



## ARMENIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE MULTI-STAKEHOLDER GROUP'S MEETING MINUTES No. 13

05.09.2019 | Time: 15:20-18:00 | RA Government Meetings Hall

### Attendees: **Members of the Multi-Stakeholder Group**

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| <b>Chairperson:</b> Tigran Avinyan | Deputy Prime Minister   |
| Irina Ghaplanyan                   | First Deputy Minister of Environment  |
| Karen Isakhanyan                   | Deputy Minister of Territorial Administration and Infrastructure                                  |
| Lilia Shushanyan                   | Deputy Minister of Territorial Administration and Infrastructure                                  |
| Arman Poghosyan                    | Deputy Minister of Finance (alternate member)   |
| Artur Manukyan                     | Deputy Chairman of the RA State Revenue Committee (alternate member)                              |
| Perch Khachatryan                  | Head of Legal Department, "Zangezur Copper and Molybdenum Combine" CJSC                           |
| Vahe Vardanyan                     | General Manager, "Geomining" LLC  |
| Sona Ayvazyan                      | Executive Director, Transparency International Anti-corruption Center                             |
| Harutyun Movsisyan                 | Associate Professor, Department of Search and Exploration of Mine Sites, Yerevan State University |
| Inga Zarafyan                      | Chairperson, "Ecolur" Informational NGO   |
| Arthur Hambartsumyan               | Board member, "Civil Voice" NGO   |
| Andranik Aghabalyan                | Deputy General Manager, "GeoEconomics" CJSC (alternate member)                                    |

## Armenian EITI Secretariat:

|                      |           |
|----------------------|-----------|
| Lusine Tovmasyan     | Head      |
| Anahit Arustamyan    | Expert    |
| Satenik Hovhannisyan | PR Expert |

## Guests:

|                   |                           |
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| Narine Tadevosyan | World Bank Armenia Office |
| Gor Khachatryan   | GIZ                       |

## Absent members of the MSG:

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|---------------------|--|
| Davit Ananyan       | Chairman of the RA State Revenue Committee                           |
| Srbuhi Galyan       | Deputy Minister of Justice   |
| Artur Nikoghosyan   | Administrative Director, “Agarak Copper and Molybdenum Combine” CJSC |
| Armen Stepanyan     | Deputy President for Sustainable Development, “Lydian Armenia” CJSC  |
| Aram Osikyan        | General Manager, “ASSAT” LLC (alternate member)                      |
| Manvel Yeghiazaryan | Chief accountant, “Meghradzor Gold” LLC (alternate member)           |
| Davit Tadevosyan    | Deputy General Manager, “Teghut” CJSC (alternate member)             |

**Minutes taker:** Anahit Arustamyan

## AGENDA

### **1. Opening of the Meeting of Armenia's EITI's Multi-Stakeholder Group (MSG)**

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**T. Avinyan**, Deputy Prime Minister, Chairperson of the RA EITI MSG, welcomed the attendees and congratulated the MSG members on the occasion of the award bestowed upon Armenia by the Presidency of the EITI Global Conference held in Paris on 18-19 June. He added that it such appreciation among as many as 52 Member Countries was a great achievement and, at the same time, an extra responsibility for EITI Armenia.

Lilia Shushanyan, Deputy Minister of Territorial Administration and Infrastructure and Srbuhi Galyan, Deputy Minister of Justice were officially

introduced as members of the Multi-Stakeholder Group representing the Government. The MSG Chair noted that with these appointments, the Government was ensuring that the new requirement of the EITI Standard, i.e. encouraging gender equality in the Multi-Stakeholder Group, be met.

