available to any person designated as a representative of the central bank by both the relevant country's accredited ambassador and the U.S. Secretary of State.

The rationale for these amendments can be traced back to Scandinavia's wartime history, which offers striking parallels to the current situation in Afghanistan.

The Danish Precedent

Beginning in the spring of 1940, as European states came under German and Russian occupation, the White House acted to make U.S.-based assets of these countries and their nationals unavailable to the occupying powers. These measures began with an executive order (EO 8389, issued 10 April 1940) freezing Danish and Norwegian assets, followed by a series of amendments extending the freeze to, among others, the Low Countries (EO 8405: 10 May), France (EO 8446: 17 June), and the Baltic states (EO 8484: 15 July; see *Federal Register*, 1940).

All these actions were based on existing legislation (the Trading with the Enemy Act of 1917 and the Emergency Banking Act of 1933) allowing the executive branch to restrict international trade and finance in times of war or other national emergency. But as U.S. involvement in the conflict deepened, the administration sought broader powers not merely to freeze the assets of foreign states, but to release them to governments-in-exile and other parties it recognized as those states' legitimate representatives.

President Roosevelt's primary motive in asking Congress for this authority may have been the need to guarantee access to strategic minerals in Greenland. Within a week of the Nazi invasion of Denmark, the Canadian government had already notified the U.S. State Department of its concerns about the risk to North American supplies of cryolite, at that time available only from mines in the Greenlandic town of Ivigtut: "The result of any interference with the output of this strategically vulnerable property would be a serious disruption in the production of aluminum, a large proportion of which is manufactured in the United States and Canada" (Canadian Legation, 1940).

In response, the Canadians proposed to station a small military force in Greenland to deter a possible German attack. Such a move would have been analogous to the pre-emptive British occupation of Iceland a few

days earlier. However, Washington distinguished the two cases on the grounds that Greenland was part of the Western Hemisphere and thus subject to the Monroe Doctrine, ruling out action by any government other than the United States itself. Both Canada and the United Kingdom were put on notice that unilateral measures would be highly unwelcome (Memorandum, 1940).

Over the next twelve months, the administration was careful to maintain the formal legality of its own actions in Greenland by coordinating closely with the Danish ambassador, Henrik Kauffmann. When an American consulate opened in Godthaab just weeks after the German invasion and without Copenhagen's prior approval, the administration relied on Kauffmann's personal authorization of the move, on the theory that he spoke for Greenland's local governors in unoccupied Danish territory (Danish Minister, 1940). Once stationed in Godthaab, American diplomats immediately began reporting back to Washington on the threat to Ivigtut's cryolite reserves and possible means of defending them.

By the following spring, the United States was determined to establish a military presence in Greenland, if necessary over Copenhagen's objections. On 4 April 1941, Secretary of State Cordell Hull notified Mahlon Penfield, U.S. consul at Godthaab, that "the decision has now been made that defense facilities in Greenland should be constructed and protected by and be under the sole jurisdiction of the United States" (Secretary of State, 1941). A draft agreement on military cooperation, summarized in the same telegraphic transmission and clearly a product of discussions with Ambassador Kauffmann, was forwarded by Penfield to Greenland's governors as a *fait accompli*.

Having received the governors' approval (issued under protest), Kauffmann signed the "Agreement Relating to the Defense of Greenland" on 9 April, one year to the day after the start of the Nazi occupation. The authorities in Copenhagen immediately revoked his diplomatic credentials and ordered his return to Denmark – actions disregarded by both the ambassador and his host government.

At this point, Roosevelt and Kauffmann had obtained the necessary legal authority to support their next steps. The proposed amendments to the Federal Reserve Act had moved through Congress over the previous weeks, in parallel with negotiations over the defense of Greenland. Signed into law on 7 April, these would allow the State Department to assign Denmark's central bank assets at the New York Federal Reserve Bank to

Kauffmann or anyone designated by him.

The amendments themselves had drawn relatively little attention, with serious criticism coming from only one member of Congress. In light of subsequent events, however, his comments are worth revisiting.

