



ARMENIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE MULTI-STAKEHOLDER GROUP'S MEETING MINUTES No. 8

Date: 6 December 2017 | Time: 11:00-13:30 | Hotel "Ibis"

Attendees: Members of the Multi-Stakeholder Group

Chairman: Davit Harutyunyan	Minister of Justice
Vardan Gevorgyan	Deputy Minister of Energy Infrastructure and Natural Resources
Tigran Khachatryan	Deputy Minister of Economic Development and Investments
Karen Isakhanyan	Deputy Minister of Territorial Administration and Development
Khachik Hakobyan	Deputy Minister of Nature Protection
Armen Stepanyan	Deputy President for Sustainable Development, "Lydian Armenia" CJSC
Vahe Vardanyan	General Manager, "Geomining" LLC
Arthur Hambartsumyan (temporary member)	Board member, "Civil Voice" NGO
Inga Zarafyan	Chairperson, "Ecolur" Informational NGO
Harutyun Movsisyan	Associate Professor, Department of Search and Exploration of Mine Sites, Yerevan State University
Artur Grigoryan	Chairperson, "EcoRight" NGO

Attendees via video call: Artur Nikoghosyan Administrative Director, "Agarak Copper and Molybdenum Combine" CJSC

RA Government Staff:

Lilya Shushanyan	"Enhanced transparency in the mining sector" Project manager
Lusine Tovmasyan	"Enhanced transparency in the mining sector" Project Expert
Davit Shindyan	Enhanced transparency in the mining sector" Project Expert

Guests: Deborah Grieser The United States Agency for International Development

	(USAID)
Anahit Khachatryan	The United States Agency for International Development (USAID)
Dmitry Mariyasin	UNDP
Armen Martirosyan	UNDP
Puya Noshadi	GIZ
Lilit Muradyan	American University of Armenia’s Center for Responsible Mining (AUA CRM)
Karl Wilbricht	AUA CRM
Davit Hakobyan	AUA CRM
Narine Tadevosyan	World Bank Armenia Office
Karen Zadoyan	Armenian Young Lawyers Association
Marat Atomyan	Armenian Young Lawyers Association
Mariam Zadoyan	Armenian Young Lawyers Association
Davit Sargsyan	European Bank for Reconstruction and Development (EBRD)

Absent members of the MSG:

Davit Ananyan	Deputy Minister of Finance
Perch Khachatryan	Head, Legal Department, “Zangezur Copper and Molybdenum Combine” CJSC
Sona Ayvazyan	Executive Director, Transparency International Anti-corruption Center

Minutes taker: Lusine Tovmasyan
Davit Shindyan

AGENDA

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

D. Harutyunyan welcomed the participants of the meeting and mentioned that the MSG’s official meeting was organized later than planned, because several meetings had been held before the meeting. Important arrangements were made through such meetings in terms of organizing the priority activities. This was necessary especially because many issues had remained open in the first draft

Scoping Study submitted to the MSG, while the time was rather scarce. The finalized version of the draft Scoping Study has not been submitted yet. The said meetings enabled to discuss the results of the activities included on the agenda of the meeting. These were, specifically:

- The package of draft laws which regulate the implementation of the Extractive Industries Transparency Initiative (EITI) in Armenia and set the accountability mechanisms as mandatory norms;
- The draft Terms of Reference for the Armenian EITI's website;
- The draft Beneficial Ownership Disclosure Roadmap and the draft definition of the concept "beneficial owner";
- The concept of open data policy of the Republic of Armenia's EITI, the EITI implementation quarterly report and a number of other issues.