**It was noted** that the first validation of EITI Armenia would commence on September 9<sup>th</sup>, resulting in the evaluation of the implementation of the Standard's requirements in Armenia over the past three years. The Republic of Armenia will receive the EITI validation mission on November 4-8. During those days the validators will have meetings with the Multi-Stakeholder Group as well as representatives of individual constituencies, relevant authorised government agencies in the sector, stakeholder experts, civil society and the media, and will work with the Independent Administrator that is preparing the EITI Report. The MSG Chair voiced the expectation that the validation would result in a fulfilling assessment for Armenia, and, irrespective of the validation process, all the constituencies of the Multi-Stakeholder Group would continue to implement the EITI readily and in high speeds, with the ultimate goal of enhancing the transparency and accountability in the sector and introducing and reinforcing good governance practices.

The MSG Chair **informed** that the work on creating a system for disclosure of beneficial ownership is currently actively underway. In particular, the EITI Inter-Agency Working Group on Beneficial Ownership Disclosure, with the participation of a consultant engaged with the support of GIZ, EITI Armenia's partner, is in the process of drafting sub-legislation to ensure the disclosure of the beneficial owners.

It was also emphasized that the EITI MSG served as a platform to carry out informed public debate and make decisions acceptable to all parties. In view of this, it is important to ensure the active involvement of the MSG in the process of development by the Government of the Republic of Armenia of the sectoral policy and legislation. This must first of all be achieved on the initiative of the members who represent the Government.

### **Agenda Items**

Prior to discussing the agenda items, the candidature of Arthur Manukyan, Deputy Chairperson of the State Revenue Committee, **was proposed** as an alternate member of the MSG's Government constituency. **The proposal** was accepted by the MSG's respective constituency.

#### **1. Approval of First and Second Quarterly Reports of 2019 on the Implementation of EITI in Armenia and the Amendments to the 2018 Annual Report (not to be discussed)**

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The Multi-Stakeholder Group **approved** by general agreement (consensus) the First and Second Quarterly Reports of 2019 on the implementation of EITI in Armenia

and the revised version of the 2018 EITI Annual Report: the latter has taken into account the recommendations made by the EITI International Secretariat.

## **2. Presentation of Current Activities**

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**The EITI validation process. Presentation of Armenia's first validation schedule and discussion of issues such as setting up meetings with individual constituencies prior to the visit of the validators, etc.**

A brief outline of the validation process and the preliminary agenda of the validation mission were presented by the RA EITI Secretariat. Those present were informed that on the days of the validation mission an MSG meeting will be held; the validators would also have meetings with all the constituencies separately. The meeting with the civil society constituency would be held without the presence of the National Secretariat. The National Secretariat suggested to organise separate working meetings with the three constituencies of the MSG prior to the start of the validation mission. The suggestion **was accepted** by the MSG.

### **Study on systematic data disclosure**

It was reported that the feasibility study of the systematic data disclosure (mainstreaming) had been launched. The Secretariat met with the expert conducting the study: the work schedule was approved. During the course of the study, the expert will meet with the executives of all government agencies which possess mining sector data. The study will result in a roadmap to embed the EITI disclosures, and a future Implementation Action Plan which will include the necessary actions, responsible parties, timelines and the needs for resources and technical assistance. The study is being implemented by the project "Support to the Implementation of the Global Extractive Industries Transparency Initiative (EITI) in Armenia, Georgia and Ukraine" under the umbrella of the GIZ Eastern Partnership Regional Fund for Public Administration Reform.

### **International projects proposed under the new EITI Standard**

Project proposal: "Promoting Gender Equality in the EITI Implementation Process."

The 2019 EITI Standard requires that the MSG should consider gender balance in their representation, and the employment information should be disaggregated by gender and, when available, further disaggregated by company and occupational level. The MSG is also encouraged to document how it has taken gender considerations and inclusiveness into account.

Within the framework of cooperation with GIZ, a project proposal was submitted, with the following main components:

1. Gender issues in the MSG, appropriate training.

2. Considering gender issues in the context of implementation of socio-economic projects of companies. The aim is to examine the impact of the socio-economic projects implemented by companies on different social groups and the additional employment opportunities these projects create in the affected communities. The work is planned to be carried out in parallel with developing the Second Report of Armenia.