Speaking in a floor debate on 27 March, Senator John Danaher, Republican of Connecticut, stressed that the executive branch was already authorized to block or restrict foreign official assets in the United States. The bill under consideration, he argued, would allow something more dangerous:

If the agent of one government, accredited by the Secretary of State, can claim from the Federal Reserve bank in this country bullion, if he chooses, to the amount of a billion dollars, or \$2,000,000,000 ... by recognizing that agent, and authorizing him to withdraw the property of the people of that other nation, we are exercising a degree of control over the property of such people, and by permitting its disposition for given purposes to such agent we may control or attempt to control an international balance of power, which will take us as a nation into the internal affairs of every nation in the world. (*Congressional Record*, 1941)

Even more prophetically, he pointed out that the bill would limit the legal recourse available to Americans pursuing claims against foreign governments:

Not only will there be no action authorized to an American creditor or an American claimant the moment this bill passes, but quite the contrary, the moment the Secretary of State issues the certificate that Mr. A is the accredited agent of any government, then... [h]e could remove the fund from the jurisdiction of the United States, if he chose to do so, and the American claimant could not even get into court. (*Congressional Record*, 1941)

No vote count was recorded, but the amendments appear to have passed the Senate with little opposition beyond Danaher himself.

On 16 April, one week after the Greenland agreement took effect, the State Department invoked its new powers for the first time. Kauffmann informed Hull of his intention to control Denmark's central bank assets on deposit at the New York Federal Reserve (citation needed). Hull then notified the Federal Reserve of his endorsement of Kauffmann's authority (see Appendix 1). Kauffmann made use of the funds to finance not only his own embassy in Washington but a network of other legations sympathetic to the Allies, creating what has been described as "an independent Danish foreign service" operating "an alternative Danish foreign policy" (Skov, 2000).

Though Denmark was the first country to which these extraordinary financial measures were applied, it was perhaps not the most historically significant. The asset freezes imposed on countries under Nazi occupation were lifted shortly after the war's end, but for the three Baltic states forcibly incorporated into the Soviet Union, the 1941 amendments remained relevant for over half a century. Estonia, Latvia and Lithuania maintained continuous diplomatic ties with the United States throughout the Cold War, with their Washington embassies relying on access to pre-war central bank assets to pay their operating expenses (L'hommedieu, 2008).

The Establishment of the Fund: What did Biden do?

This historical background sheds some light on the alleged "confiscation" of Da Afghanistan Bank's assets, which caused so much debate just after the Taliban's return to power.³ Citing unnamed administration officials, some U.S. media had reported that the central bank funds were frozen just after the fall of Kabul (Stein, 2021). But since the U.S. government's *Federal Register* records no action to freeze any U.S.-based Afghan assets during that year, there appears to be no evidence for this claim. Even without an official freeze, the funds in New York were already just as inaccessible in practice as DAB's assets in Europe and the Middle East. And unlike

3 The transfer of the Afghan assets has been described by some observers as an affront to national sovereignty, "potentially violating bedrock international legal principles" (Alexianu & Hakim, 2023). But these criticisms fail to address the inherent ambiguity of the situations contemplated by Section 25(b)(3). National governments retain their own sovereign discretion to decide who lawfully represents the government of another state, making it difficult at best to rule out potential abuses of the recognition power.

the Baltic states, the former Afghan republic had no recognized government-in-exile whose officials could assert control over them

On 11 February 2022, however, the United States adopted a series of measures to alter the legal status of the New York assets. These began with a presidential executive order which – for the first time – officially froze the funds and made them unavailable to DAB, but then exempted any portion for which the Treasury Department might authorize a specific use (Federal Register, 2022). Hours later, Treasury’s Office of Foreign Assets Control did just that, issuing a license which made a \$3.5 billion share of the funds available “for the benefit of the people of Afghanistan” to any persons designated to receive them under the amended provisions of the Federal Reserve Act (OFAC, 2022).