D. Harutyunyan presented the agenda items for the meeting and proposed to start their consideration. It was mentioned that the Project "Enhanced Transparency in the Mining Sector" implemented by the RA Government with the support of the United States Agency for International Development (USAID) was nearing its completion, and, summarizing the works done, the implementation of the Project can be considered very successful. As an outcome of the Project, the www.geo-fund.am website of the Geological Fund is already functional: everyone has access to the entirely digitized information stored in the depository of the Fund. The information is being supplemented by the digitized materials of the archive of the Institute for Geological Sciences. The website has a considerable number of visitors, and the number continues to grow. As to the activities of EITI implementation in Armenia, the Project's support made it possible to successfully take the mandatory preparatory steps required for filing the application for EITI candidature, file Armenia's application and become recognized by the EITI Board as a candidate country in March 2017. D. Harutyunyan extended his special thanks to Lylia Shushanyan who is the driving force of the process. Words of appreciation were transferred to the USAID Armenia on behalf of the RA Government and the MSG of Armenia.

It was also stated that UNDP has expressed willingness to join the team of supporters of the EITI process and fund the activities of creating the official portal of the Armenian EITI. The official website of the Armenian EITI is planned to become the forum where, in compliance with the EITI's principles and requirements, the comprehensive information presented by Armenia's metal ore extractive industries and Armenia's National Report will be published, as well as an online system will be created for submission of reports by the mining companies and government agencies for the EITI Report. The website will also enable to make the submission of reports operational and will have the traceability functionality for any reports and data. The information presented on the website will comply with the open data principles.

It was noted that the meeting was attended by Deborah Grieser, USAID Armenia Mission Director and Dmitri Mariyasin, UNDP Resident Representative in Armenia: they were asked to take the floor.

2. Welcoming Remarks by the Guests

D. Grieser welcomed the MSG members and the guests, noting that the EITI implementation in Armenia had considerably progressed over the past year. Armenia is now a candidate country. It was mentioned that the Government, the civil society and business had joined efforts in order to comply with the EITI Standard. It was stated that the Project “Enhanced Transparency in the Mining Sector” implemented by the RA Government with the support of the USAID Armenia would be completed in December 2017. The collaboration was evaluated as very successful: great progress was observed in terms of addressing issues of transparency and accountability in the mining sector. It was announced that the US Government would continue to support the EITI implementation in Armenia through a project on assistance to civil society, empowering the role of civil society in the EITI implementation process and promoting a better coverage of the mining sector and the EITI by mass media outlets.

D. Mariyasin noted that UNDP closely collaborates with the EITI across the world. To this day UNDP has not been directly involved in the EITI implementation process in Armenia, although it assisted AUA CRM in 2015 within the framework of EITI: some work was done in connection with the risk profiling in Syunik province (within the framework of the EU-funded risk reduction activities). It was stated that UNDP would finance the activities of development of the Armenian EITI’s website, and hope was expressed that the collaboration would be long-term. It was noted that the ToR of the website had been developed, and soon a tender would be announced for the development of the website.

D. Harutyunyan proposed to consider the next agenda items for the meeting.

The Issues Considered

3. Presentation and Approval of the Proposed Draft Legislative Amendments within the Framework of the EITI Implementation

V. Gevorgyan briefly presented the package of draft legislative amendments which propose changes to the “RA Mining Code”, the “RA Tax Code” and the Law of the Republic of Armenia “On Protection of Economic Competition”, as well as to the RA “Code on Administrative Offences”. The package had been previously provided to the MSG members for their opinions. It was mentioned that several working discussions had taken place on the draft legislative amendments with the participation of the MSG, interested agencies, as well as international partners.

The attendants of the meeting were informed that the changes were made based on the requirements for Armenia's EITI candidature. Specifically, the EITI member countries obligate themselves to publish annual reports which contain comprehensive information on the mining permits issued by the state, the extraction volumes of the mining companies, the taxes and fees paid by them, distribution of the revenues from the sector, as well as the implementation of social programs. It was noted that the draft amendments were under discussion, and there was still an opportunity to make changes.

An observation was made that the presented package of draft legislative amendments is not an exhaustive package of legislative amendments required within the framework of the EITI implementation. It was noted that the package was very partial and did not cover the potential legislative amendments envisaged by the EITI Standard and the Work Program developed in accordance with the Standard. It was also stated that the part related to responsible mining remained open because the proposed amendments were not all-inclusive, and there was still a large amount of work to be done.

