



ARMENIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE MULTI-STAKEHOLDER GROUP'S MEETING MINUTES No. 9

Date: 27 March 2018 | Time: 18:00-21:00 | RA Government

Attendees: Members of the Multi-Stakeholder Group

Chairman: Davit Harutyunyan	Minister of Justice
Vardan Gevorgyan	Deputy Minister of Energy Infrastructure and Natural Resources
Davit Ananyan	Deputy Minister of Finance
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
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
Artur Grigoryan	Chairperson, "EcoRight" NGO
Sona Ayvazyan	Executive Director, Transparency International Anti-corruption Center
Inga Zarafyan	Chairperson, "Ecolur" Informational NGO
Harutyun Movsisyan	Associate Professor, Department of Search and Exploration of Mine Sites, Yerevan State University
Artur Hambardzumyan (temporary member)	Board member, "Civil Voice" NGO

Armenian EITI Secretariat:

Lilya Shushanyan	Head
Lusine Tovmasyan	Expert
Davit Shindyan	Expert

Guests:	Narine Tadevosyan	World Bank Armenia Office
	Alen Amirkhanyan	American University of Armenia’s Center for Responsible Mining (AUA CRM)
	Karl Wilbricht	AUA CRM
	Davit Hakobyan	AUA CRM

Absent members of the MSG:

Artur Nikoghosyan	Administrative Director, “Agarak Copper and Molybdenum Combine” CJSC
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Minutes taker: Lusine Tovmasyan

AGENDA

Opening of the Meeting of Armenia’s EITI’s MSG, Summary of the Work Done

D. Harutyunyan welcomed the attendees of the meeting and informed them that the meeting of the EITI’s Multi-Stakeholder Group had a packed agenda. It was noted that an important phase had started in the EITI implementation during which it was planned to carry out the activities of engaging an auditing firm in order to prepare the EITI Report. The approval of the World Bank grant to support the EITI is at the final, signing stage.

The legislative package elaborated within the framework of the EITI has been considered by the National Assembly according to the procedure established for draft laws considered urgent and has been adopted. The package not only establishes the compulsory requirement for metal mining entities and authorized government agencies to submit EITI Reports, but also the legal basis for disclosing contracts with mining companies and disclosing the amounts paid to communities, non-commercial legal and natural entities.

The Beneficial Ownership Disclosure Roadmap has been transformed into a Government Protocol Decision which is to be discussed during the upcoming Government meeting. Pursuant to Decision 297-A of the RA Prime Minister dated 27 March 2018, an inter-agency Working Group on Beneficial Ownership Disclosure was created. The group comprises members of the respective MSG Working Groups and representatives from other agencies (the Central Bank and the Commission on Ethics of High-Ranking Officials), as well as industry experts. The first meeting of the group would take place on 30 March: participation in the activities of the group is deemed as particularly important. The members of the group were called to attend the meeting prepared in advance. Each constituency member should represent the general approach of the constituency to the working group, so that the group’s decisions were consistent with the MSG’s approaches.

American University of Armenia’s Center for Responsible Mining had presented the draft Communication Strategy. The attendees were informed that a large amount of work had been carried out, however the MSG and the Secretariat propose to match the document to the

activities and financial resources provided for by the Work Plan of the Armenian EITI, as well as to incorporate in the Draft Beneficial Ownership Disclosure Roadmap with the time lines for the activities and the actions planned under the World Bank grant. It was suggested that the text part of the Strategy (without the Annexes) be reduced to up to 30 pages and clarify the actions in order to make them feasible. The Secretariat was assigned with submitting the observations on the Draft to AUA CRM. It was also mentioned that both versions of the draft would be provided to the MSG.

The representative of AUA CRM presented the status of development of the Legislative Review and the preliminary roadmap for responsible mining.

D. Harutyunyan, to make the course of discussions more effective, suggested thereafter, in cases where the attendees of the meeting would have no questions or recommendations on an agenda item, to consider the item as “not under consideration”. The suggestion was accepted by the MSG members.

The Issues Considered

1. Discussion and Approval of a Number of Contextual Issues Related to the EITI Report

The entities and government agencies submitting an EITI Report

It was proposed that EITI Reports be submitted by all the mining companies which had been issued a permit for metallic mineral extraction, with the exception of those which had been recognized as bankrupt. In this case 28 companies would become accountable for the first Armenian EITI Report. Data on the respective financial flows are available to three government agencies: the State Revenue Committee Adjunct to the Government of the RA, the Ministry of Nature Protection of the RA and the communities, whose data will be entered into the e-reporting system through the Ministry of Territorial Administration and Development of the RA. It was proposed that the aforementioned agencies become accountable on behalf of the State. **The decision was adopted** by the general agreement of MSG (consensus).