3. Considering gender and social inclusion issues in the context of local procurements (acquisition of services and goods). As a result, a comprehensive reporting guidebook will be developed, planned for 2020.

The Secretariat **informed** that Ukraine's EITI would submit a project proposal on sharing experiences between a number of countries implementing EITI with the World Bank support. The project proposal will be discussed at the EITI Board meeting in Addis Ababa in October. The countries involved in the proposed project are Ukraine, Armenia, Albania and countries wishing to join the EITI, specifically, Tunisia and Lebanon. Under the project a number of meetings and experience sharing workshops are planned to be held, involving the participating countries, on beneficial ownership disclosure, open contracts, strengthening civil society participation and introducing new EITI Standard's requirements. The planned project time frame is June 2020 to June 2021.

### **The course of the EITI National Report development tender**

The selection process of an Independent Administrator for preparing the Second Report of EITI of Armenia was presented by the RA EITI MSG's government constituency (GC). The MSG decided to establish a principle according to which it is preferable that the same company shall not develop the Report for the third consecutive year, or the experience of developing the Report for the previous two consecutive years shall not be considered an advantage.

### **3. Introducing Changes to the EITI MSG's Terms of Reference and Approving the Terms of Reference**

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The Secretariat **presented** the proposed changes to the RA EITI MSG's ToR, in particular the proposal of the civil society constituency to make adjustments to the provisions of the ToR regarding the calculation of the term of MSG's Members' powers. Specifically, it is proposed to establish that *the MSG members and alternate members shall be appointed for a term of three years. The term of powers of a member of an MSG member shall be calculated from the date of nomination by the relevant constituency as an MSG member or alternate member. The three years shall be calculated as the sum total of the terms of consecutive MSG membership and alternate membership, regardless of their succession. After nominating the MSG*

*member(s) or alternate member(s) by the relevant factions by the respective constituencies, the composition of the EITI MSG of the Republic of Armenia shall also be approved by the Decree of the Prime Minister of the Republic of Armenia.* The need for the change arises from the fact that usually the time of nomination of MSG members and the time of issuing the Decree of the RA Prime Minister do not coincide, while pursuant to Requirement 1.4. (ii) of the EITI Standard the constituencies of the MSG shall select and nominate the members of their constituency independently: thereupon the nominated members shall be MSG members (or alternate members). The Secretariat presented that there had been no objections to the changes submitted by the MSG constituencies. The changes had been submitted to the EITI International Secretariat, and the International Secretariat sent an opinion according to which the changes meet the requirements of the EITI Standard. The next proposed change relates to presenting, in the minutes of the meeting the opinions (suggestions, comments and/or speeches) voiced during the meeting, by the constituency. Exceptions may be made at the request of the participants. It was also noted that the changes would extend to the relations that emerged after the adoption of the changes. The MSG's civil society constituency (CSC) member **stated** that he sees no contradiction with the EITI Standard and has submitted objections to the proposed amendment, according to which the proposed amendment did not comply with the rules for drafting legal acts. The MSG Chair **wrapped up** the discussion, presenting that all the three constituencies of the MSG, with the exception of one member from the CSC, were for the proposed changes and, in accordance with the procedure established by the ToR, the amendments were considered to be accepted.

A member of the extractive companies' constituency (ECC) **suggested** that although it ensues from the ToR that an MSG member may be re-elected, it should be clearly stated in the ToR that being a member once for three years shall not be an obstacle to the member being re-elected by the respective constituency after the completion of this period. A provision of the ToR stipulates that at least one month before the expiration of the term of office of an MSG member, the respective constituency shall nominate the candidacy of the next member of the MSG to replace the MSG member in question, giving rise to the perception that an MSG member shall not be replaced by the same person. The next proposal concerns the timing of ad hoc meetings. The ToR establishes that upon the request of 2/3s of members of any constituency the Chair shall convene an ad hoc meeting of the MSG but no time limit is set. **It was suggested** to set one-month period of the request for such meeting. **It was also proposed**, upon absence of a quorum, to set a one-month period in case it is necessary to convene a meeting with the same agenda.