D. Harutyunyan agreed with the observation, noting that he was not aware of any legislation which was too rigid to imply any further changes and amendments. Regarding other legal developments, it was mentioned that every MSG member was free to submit recommendations which could become the subject of group discussions.

A question was asked whether the draft legal amendments would appear on the www.edraft.am website: the answer was that the draft was already on the said website.

Another question was asked about whether only the number of the mining contract and the date it was entered into would be published within the framework of publishing the contracts. Answering the question, **V. Gevorgyan** mentioned that the contracts would be published in their entirety, including the Annexes.

The draft legal amendments proposed within the framework of the EITI implementation were presented for approval by the MSG and **were adopted** by general agreement (consensus).

4. Presentation and Approval of the Terms of Reference for the Armenian EITI's website

D. Shindyan presented the draft Terms of Reference for the Armenian EITI's website which had been provided to the MSG members in advance, for their opinions. It was mentioned that the opinions received had been summarized and incorporated into the draft. It was noted that the website should ensure maximum

compatibility with the existing software packages, such as Internet Explorer, Mozilla Firefox, Opera, Safari, Chrome, etc. The website must be trilingual (Armenian, Russian and English); a special module must be inserted at the bottom of any page of the website, which would enable to share the given page in the social networks (Facebook, Twitter, Live Journal, GOXI, YouTube, etc.). The approximate structure of the website was presented too: about EITI (what is EITI about; the benefits of joining the initiative; the principles of EITI; the EITI implementation process in Armenia; the documents of EITI (Work Plans and studies); and about the MSG. There will be a media center on the website as well, where news, photos and videos about the EITI will be posted. The website will also have an online forum for submission of EITI Reports, for mining companies and government agencies alike.

The question was raised about whether the website would address mining-related problems, as a forum.

It was noted that the purpose of the website would be the Reports on the EITI and the actual processes associated with mining, and the website should help access the materials easily.

It was also noted that within the framework of open data policy the data should be accessible to the users, which implies allowing feedback with the users. The EITI Secretariat and the MSG members would be responsible for the feedback.

The question was raised about whether all the reports would be posted on the website without censure, or the Secretariat would filter them: this referred to the studies conducted by external organizations. **L. Tovmasyan** answered that the Secretariat had no authority to filter the reports, and the decision on posting the reports developed by external organizations on the website should be made by the MSG.

The draft Terms of Reference for the Armenian EITI website was submitted to the MSG for approval and **was approved** by the general agreement of MSG (consensus). D. Harutyunyan requested to submit the first version of the website design to the MSG once it was ready.

5. Presentation and Approval of the 3rd Quarterly Report on the Armenian EITI Implementation Activities

L. Shushanyan presented the draft 3rd Quarterly Report on the Armenian EITI Implementation Activities for 2017, which had been provided to the MSG members in advance, for their opinions. The Quarterly Report covers the activities implemented during July-September 2017, in accordance with the Activities approved by Armenia's EITI 2017-2018 Work Plan. During the reporting period a number of activities approved by the Work Plan were implemented: specifically,

certain activities were carried out towards the development of the drafts of the Scoping Study for the development of the 2018 EITI Report, the Legislative Review and the Communication Strategy. The development of the said documents had been delegated to AUA CRM (within the framework of the Project funded by the British Embassy to Armenia). The Terms of Reference was developed for engaging experts for Beneficial Ownership Disclosure and conducting the Legislative Review (within the framework of the Project funded by the EBRD). In order to receive funding from the World Bank, an application has been developed and submitted to the World Bank. The presentation of the website of the Geological Fund was organized. Two programs of “Hraparakum” series were aired by the Public Television of Armenia. A tender was held for the preparation of video clips to cover the EITI implementation in Armenia, and the “Altera” company was selected. An application for the 2018 budget was prepared for funding the EITI Secretariat and the membership fee.

It was recommended that a new format be developed for the Quarterly Report. It was noted that Armenia’s the EITI 2017-2018 Work Plan was broader than the EITI Standard, and the Report should comprise the Activities set forth in the 2017-2018 Work Plan, specifying the extent to which the Activities had been implemented.

