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THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF AFGHANISTAN  
MINISTRY OF COMMERCE AND INDUSTRIES

DRAFT LAW ON PROTECTION OF TRADE SECRETS  
2013(1392)

# Law on Protection of Trade Secrets

## Table of contents

### Chapter One General Provisions

The title .....	page
Article 1: Basis.....	
Article 2: Objectives.....	

### Chapter Two Trade Secrets

Article 3: Trade Secrets.....	
Article 4: Misappropriation .....	
Article 5: Protection of Undisclosed Data Submitted to Governmental Authority..	

### Chapter Three Penalties

Article 6: Injunctive Remedies.....	
Article 7: Damages.....	
Article 8: Indemnification .....	
Article 9: Confidentiality .....	

### Chapter Four Miscellaneous Rules

Article 10: Applicability and Non-Discrimination .....	
Article 11: Enactment of Regulations.....	
Article 12: Date of Enforcement.....	

# Law on Protection of Trade Secrets

## Chapter One General Provisions

### Basis

#### Article 1:

This Law is enacted under Article forty seven of the Constitution of the Government of the Islamic Republic of Afghanistan.

### Objectives

#### Article 2:

The objectives of this Law are to protect trade secrets by prohibiting the acquisition, use or disclosure of those secrets through misappropriation.

## Chapter Two Trade Secrets

### Trade Secrets

#### Article 3:

1. For purposes of this Law, any information will be considered a trade secret if:
  - 1) It is secret in the sense that it is not, as a whole or in the precise way the components are put together, generally known among, or readily accessible to, persons within the circles that normally deal with the kind of information in question;

## Misappropriation

### Article 4:

1. The owner of a trade secret, or other natural or legal persons having such information lawfully within their control, will have the right to prevent any person from misappropriating that trade secret.
2. The acquisition, use, or disclosure of a trade secret by any person in a manner contrary to honest commercial practices and/or without the owner's consent shall constitute misappropriation of that trade secret.
3. For purposes of this Article, the following will be considered contrary to honest commercial practices:
  - 1) breach of contract;
  - 2) breach of confidence or inducement thereof;
  - 3) theft;
  - 4) bribery;
  - 5) misrepresentation of a fact or identity;
  - 6) espionage through electronic or other means; and
  - 7) any acquisition of a trade secret by third parties who knew, or were seriously negligent in failing to know, that dishonest commercial practices were involved in the acquisition.



Confidentiality  
Article 9:

In any proceeding involving alleged trade secrets, the courts must preserve the confidentiality of such trade secrets by reasonable means, which may include granting protective orders in connection with discovery proceedings, holding private hearings including all parties to the action, sealing the records of the action, and ordering any person involved in the proceeding not to disclose such trade secrets without prior judicial approval.

Chapter Four  
Miscellaneous Rules

Applicability and Non-Discrimination  
Article 10:

1. The provisions of this Law apply equally to nationals of Afghanistan and to nationals of other countries with which Afghanistan has concluded a treaty for the protection of intellectual property.
2. The provisions of this Law apply equally to nationals of countries other than those referenced in Paragraph (1) of this Article, who are domiciled or who have filed a request for

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