The rest of the assets remained frozen at the New York Federal Reserve pending a final ruling in the case of *Havlish v. Bin-Laden*, filed soon after the 9/11 terrorist attacks by survivors and relatives of the victims. Given the extent of public confusion over the U.S. government’s actions, a brief review of the *Havlish* litigation may be helpful.

The plaintiffs in *Havlish* and several associated lawsuits had won default judgments against a number of named defendants, including the Taliban, after their predictable failure to appear before a U.S. federal court. Until August 2021 it had seemed unlikely that any of the billions of dollars in awarded damages would ever be collected, but soon after the Taliban seized power, the plaintiffs’ attorneys moved to attach the U.S.-held assets of Afghanistan’s central bank, on the theory that the Afghan state was now legally identical with the Taliban and thus liable for its debts. There seemed to be no way to dismiss the plaintiffs’ claim by simple executive action. But on the same day it acted first to freeze and then partly to unfreeze the DAB funds, the Justice Department filed an intervention in the *Havlish* case, asserting that since the president had not exercised his constitutional authority to recognize the IEA as Afghanistan’s government, U.S. courts could not treat Afghan state assets as property of the Taliban or seize them to pay damages awarded against it (DOJ, 2022).

More than a year later, the presiding judge was to accept the government’s view (Savage, 2023). But with appeals likely to continue for years, the ongoing litigation has diplomatic implications which are not always fully recognized. Regardless of what policy changes the IEA eventually makes on girls’ education or other human rights issues, the United States is unlikely to put the remaining New York-based assets at risk by recognizing

the new regime, at least not until the U.S. Supreme Court rejects the legal argument of the *Havlish* plaintiffs.

In early February 2022, these concerns lay in the future, and the legal validity of the administration's actions was still in doubt. But one uncertainty was removed on 25 February, when Magistrate Judge Sarah Netburn ruled that the portion of the DAB assets governed by the Treasury Department's license was immune from attachment (Netburn, February 2022).

With a \$3.5 billion share of the DAB assets now definitively unfrozen, the next step was to invoke the Federal Reserve Act to authorize its transfer.

Although their names were not publicly disclosed at the time, it later became clear that Secretary of State Anthony Blinken designated two individuals under the Act: Dr. Anwar ul Haq Ahady and Dr. Shah Mohammad Mehrabi, both Afghan technocrats based in the United States with backgrounds in finance and previous experience at DAB. Dr. Ahady had been appointed to lead the central bank shortly after the fall of the first Emirate, later leading the ministries of finance, commerce and (at the time of the Taliban's return) agriculture. Dr. Mehrabi, a professor of economics at Montgomery College in Maryland, has been a member of DAB's governing board since 2003.

A copy of a wire transfer order released under the Freedom of Information Act shows that the \$3.5 billion was withdrawn from DAB's account on 15 April 2022 – apparently by Dr. Ahady and Dr. Mehrabi, although the signatories' names are redacted – and placed temporarily in another Federal Reserve account, most likely controlled by the U.S. government (Rigsby, 2023; Appendix 2). But it took several months for the assets to find a more permanent home.

The Swiss Option

The team of U.S. officials still dedicated to Afghan affairs is apparently quite small: around a dozen people, most of whom do not speak to the media on record (personal communication, 2023). But their motives for seeking to move half the DAB assets overseas were not especially sinister. At the State Department's first press conference following the events of 11 February, spokesman Ned Price explained Biden's executive order:

Fundamentally, this EO is aimed at protecting and preserving funds for the benefit of the Afghan people, and we've taken

further steps to set aside 3.5 billion for such uses, to try to clarify that they cannot be attached or seized. The objective is to make these funds available for the Afghan people without having to wait for the full court process to conclude. (State Department, 2022)

Price received no follow-up questions on Afghanistan at this briefing, which took place ten days before the Russian invasion of Ukraine. But Washington's aims should have been clear enough: to move part of the assets beyond the jurisdiction of U.S. courts, where (as Senator Danaher had astutely noted in 1941) potential litigants against the Afghan state would be unable to reach them.