In answer to the question it was stated that the reports are developed pursuant to the items on the Work Plan. All of the outcomes/outputs achieved during the given time period are to be included in the Report. Regarding the format of the Report, it was proposed to develop a new format and submit it to the EITI Secretariat. It was noted that when preparing the Annual Report, each constituency should present the work done by their constituency.

It was noted that, according to the practice employed to that day, the EITI Secretariat was organizing the MSG meetings, but a meeting of the Working Group on Responsible Mining was going to be convened.

It was proposed to specify the reasons for non-performance of the Activities planned for the reporting period.

It was mentioned that there were no issues related to the performance of the Activities and the quality of the work done.

It was decided that within two weeks (by the 20th of December) recommendations should be made on the format of the Quarterly Report and be circulated among the MSG members, as well as, by the 20th of December, each constituency should submit a report on the work done by their constituency.

The question was raised whether it would be possible to convene another meeting by the end of the year, in order to clarify the issues of the Quarterly Report. **It was decided** that, after the circulation of the new format(s) for the Quarterly Report, depending on the availability of the discussion material, it should be decided to approve the format electronically or organize an MSG meeting. The constituency reports would be submitted by H. Movsisyan from the

constituency of the civil society, by V. Vardanyan from the constituency of the extractive companies and by V. Gevorgyan from the constituency of the RA Government.

The draft 3rd Quarterly Report on the Armenian EITI Implementation Activities for 2017 was submitted to the MSG for approval and **was approved** by the general agreement of MSG (consensus).

6. Presentation and Approval of the Concept of Open Data Policy of the EITI

L. Tovmasyan presented the draft concept of open data policy of the EITI. According to the concept, the MSG of Armenia's EITI establishes the principles for implementation of the open data principle within the framework of implementation of EITI in Armenia and expresses its commitment to being consistent about their implementation. The application of the principle is considered along with the publication of EITI's Annual Reports, and does not obligate the reporting entities within the framework of EITI to apply it, however, when publishing data, the EITI stakeholders are encouraged to be guided by the open data principle. The concept also envisages that the data provided on the EITI's website should have reuse functionality and be posted in xls and csv formats.

It was decided, in addition to posting the information in xls and csv formats, to post the data in doc format as well.

The draft concept of open data policy of the EITI was submitted to the MSG for approval and **was approved** by the general agreement of MSG (consensus).

7. Presentation and Discussion of the Issues Related to the Scoping Study, the Communication Strategy and the Legislative Review

C. Ulbricht, D. Hakobyan and L. Muradyan presented the issues related to the Scoping Study, the Communication Strategy and the Legislative Review.

It was decided to set the following deadlines for the submission of the above-mentioned drafts:

- final draft of the Scoping Study, 11 December;
- draft Communication Strategy, 19 December; and
- draft Legislative Review, 11 December.

The participants were reminded of the necessity to carry out the activities towards the development of the draft ToR for the Independent Administrator, as well as other tasks covered by the ToRs.

It was noted that the review of the international experience in responsible mining and the recommendations on the improvement of the institutional and legal framework were being left out of the activities of the AUA CRM. **The answer was**

that the said area was not being left out of the activities of the AUA CRM, and the AUA CRM should develop a preliminary roadmap which could be amended later. **It was noted** that the working groups of the MSG had not been established as such. **It was proposed** to wait for the materials developed by the AUA CRM and make a decision afterwards.