The MSG **approved** the proposed changes and additions to the ToR of the Armenian EITI MSG by general agreement (consensus).

#### **4. Presentation and Approval of the Terms of Reference for the Scoping Study for Extending the Scope of EITI in 2020**

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The Draft Terms of Reference for the Scoping Study for extending the scope of EITI in 2020 **was presented**. The ToR recommends to carry out a Scoping Study in the areas proposed by various MSG constituencies, namely, in metal ore or concentrate processing (metal smelting), mineral groundwater extraction and non-metallic ore extraction, in order to determine their materiality from the EITI perspective and for the MSG to make an informed decision about subjecting such areas to EITI reporting. The Secretariat informed that the MSG held a working meeting on August 27 on determining the framework of the Scoping Study, during which a number of issues were discussed. It was presented that the views of the MSG constituencies on a number of issues do not match.

A member of the ECC of the MSG **presented** the view of the constituency according to which the operation of the foundries is not based on the requirements of the EITI Standard. Instead, a more in-depth study of the mineral waters and some non-metallic ore extraction could be done.

**It was noted** that in the case of foundries, a number of EITI Standard requirements are not applicable, such as the permits, or technically it is not possible to present the financial data in terms of local mineral processing, in response to the EITI Standard requirement for project level reporting.

A member of the MSG CSC **mentioned** that the issue of subjecting the foundries to reporting has been under discussion since 2017, and he believes that the processing level, i.e. the secondary level, is part of the value chain. Additionally, if a legal entity with an extraction permit is currently engaged in ore processing, it is considered accountable to EITI for its processing activities. The activities of ore processing companies raise quite a number of environmental issues: their socio-economic impact is essential too. The CSC **expressed** its view that the foundries should be considered within the framework of the EITI Scoping Study, regardless of whether they processed local raw materials during the reporting year.

A member of the GC of the MSG **voiced an opinion**, that consideration of the of processing companies is also appropriate from the point of view of affiliation. It has been suggested to present in the Scoping Study the possibility or appropriateness of bringing the sector into the field of permits, taking into account the international experience.

A member of the GC **stated** that it would be necessary to provide a classification of activities for entities engaged in processing. **It was also suggested** to

identify the purpose of consideration of the sequential links in the value chain. If the concern relates to affiliation, there are two toolkits established by the tax legislation: transfer pricing regulations that will be applied within four months, and the indirect tax recalculation if the companies have reported distorted tax data.

The representatives of the ECC **suggested**, in case the processing companies are considered, to also explore the local companies involved in buying and selling ores or concentrates.

The CSC representative **stated** that EITI deals with the proper management of natural resources, which does not concern only financial accountability.

The MSG GC member **proposed** to remove the non-metallic mineral extraction sector from the Terms of Reference, because, considering the state revenue from the sector, it can be concluded that the sector is not material in terms of subjecting it to EITI reporting. The issue should also be considered from the perspective of not unnecessarily increasing the administrative burden of the companies operating in the field.

The MSG GC **presented the opinion** that although the financial materiality of the sector is small, the non-metallic mineral extraction sector has a rather large adverse environmental impact, especially in terms of air pollution, therefore it is important to explore the sector in terms of value and harm ratio, but not in the context of the Scoping Study.

Taking into consideration the limited financial resources, the MSG **made the decision** to review, within the Scoping Study, the sectors of mineral groundwater extraction and processing of metallic natural resources (including the operation of the local companies involved in buying and selling ores and concentrates), and to consider the non-metallic mineral extraction sector. A member of the MSG ECC **made a recommendation** to make appropriate adjustments to the Terms of Reference of the Scoping Study in accordance with the discussions and of the meeting and the decisions of the MSG. The Secretariat **informed** that the revised version of the Terms of Reference would be submitted to the MSG, which will be approved electronically.

