



ARMENIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE MULTI-STAKEHOLDER GROUP'S MEETING MINUTES No. 10

Date: 31 July 2018 | Time: 5:00 PM-19:00 | RA Government

Attendees: Members of the Multi-Stakeholder Group

Chairperson: Ararat Mirzoyan	First Deputy Prime Minister
Irina Ghaplanyan	First Deputy Minister of Nature Protection
Vardan Gevorgyan	Deputy Minister of Energy Infrastructure and Natural Resources
Karen Isakhanyan	Deputy Minister of Territorial Administration and Development
Arman Poghosyan	Deputy Minister of Finance (alternate member)
Artur Nikoghosyan	Administrative Director, “Agarak Copper and Molybdenum Combine” CJSC
Perch Khachatryan	Head, Legal Department, “Zangezur Copper and Molybdenum Combine” CJSC
Armen Stepanyan	Deputy President for Sustainable Development, “Lydian Armenia” 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
Arthur Hambartsumyan	Board member, “Civil Voice” NGO
Aram Osikyan	General Manager, “ASMAT” LLC (alternate member)
Andranik Aghabalyan	Deputy General Manager, “GeoEconomics” CJSC (alternate member)

Armenian EITI Secretariat:

Lilya Shushanyan	Head
Lusine Tovmasyan	Expert

Guests:

Zaruhi Matevosyan	Advisor to the Deputy Prime Minister
Mariam Galstyan	Ministry of Justice
Vigen Avetisyan	Ministry of Nature Protection
Narine Tadevosyan	World Bank Armenia Office
Artashes Davtyan	British Embassy to Armenia
Alen Amirkhanyan	American University of Armenia's Center for Responsible Mining (AUA CRM)
Hovhannes Margaryants	GIZ Armenia Office

Independent Administrator:

Vahagn Marukhyan	Ernst and Young CJSC
Anzhela Harutyunyan	Ernst and Young CJSC
Levon Gevorgyan	Ernst and Young CJSC
Kamo Karapetyan	Ernst and Young CJSC
Marika Harutyunyan	Ernst and Young CJSC

Absent members of the MSG:

Davit Ananyan	Chariperson, State Revenue Committee
Suren Qrmoyan	Deputy Minister of Justice
Inga Zarafyan	Chariperson, "Ecolur" Informational NGO
Davit Tadevosyan	Deputy General Manager, "Teghut" CJSC (alternate member)
Manvel Yeghiazaryan	Chief accountant, "Meghradzor Gold" LLC (alternate member)

Minutes taker: Lusine Tovmasyan

AGENDA:

Opening of the RA MSG Meeting; Introduction of New MSG Members; and Presentation of the EITI Board Decision on Extending the Deadline for Publication of the EITI Report

A. Mirzoyan, as the Chairperson of the MSG of Armenia's EITI and the chairperson of the meeting, welcomed the attendees and introduced the new members of the Multi-Stakeholder Group representing a) the government constituency: Irina Ghaplanyan, First Deputy Minister of Nature Protection; Suren Ormoyan, Deputy Minister of Justice and Arman Poghosyan, Deputy Minister of Finance, as an alternate member; b) the alternate members of the constituency of the extractive companies Aram Osikyan, General Manager, "ASMAT" LLC; Andranik Aghabalyan, Deputy General Manager, "GeoEconomics" CJSC; Davit Tadevosyan, Deputy General Manager, "Teghut" CJSC and Manvel Yeghiazaryan, Chief accountant, "Meghradzor Gold" LLC . The composition of the Multi-Stakeholder Group was approved by Decision N 960-A of the Prime Minister of the RA dated 16 July 2018. It was emphasized that the MSG's civil society constituency should select and nominate the fifth member of the group.

It was announced that in response to the application of the MSG filed to the EITI Board on extending the deadline for publication of the first Report by the EITI of Armenia, the EITI International Secretariat has forwarded the decision of the EITI Board on postponing the publication of the Report until 9 March 2019. However, the MSG has made a decision to publish Armenia's first Report until the months of November-December, 2018.

The Issues Considered

1. Approval of First and Second Quarterly Reports of 2018 on the Implementation of EITI in Armenia

It was stated that the First and Second Quarterly Reports of 2018 on the implementation of EITI in Armenia were prepared and circulated among the MSG members; the latter have not submitted opinions on the Reports. The activities implemented during the reporting period were presented briefly: specifically, a) during the reporting periods the RA laws and the Decision of the Government of the RA were adopted which regulate the processes of submission of EITI public reports and publication of the information required by the EITI Standard; b) the activities of development of Armenia's EITI's official website and the platform for online presentation of Reports started; c) activities were performed with partner donors; d) meetings were held with the mining companies; e) training courses were conducted for the responsible parties of government agencies, community representatives, journalists and the CSOs; f) pursuant to the decision of the EITI International Board, EITI's Annual Report was prepared, approved and published;

and g) other activities established by the EITI Work Plan were implemented. The attendees were informed that the EITI membership fee had been paid.