Nevertheless, it took more than six months to decide where the newly unlocked assets would be held. Although the Taliban's consistent position has been that all the DAB holdings should be returned immediately to the central bank's control, IEA negotiators seem to have shown some flexibility on this issue during unofficial negotiations in mid-2022. Speaking not long after those talks, one high-ranking Taliban official suggested that the Biden administration's plans could have been acceptable if they had incorporated a formal role for the IEA in the Fund's management, perhaps through a seat on its Board of Trustees (Taliban Official, personal communication, 2022). But it seems doubtful that Washington would entertain such a proposal, which was never floated publicly.

Soon after the Biden administration's initial steps to unlock some of the DAB assets, Washington apparently sought to push back on its early bad press, giving assurances to the Taliban that the funds would not be spent on humanitarian aid. After discussions in early March 2022, Mohammad Naeem, the IEA's political spokesman, announced in a Twitter thread (later partially deleted): "Both sides agreed that the Afghan Central Bank's USD \$3.5 billion unfrozen assets from the U.S. bank shall in no circumstances be given to charity organizations" (Naeem, 2022).

But the United States continued to insist that no funds would be returned to the central bank while it remained under the control of the de facto regime, in part due to the appointment in late 2021 of a U.N.-sanctioned Taliban official as its deputy governor (Talley et al., 2022). More recently, a USAID-sponsored assessment of DAB found in March 2023 that no fewer than three sanctioned persons had assumed leadership posts at the bank (SIGAR, p. 47).

The IEA appears to have understood that without some guarantee that funds made available to the central bank would not be misused – a guarantee it could not credibly provide – there was no real alternative to an ad hoc arrangement for disbursing them. But although a U.S. proposal and IEA counter-proposal for management of the assets were exchanged in June 2022, no agreement seems to have been reached. By this point Switzerland was already under consideration as the domicile for some type of overseas trust fund, which was expected to be inaccessible to potential legal action (Greenfield & Landay, 2022).

The final impetus for action may have been Judge Netburn’s preliminary opinion on the merits of the *Havlish* claims, issued on 26 August 2022, in which she held that none of the DAB assets could legitimately be seized (Netburn, August 2022). The Afghan Fund was formally incorporated in Geneva seven days later, and the \$3.5 billion withdrawn from DAB’s New York account in April was transferred again in early October to the Fund’s account at Switzerland’s Bank for International Settlements (personal communication, 2024).

A Flawed Structure?

Swiss non-profit foundations resemble charitable trusts in Anglo-American common law, but with several crucial differences.

Under the provisions of the Civil Code, the establishment of a foundation begins with one or more “founders”, who contribute its endowment, register its governing charter (*statuts*) with the authorities, and appoint the initial members of its Board of Trustees. Once appointed, the Board exercises near-total control over the foundation’s assets, with few restrictions on their use beyond any the charter itself may impose (von Rechteren, 2012). And unlike tax-exempt charities in the United States and some other countries, Swiss foundations are not required to make public financial disclosures – one reason, perhaps, that the Biden administration chose Switzerland for the headquarters of the Fund.

The Afghan Fund’s goals and structure are historically unprecedented. Unlike the asset transfers made during the Second World War, its establishment did not aim to support a recognized exile government, since none exists. Instead, the Fund’s chartered purpose is “to receive, protect, preserve and disburse assets for the benefit of the Afghan people, including for foreign exchange rate and price stabilization objectives”: a remarkably

open-ended mandate, ruling out no use of the money that can plausibly be described as beneficial to Afghans (FAP, June 2023). But in announcing its creation in a joint statement on 14 September 2022, the State Department and Treasury Department made more specific informal proposals, suggesting that the Fund's role might include "paying for critical imports like electricity, paying Afghanistan's arrears at international financial institutions to preserve their eligibility for financial support, [and] paying for essential central banking services like SWIFT payments" (Treasury Department, 2022).