8. Discussion on the draft Beneficial Ownership Disclosure Roadmap and the Definition of a Beneficial Owner

The Beneficial Ownership Disclosure Roadmap of metal mining companies of the Republic of Armenia must be published by 1 January 2018. The European Bank for Reconstruction and Development has assisted the Republic of Armenia with the development of the Roadmap: due to EBRD's support, the international and local consultants Jeremy Weate and Davit Sargsyan, in collaboration with the MSG, the National Secretariat of Armenia's EITI and other stakeholders, have submitted a Legislative Review and the drafts for the Beneficial Ownership Disclosure Roadmap and the schedule, including the definition of a beneficial owner. Davit Sargsyan, consultant on beneficial ownership disclosure, presented to the attendants of the meeting the works done. **It was proposed** to consider the draft definition of a beneficial owner and come to an agreement on a number of provisions. It was noted that there was a rather large experience in the Republic of Armenia, especially in the banking sector, relating to the disclosure of the actual beneficiary. The legislation on combating money laundering and financing of terrorism also defines a requirement for the disclosure of the real beneficiary, based on international standards. In the mining industry regulatory acts too there is a primary requirement for disclosure of shareholders owning more than 10% of shares in entities applying for a mining permit; this requirement, however, does not require the disclosure of the individual as an ultimate owner. There are requirements for disclosure of shareholders during the initial registration of legal entities. Determining the disclosure threshold is one of the most important issues in the proposed definition of the beneficial owner. The consultant informed that the draft proposed a 20% threshold, because in the Republic of Armenia, specifically in the mining sector, usually it is in the event of ownership exceeding 20% that the owner has an influence on decision making. In the event of ownership below 20%, the owner is usually a passive investor with no influence on decision making. For indirect ownership or control, in the cases of ownership of profit on contractual bases or otherwise, it was proposed to set a 15% threshold for disclosure. In accordance with the draft, politically exposed persons should be disclosed, regardless of the level of ownership. As a result of discussions **it was recommended** not to change the requirements of the existing legislation and set a 10 % threshold for disclosure of the beneficial owner, which would ensure higher

transparency. It was noted, however, that the existing 10 % threshold did not compulsorily apply to natural entities, hence the setting of 10 % meant making the existing requirement more stringent. The MSG **adopted** the recommendation by general agreement.

A question was raised about the scope of disclosure of beneficial owners during the initial phase. It was recommended that the beneficial owners of the entities who had been issued permits for metal mining in the Republic of Armenia be disclosed starting from 2020. It was noted that if the process proceeds successfully, the experience could also be used in other areas. **It was recommended** to consider the issue of engaging the entities which had been issued permits for conducting geological exploration of the mineral resources for the purpose of extracting minerals because this subsector was also in the focus of attention of the civil society. In response, it was noted that it was more important to disclose the beneficial owners of the companies who earned profits from extracting minerals. The corporate entities which have been issued a permit for conducting geological exploration do not earn profit from their activities: they only make investments (expenditures). In any case, when an entity which has been issued a permit for conducting geological exploration of the mineral resources, files an application for a permit for metal mining, it will have to compulsorily disclose its beneficial owners. An opinion was voiced that there are risks associated also with the permits for geological exploration of the mineral resources, and the Roadmap should address those who hold such permits. The attendants of the meeting were also informed that in accordance with the reforms underway in the country, between 2020-2024 disclosure of owners should be carried out in all sectors, based on the platform of the State Register of Legal Entities of Armenia. As a result of the Multi-Stakeholder Group **it was decided** that initially (in 2020) the beneficial owners of the entities who had been issued permits for metal mining would be disclosed, and another activity would be included in the draft Beneficial Ownership Disclosure Roadmap. According to this activity the MSG would hold a discussion or a conduct a study; afterwards the issues of expanding the scope of beneficial ownership disclosure and inclusion of other subsectors would be settled, and the timetable would be created.

It was decided not to include the voluntary disclosure of beneficial owners in the EITI Reports to be published in the 1st and 2nd year. Several reasons were given to substantiate this decision. The international experience shows that the process of voluntary disclosure in the EITI Reports in the countries that implement it has not been effective; limited time frames have been established for the preparation of Armenia's first Report, while in the event of voluntary disclosure in the 2019 Report the entities would have to submit the declarations twice: voluntarily, for the EITI Report, thereafter, a few months later, compulsorily, for publishing in the

2020 State Register of Legal Entities of Armenia. This process may increase the costs borne by businesses, and there will not be sufficient time to learn lessons and make adjustments to the system.

With regard to the issues discussed, it was decided to amend the draft Beneficial Ownership Disclosure Roadmap and the draft definition of the concept “beneficial owner” in accordance with the decisions made, and submit these to the MSG constituencies during the coming week for their opinion.