The Multi-Stakeholder Group approved the First and Second Quarterly Reports of 2018 on the implementation of EITI in Armenia.

2. Approval of Armenia's EITI Communication Strategy and Action Plan

The attendees were informed that AUA CRM has submitted the finalized version of Armenia's EITI Communication Strategy and Action Plan which were circulated among the MSG members.

A recommendation was made, if possible, to provide the information about the implementation of EITI in Armenia to the MSG members and the EITI Secretariat prior to publication, and, as necessary, to obtain the agreement of the MSG for its dissemination. An objection was made that in some cases that would not be possible, especially in the cases of provision of the information in verbal form. However, it was recommended, when providing information about the EITI implementation, to avoid disseminating false or incomplete information, as well as information which might create ambiguity.

The Multi-Stakeholder Group approved Armenia's EITI Communication Strategy and Action Plan, without the recommendation.

3. Introduction of the Independent Administrator and Presentation of the Course of Collection of Information for EITI First Report

It was stated that as a result of the competition held within the framework of the WB grant project "Support for EITI Implementation in Armenia," an auditing firm (hereinafter referred to as Independent Administrator) was selected by the Selection Committee comprised of representatives of MSG constituencies and was afterwards it approved electronically by the MSG. The first EITI Report of Armenia will be prepared by "Ernst and Young" CJSC auditing firm. The representatives of "Ernst and Young" CJSC who were attending the meeting and were responsible for the preparation of the Report, introduced themselves to the MSG. The attendees were informed that a contract had been entered into with the said company, and the activities of preparing the Report had already started. The report would be prepared and submitted in accordance with the deadlines set by the ToR. The representatives of the Independent Administrator informed that the process of submission of public reports through the online reporting system had already been launched. A guideline on completion and submission of reports has been prepared and published. Recommendations have been made about the technical shortcomings of the online system that are being adjusted. Contact is maintained

with reporting entities and government agencies, in order to answer the questions related to registration in the system and completion of reports, and to provide support. Questionnaires are being developed for requesting information from stakeholders: these would be used by the government agencies to submit non-financial information, in accordance with the agreements reached during the meetings. Currently works are underway to prepare the Inception Report.

4. Presentation of the Package of Draft Laws on Beneficial Ownership Disclosure

It was shown that the inter-agency Working Group on Beneficial Ownership Disclosure has organized a series of meetings with the Secretariat and, according to the schedule, a package of draft laws on beneficial ownership disclosure was developed. The package proposes to make amendments and changes to the “RA Mining Code”, the Law of the RA “On State Registration of Legal Entities, Separated Divisions of Legal Entities, Enterprises And Individual Entrepreneurs” and the Law of the RA “On Public Service”. The representatives of the Ministry of Justice and the Ministry of Energy Infrastructure and Natural Resources presented the provisions set out in the draft laws. It was noted that the registration of beneficial owners would be carried out by the State Register of Legal Entities. The concept of a “beneficial owner” is consistent with the concept approved by the MSG and published in the Beneficial Ownership Disclosure Roadmap. A beneficial owner is a natural person who:

a. owns or controls alone or jointly with family members and/or affiliated persons at least 10% of statutory capital, shares, equity stake, stocks or voting rights in the legal entity or a total of 10 % participation in the statutory capital of legal entities who participate in or are shareholder of the given legal entity.

b) has control of the legal entity through ownership of priority shares, preference shares and/or shares with dual or multiple voting rights;

c. derives a substantial economic benefit from the legal entity, comprising not less than 15% of the legal entity’s annual profit;

d. holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of the company;

e) holds the right to exercise influence and control over the management and operations of the company or has the capacity to predetermine decisions through other means (including and not limited to contract, trust management agreement, joint activities agreement, option agreement, agreement on debt securities convertible into equity securities and other means).

A ‘politically exposed person’ means an individual who has, or has been, entrusted with prominent public functions, as well as their family members and affiliated persons.

The scope of politically exposed persons will be identified with the scope of persons who are obliged to submit a declaration of interests, as defined by the RA Law “On Public Service” and with their family members. The system will be electronically linked with the database of the Commission on Ethics of High-Ranking Officials (later, Commission on Prevention of Corruption), through which the Commission will be able to verify the information. The scope of affiliated entities has been defines as well.

The legal entity shall submit a declaration every year by 20 February , and in case of any change, shall submit information on the change to the State Registry within a 40-day period. For the purpose of verification of data, in the event of holding the right to (equity stake) in the statutory capital of the legal person, the legal entity shall also submit documents certifying the right to ownership issued by the competent authority (including by a foreign one), in Armenian or certified and translated into Armenian.