The reference to possible payments for electricity sparked further criticism, since it could have been understood as proposing a direct infusion of cash to the state-owned power supplier, Breshna Sherkat. But it seems more likely that Treasury did not envision covering the cost of electricity imports, instead settling Breshna's dollar invoices from power suppliers in Central Asia while receiving equivalent payment in afghanis from Breshna itself. By doing this for the power company and other key importers, the Fund would become a type of shadow central bank: settling foreign-currency transactions much as DAB itself had once done.

But as of September 2024, despite six meetings of the Fund's Board of Trustees, nothing has been done to mobilize the Fund's resources for this purpose. Few practical preparations have been made to allow the Fund to handle international payments: in particular, by hiring technical personnel to enforce rules against money laundering and the financing of terrorism, generally known as AML/CFT compliance. At its fourth meeting on 2 October 2023, the Board agreed only that it would engage legal advisors "to assist with developing a framework to assure that the Fund has in place appropriate due diligence and controls procedures related to any potential disbursements" – suggesting that the road ahead will be very slow (FAP, November 2023).

Although the Fund's public communications have been very sparse, it appears that two factors have contributed to the lack of progress.

The first is the Taliban's categorical rejection of the Fund itself, whose creation it instantly denounced as "unacceptable and a violation of international norms". A spokesman for the IEA foreign ministry added that any persons or entities in Afghanistan making use of the Fund's assets would face fines and perhaps other penalties (Greenfield & Landay, 2022).

With talks between February and September 2022 having failed to gain buy-in from the Taliban on the Fund's legitimacy, this stance drasti-

cally limited its freedom of action from the start. And although civil society groups such as U.S.-based Unfreeze Afghanistan have proposed compromise measures in which funds would be released to DAB in tranches with monitoring against diversion by the Taliban (Savage, 2022), these appear not to have been accepted by either side.

A less obvious stumbling block has been the Fund's unusual voting structure, which requires unanimous consent by its four trustees to disburse any of its resources.

Washington appears to have intended for one seat on the Board of Trustees to be held indefinitely by a representative of the U.S. government. This seat was filled initially by Scott Miller, the U.S. ambassador to Switzerland, and has been held since February 2023 by Jay Shambaugh, Under Secretary for International Affairs at the U.S. Treasury Department. The senior Swiss diplomat Alexandra Baumann holds a second seat, meeting a legal requirement that at least one trustee must hold Swiss citizenship or residency (since there is little reason to think that Switzerland has an independent strategy for managing the Fund's assets, any serious disagreement between the U.S. and Swiss trustees seems unlikely). The remaining seats went to Dr. Ahady and Dr. Mehrabi, who had previously been authorized to withdraw the assets from DAB's New York account and acted as the Fund's legal founders, appointing themselves to the Board along with Miller and Baumann.

It remains unclear whether either of the Afghan trustees objects to the U.S. government's proposed uses of the central bank assets. But with the Fund now approaching its third year of existence, none of those proposals has yet been implemented. The one substantive decision made so far appears to be only an agreement in principle.

At the Fund's fifth board meeting on 29 January 2024, the trustees "agreed that the Fund will make a first disbursement to the Asian Development Bank, intended to address Afghanistan's outstanding arrears to that institution" (FAP, February 2024). Since Jay Shambaugh's board seat gives the Treasury Department veto power over the Fund's actions, this almost certainly reflects a prior decision by the United States to unlock funding to Afghanistan by the multilateral development banks, much of which supported investment in transport and electric power infrastructure before the Taliban's return.

But as of September 2024, no payment on these arrears had been made, despite the fact that concerns about counterterrorism compliance

would seem to pose no obstacle. Nor have there been any steps to pay for the printing and delivery of new afghani banknotes to replace the country's threadbare stock of paper currency, as had been discussed as early as 2022.

One leading private-sector figure has suggested that the U.S. government had no contingency plans for a possible lack of cooperation by the Afghan trustees and may now be waiting for their two-year terms of office to expire on 2 September 2024 (personal communication, 2023).