## **5. Presentation and Approval of the Concept Paper “The Approach of the MSG of EITI Armenia to Responsible Mining”**

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A member of the MSG GC, Chair of the Responsible Mining Working Group **presented** the draft concept paper “The Approach of the Multi-stakeholder Group of EITI Armenia to Responsible Mining”.

Another representative of the MSG GC **recommended** to edit Section 2.9, target “Integrity in the Business Environment“, Chapter 3, “Exploring opportunities for developing and implementing an insurance policy for liability and indemnity for the damage caused to the life and/or property of third parties as a result of the mining-related operations, removing the words “liability and indemnity for the damage caused to the life and/or property of third parties” because such a formulation implies a clear mechanism, a need for conducting a specific study, which is not a conceptual approach but rather a matter of policy and strategy development.

The multi-stakeholder group approved the concept paper by general agreement (consensus), provided that appropriate adjustments be made by editing the paragraph so as not to restrict or impose those particular types of insurance. The following general formulation was provided: “Exploring opportunities for implementation of insurance mechanisms in mining-related area of operation”.

## **6. Presentation of the Draft Sub-legislation on Beneficial Ownership Disclosure**

A member of the MSG GC **presented** the elaborated draft sub-legislation on disclosure of beneficial ownership: Draft Order of RA Minister of Justice “On Establishing the Form of the Declaration on Beneficial Ownership and the Procedure for Completing and Submitting the Form” and the Draft RA Government Decree “On Establishing the List of Data in the Declaration on Beneficial Ownership Subject to Publication (Provision)”.

**It was noted** that the EITI Armenia Working Group on Beneficial Ownership Disclosure had adopted a clear approach: all data not in contradiction with the RA legislation should be made public. **The attendees were informed** that the Draft RA Government Decree “On Establishing the List of Data in the Declaration on Beneficial Ownership Subject to Publication (Provision)” had been submitted to the Personal Data Protection Agency of the Ministry of Justice of the Republic of Armenia for an opinion, which had been taken into account when preparing the final draft.

**It was noted** that by the order of the Minister of Justice of the Republic of Armenia the Declaration will include information on the company, on each beneficial owner of the company and information on their affiliated persons. The RA Law AL-24-N (ՀՕ-25-Ն) “On State Registration of Legal Entities, Separated Divisions of Legal Entities, Enterprises And Private Entrepreneurs” dated 23 April 2019 enables not only to establish an affiliation, but also the companies and individuals the company is affiliated with, thereby revealing new affiliations. The Declaration also includes a question, where a State, or a community has participation in the legal person, or the

legal person is an international organisation, respectively, to determine the participation size and level of control.

The Secretariat **proposed** to provide clarity in connection with the companies which had applied for the right (permit) to geological exploration, the right to geological exploration of the mineral resources for the purpose of extracting minerals, and the right to mineral extraction, but their applications were rejected. Such companies attach information to the application on beneficial owners, i.e. they have an obligation to complete a declaration on disclosure of beneficial ownership, however, where they are rejected the respective permit, the information continues to remain in the State Register database and after a while becomes outdated.

**It was suggested** that the Terms of Reference of the software should include making a note in the State Register about the the company's "not being considered to be a discloser of beneficial ownership".

A member of the MSG GC **stated** that the issue of submitting the Declaration and the documents certifying the right to ownership, attached to the Declaration, in Armenian or their certified Armenian translation in electronic format and/or hard copy has been omitted in the legal act.