It is proposed to define a new concept, “suspension of the right to mining”, in the RA Mining Code, if the legal person has not submitted the declaration on disclosure of beneficial owners and has not in the legally established manner abolished the grounds for the warning. On the whole, in terms of sanctions, the principle of warning, suspension and termination shall apply.

The legal entity shall disclose their beneficial owners also when applying for a geological exploration for the purpose of mining metals. It was mentioned that, pursuant to the Beneficial Ownership Disclosure Roadmap, a study should be conducted and a discussion should be held on including this part in late 2018, however, it was decided to expand the scope of entities to submit declarations by this legislative package. Moreover, a compulsory requirement will be established for declaring the beneficial owners, for obtaining an agreement for a geological exploration; failure to comply with this requirement shall serve as grounds for rejection. Thus, for the first time, grounds for rejection will be stipulated in the Code.

When applying for a waiver of all types of permits, a compulsory requirement would be to submit a statement on declaration of the beneficial owners.

The data will be public, with the exception of information considered to be confidential pursuant to the RA Law “On Personal Data Protection and the RA legislation. The declarations shall be submitted by the end of 2019.

The Multi-Stakeholder Group approved the package of draft laws. It was announced that the package would be circulated and be submitted to the government in accordance with the established procedure. As a result of the received recommendations and comments, some changes may be made to the drafts which, however, shall not substantially alter the decisions passed by the MSG. The final version will be circulated among MSG members.

5. Discussion of Other Issues

- **Discussion of Setting the Compulsory Audit Requirement for Mining Companies**

The party in charge of the issue presented the existing legislation and the changed provided for by the circulated new drafts. Until 2014, where the entity exceeded the threshold of AMD 1 billion in turnover or assets size, it was considered a large-scale entity and was subject to a compulsory audit. The compulsory audit requirement was removed in 1 July 2014. However, there are certain groups of organizations that are subject to a compulsory audit. At the same time, a package of legislative acts regulating accounting and auditing is being circulated, which suggests to restore the compulsory audit requirement according to certain criteria. Specifically, organizations with public accountability and organizations representing the financial sector will be subject to compulsory audits. A certain set of large and medium-sized organizations will also be subject to compulsory auditing. The recommended criteria are as follows: when the assets value is AMD 10 billion and more; the revenue is AMD 20 billion and more; and the average number of employees on payroll is 250 and more. Where the organization meets at least two of these three indicators, it qualifies as a large entity and is subject to audit. There are also criteria for middle-sized entities. No sectoral characteristics are provided for in the drafts. It was proposed not to incorporate special regulations related to the mining industry. The opinion was presented that all companies involved in active extraction are being subjected to audit, and will meet the criteria above.

It was noted that the Standard also requires an audit of state revenues. Currently the issue of auditing state revenues is under consideration by the Audit Chamber, and the requirement of the Standard may be met by these future regulations.

It was decided not to set a compulsory audit requirement for the present-day mining companies because it is assumed that the existing mining companies comply with the criteria established for compulsory audit. It was also proposed to wait for the adoption of the aforementioned legislative package and understand which mining companies would be subject to compulsory audit in accordance with the newly adopted legislation..

- **Discussion on Possibilities for Project Level Reporting of the EITI Data**

The attendees were informed that a compulsory requirement of the EITI would come into force in 2019: to report the tax and fees flows not at the corporate level, but at project level. This would enable to produce better targeted data. However, there are a number of complications which, according to the Armenian sectoral legislation, make it impossible to report some types of taxes and fees at project level. A number of expenditures by entities cannot be attributed to a project or permit, such as the salaries of the entity's management and a number of other expenditures.

It was decided also that in the reports approved for the 2018 Report, all the financial flows that are currently possible to report at the level of extraction permits, would be reported at same level.

For the following years, it was proposed to go step by step: receive a certain analysis and recommendations on the issue from the Independent Administrator in the first report, which will serve as a basis for working discussions, in order to identify the additional future flows that could be reported at project level. The recommendation was accepted by the Multi-Stakeholder Group.

The Multi-Stakeholder Group also decided that currently the activities carried out by the right to / permit for mining would be viewed as "project".

- **Current Status of the Legislative Review, Planning of Development of Roadmap for Responsible Mining**

The attendees were informed that rather lengthy observations on the Draft Legislative and Institutional Review by the members of the 15 stakeholders and the MSG members were provided to AUA CRM, and the amended draft would be submitted to the MSG by 20 August.

It was suggested to reconsider the composition of the MSG's Working Group on Responsible Mining because not all interested parties and specialists are included, and the group does not function effectively. There are many issues in the sector that require discussion. It was decided that within a week's time the

MSG constituencies should nominate candidates for members of the Working Group on Responsible Mining. The group, headed by an MSG member representing the Ministry of Nature Protection will commence the work after the submission of a revised Draft Legislative and Institutional Review.