Possible Solutions: Thinking Outside the Box

Until the Taliban drop their fundamental objections to the creation of the Afghan Fund, there are in any case limited options for putting its assets to use. An evaluation of DAB commissioned by the Special Inspector General for Afghanistan Reconstruction (SIGAR) and completed in spring 2023 left the situation unchanged, reaffirming Washington's view that the central bank is not independent and lacks the necessary controls to prevent money laundering and the financing of terrorism (SIGAR, 2023). After two days of discussions in Doha in late July 2023, the State Department announced that "U.S. officials [had] voiced openness to a technical dialogue regarding economic stabilization issues soon", hinting that the IEA may now have expressed a willingness to work with the Fund under certain conditions (State Department, 2023).

But if another constraint is disagreement among the Fund's trustees, a more cooperative attitude by the Taliban may not lead to movement in the near term. Neither the United States nor the IEA has full legal control over the Fund's assets, which have been transferred irrevocably into an autonomous non-profit entity – a questionable decision, since any single trustee can prevent its assets from being released. Assuming the deadlock on the board is eventually resolved, however, it may be appropriate to look at innovative ways in which the Swiss funds could be deployed to support Afghanistan's economy.

The need to facilitate cross-border payments and settlements remains as pressing as ever. But what would be the practicalities of allowing the Fund to act as an "equivalent" to the largely paralyzed central bank, as proposed by Human Rights Watch, among others (HRW, 2022)?

The most straightforward approach would be to give the Fund some type of quasi-official status, allowing it to engage directly with private

Afghan and foreign banks by setting up correspondent accounts to settle import and export transactions. The trustees have made some moves in this direction, securing “privileges and immunities” from the Swiss Government on a par with those enjoyed by international organizations (Federal Council, 2024). But without a qualified (and very expensive) team of personnel to monitor AML/CFT compliance for individual transactions, a change to the legal status of the Fund is unlikely by itself to allow action in the near term.

One possible alternative would be to work with an international bank with established AML/CFT infrastructure: possibly the state-controlled Qatar National Bank (QNB), whose cooperation would only require the approval of the Qatari government.

In this scenario, the Fund would lend part of its dollar holdings to Da Afghanistan Bank in Qatar to open a *nostro* account at QNB in the central bank’s name. Subject to QNB’s existing controls, DAB would then be authorized to make foreign-currency payments on behalf of Afghan importers in exchange for afghanis received domestically by the central bank and remitted to Qatar. Afghan exporters and other net generators of foreign exchange, such as humanitarian relief organizations and migrants sending remittances, would similarly be able to receive afghanis on the ground in exchange for dollars transferred to QNB (the Fund might also make loans in Qatar to some of the major private Afghan banks to allow them to set up *nostro* accounts of their own, promoting competition and lower costs in the payments market).

Since it is not obvious that Afghanistan needs such large reserves for macroeconomic purposes,⁴ both the international community and the Taliban should also examine ways to redirect some of these assets for longer-term development goals.

One approach might be to leverage the Fund’s assets to attract foreign investment in renewable energy. Afghanistan remains both short of electricity and dependent on power imports from neighboring countries, constraining growth in other sectors of the economy. The country’s transition to zero-carbon energy is also unlikely to move forward without investments

4 At \$9.4 billion, Afghanistan’s forex reserves in August 2021 were far larger than the IMF recommends for mitigating external shocks, and even the \$3.5 billion available from the Fund alone exceeds several commonly recommended yardsticks: three months of import cover, 100% of short-term debt or 20% of broad money supply (IMF, 2011).

in domestic power generation. Although large-scale aid projects in this sector have been suspended since the IEA came to power, current tariffs for electricity are high enough to make photovoltaic and wind projects viable on a commercial basis – but only if a mechanism exists to mitigate the extreme risk of doing business in Afghanistan.