A member of the MSG ECC **noted** that it is impossible to verify consular validation online, and submitting supporting documents online would burden the system. **It was suggested** that, in order to relieve administration, the RA Ministry of Justice should establish clear time frames for administration purposes, for the companies to submit the Declarations and the cover documents and for the inspection by the State Register of Legal Entities. It was also suggested that companies should within the specified time frame complete both the electronic versions and hard copies of the documents, thereby placing the responsibility for error on the companies, while State Register Agency of Legal Entities should validate the reported data or enter such data into the system only after comparing the original(s) with the electronic version(s) within the specified time frames. **It was also noted** that it was necessary to set appropriate time frames for submitting and validating the data, based on the need for clarifications.

**It was suggested**, considering that in theory it was not possible to have the software for completing the Declaration electronically and providing online access available by 30 November 2019, to submit a draft amendment to the Republic of Armenia Mining Code, on moving the deadline for submitting by the mining companies of the first Declaration on beneficial ownership from 30 November 2019 to 30 January 2020.

The multi-stakeholder group **accepted** the proposal for the above amendment by general agreement (consensus).

**It was decided** to organise a final meeting of the Working Group on Beneficial Ownership Disclosure on the documents, after summarising the submitted opinions. During the meeting the issues raised at current meeting would be discussed with the participation of representatives of the RA Ministry of Justice and the State Register of Legal Entities of the RA Ministry of Justice, to provide final solutions.

**The attendees were also informed** that the final sublegislation on disclosure of beneficial ownership would be submitted to the factions of the RA National Assembly for their opinions.

## **7. Issues Related to the Disclosures in the EITI Armenia 2018 National Report**

- **It was decided** to move the discussion on enhancing the transparency of proper accountability of the funds included in the agenda to the next meeting because a relevant legislative package was currently in circulation.
- A member of the MSG GC **informed** that amendments to the Law of the Republic of Armenia AL-188 (<O-188) “On Targeted Use of Environmental Fees Paid by Companies” dated 15 May 2001 had been initiated, pursuant to which the Law will establish the formulation “metal mining companies” rather than specifying the concrete metal mining companies which pay environmental fees and deductions from such fees paid by them are used for the implementation of targeted environmental projects. **It was also informed** that following the adoption of the Law on making amendments and additions to the above Law, a Decree of the RA Minister of Territorial Administration and Infrastructure will be issued, according to which the affected communities which had received a subvention should report separately in this regard.
- **It was informed** that in response to the assignment dated 27 March 2019 by Deputy Prime Minister Tigran Avinyan, related to statements to be provided by the RA Ministry of Territorial Administration and Infrastructure on unregistered real estate owned by the companies in the communities, the RA Ministry of Territorial Administration and Infrastructure submitted a list of the communities where unregistered real estate owned by the community had been detected, and an assignment was sent to the Inspectorate for Nature Protection and Mineral Resources and the Inspectorate for Urban Development, Technical

Standards and Fire Safety, to do an analysis and submit recommendations by 16 September on resolving the issue.

## **8. Current State of the Mining Sector: The Principles Proposed by Civil Society**

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**It was decided** to discuss the issue raised by the MSG CSC at a working meeting.

### **Other issues**

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A member of the MSG CSC **presented** that the EITI CSC was planning to organize public debates between the MSG members and the stakeholders during the period September 20-25. Different proposals were collected in advance from the population of 14 towns and villages from among the affected communities of six major mining companies.

**It was decided** to hold the event in October, to ensure the presence of the MSG members.

The EITI Secretariat **recommended** to inform the MSG members about all public discussions on draft laws posted by the Legal Department of the RA Ministry of Environment on the [www.e-draft.am](http://www.e-draft.am) website: the RA Law “On Making Amendments to the RA Law ‘On Environmental Assessment and Expertise’”; the RA Law “On Making Amendments to the Mining Code of the Republic of Armenia”; the RA Law “On Making a Change to the Administrative Offences Code of the Republic of Armenia”; and the RA Law “On Making a Change to the ‘Law of the Republic of Armenia on State Duty’”.