The Afghan Fund could facilitate such investments by selling political risk insurance to investors in zero-carbon electric power, guaranteeing compensation in case of expropriation, breach of contract, or losses due to war or civil unrest. One precedent from the former Republic was the Afghanistan Investment Guarantee Facility, set up in 2005 under the aegis of the World Bank's Multilateral Investment Guarantee Agency (MIGA). Although the Afghan facility insured only a handful of projects during its existence, it played a key role in bringing South Africa's MTN Group into the country's mobile telecom market (MIGA, 2011).

If similar assurances were delivered to the renewable power sector with collateral offered by the Fund, private money could be drawn into long-term infrastructure without committing additional donor funds or making the Fund's own assets available to the *de facto* authorities. With Western governments reluctant to offer their own resources for anything beyond urgent humanitarian relief, this could begin to address one of the country's most pressing development needs using funds already acknowledged as belonging to the Afghan state.

Whether such an approach would be politically feasible, or even attract significant investor interest, is still uncertain. But with the United States and the IEA still searching for consensus on some use of the funds, mobilizing them to attract capital for Afghanistan's infrastructure needs may be less controversial than disbursing them directly or keeping them idle in Switzerland until the political winds change.

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Appendix 1 - Letter from Kauffmann to Hull

DECLASSIFIED
 AUTHORITY: 28 CFR 1.16
 DATE: 10/11/01



April 16, 1941

Handwritten: April 18, 1941

Handwritten: File C. 6
 DEPARTMENT OF STATE
 APR 26 1941

My dear Mr. Secretary:

I, Henrik de Kauffmann, Minister of Denmark to the United States, and the accredited representative of Denmark to the Government of the United States, hereby certify, pursuant to the provisions of Section 25(b) of the Federal Reserve Act, as amended, that Einar Blechingsburg and/or I have authority to receive, control, and dispose of the amount on deposit with and held by The Riggs National Bank, Washington, D. C., to the credit of the Danish Legation and Danish Legation, Special, accounts which is authorized by the license (a copy of which is attached), dated April 16, 1941, issued by the Acting Secretary of the Treasury to The Riggs National Bank, to be paid, transferred and withdrawn from such accounts.

I likewise certify that I have authority to receive, control and dispose of the amount on deposit with and held by The Riggs National Bank, Washington, D. C., to the credit of the Danish Legation, Account No. 3, which is authorized by the above-mentioned license to be paid, transferred and withdrawn from such account.

Very truly yours,

Henrik de Kauffmann
 Minister of Denmark to the United States.

The Honorable
 The Secretary of State.

Enclosures

840.51 FROZEN CREDITS/1654

RS/LB

Handwritten: 100.512

Handwritten: JUN 5 1941

(b)(6) (b)(6)

April 15, 2022

Federal Reserve Bank of New York
 Central Bank and International Account Services
 33 Liberty Street, 9th floor
 New York, New York 10045

In accordance with the Security Procedure for the Authentication of Funds Transfer and Other Instructions, dated as of March 30, 2022, by and between Da Afghanistan Bank ("DAB") and the Federal Reserve Bank of New York (the "New York Fed"), we hereby request the New York Fed to execute a funds transfer, as further described below.

Unique Identifier (Transaction Reference Number) Limit: 16 characters	(b)(4)
DAB Account Number at New York Fed:	(b)(4)
DAB Account Name at New York Fed:	(b)(4)
Requested Value Date	4/15/2022
Amount (USD)	\$3,500,000,000.00
Originator Name and Address Limit: 33 characters each row	(b)(6)
Fedwire Receiver Routing Number	(b)(4)
Fedwire Receiver Bank Name	(b)(4)
Beneficiary Name and Address Limit: 33 characters each row	(b)(4)
Originator to Beneficiary Information (optional, /40 character limit)	Transfer of funds subject to OFAC License No. DABRESERVES-EO-2022-88895-1.

The purpose of this transaction is to transfer funds subject to the above-referenced license

(b)(4)

We understand that the New York Fed may require the authentication of this instruction in any manner of its choosing, including via telephone callback to known authorized individuals, and that the New York Fed is not under any obligation to execute the instruction requested.

(b)(6)

(b)(6)