Companies to be Reconciled

It was suggested that the companies which had in the reporting fiscal year paid to the RA national budget taxes and payments equivalent to or exceeding AMD 150 million (except for the amounts, customs fees and customs duties paid to the Ministry of Nature Protection), be subject to reconciliation. The attendees of the meeting were informed that an analysis had been conducted that had revealed that in this case, the entities which had been active between 2016-2017 and had paid substantial taxes and payments, would appear on the list of reconciled companies. **The decision was adopted** by the general agreement of MSG (consensus).

The taxes and revenues presented in the EITI Report/Reports

Based on the Scoping Study and analyses, it was proposed to include the taxes and payments in the Reports without the thresholds and present the following financial flows bilaterally:

1. Profit tax
2. Income tax
3. Value-added tax
4. Excise tax
5. Royalty
6. Environmental fees (tax)
7. Natural resources usage fees
8. Monitoring fees
9. Customs duties and fees
10. State duty for issuance of a permit for use (operation) of each mine of non-ferrous and rare metals
11. State duty for issuance of a water use permit
12. Refilling the funds for environmental protection
13. Allocations from the environmental protection fund to the company
14. Fees for environmental impact assessment (EIA) and expert examination
15. Land tax
16. Property tax
17. Rent paid to the sub-national government entity (community)
18. Penalties (including local ones)
19. Fines (including local ones)
20. financial and non-financial obligations related to the socio-economic development of the communities, specified by the mining contract.

The financial flows unilaterally provided only by the companies include the donations and endowments or permanent alienations done in a different manner (by the entity) to sub-national government entities and non-commercial corporate entities, as well as donations, endowments or permanent alienations done in a different manner to natural entities (in the case of natural entities the total number of the natural entities and the total amount paid will be presented). **The decision was adopted** by the general agreement of MSG (consensus).

Weights of streams: materiality formula for reconciliation of the financial flows

Based on the analysis performed, it was proposed to consider as material and reconcile the revenue flows whose equity stake in the total revenue flows from the extractive industries comprises 1% and more. **The decision was adopted** by the general agreement of MSG (consensus).

Permissible / non-substantial deviation limit in the case of reconciliation

Based on the review of the EITI's international experience, it was proposed to set a non-substantial deviation limit. The MSG members **presented** their suggestions on the limit, varying between 1-5 percent of the given financial flow. It was suggested to set an absolute limit at the same time. As a result of the discussion the MSG **decided** by general agreement (consensus) that the discrepancy of the financial flow would be investigated by the Independent Administrator for the purpose of final reconciliation, if the size of the discrepancy in the bilaterally presented financial flows comprises 4 percent of the financial datum but no less than AMD 1 million. The basis for such calculation shall be the datum presented by a party which is smaller.

Financial flows non-applicable within the framework of the RA EITI Report

Based on the Scoping Study and other analyses, the MSG **decided** by general agreement, as a result of discussions, that the financial flows non-applicable within the framework of the RA EITI Report are as follows:

- Payments made to and received from state-owned enterprises, quasi-fiscal expenditures, the dividend, bonuses, the sale of the state's production entitlement or other revenues collected in kind: the requirements of the EITI Standard are not applicable as related to the presence of state-owned enterprises;
- Flows connected with infrastructures and commodity exchange (Requirement 4.3);
- Transportation revenues (Requirement 4.49); and
- Artisanal and small-scale mining.

The MSG **decided** by general agreement that the obligations related to the socioeconomic development of the communities stipulated by the mining contract, the voluntary social contribution in the communities and the payments to non-commercial legal and natural entities would be included in the EITI Report. The Independent Auditor will also describe in the EITI Report the process of provision of subventions to the communities from the environmental fees as per the presented projects, as well as will provide data from 2016-2017. The budgetary system of the Republic of Armenia does not enable to present the distribution of revenues from the mining industry. The EITI Report will provide the description of the budgetary system.

Level of disaggregation of data

Based on the analysis performed, the MSG **passed the decision** by general agreement that the data would be presented by the entity (tax payer). In view of the current tax legislation, presently it is not possible to carry out project-level reporting of data, specifically, the payments related to activities in the given sector. The Independent

Administrator will present recommendations in the EITI Report on the necessary measures aimed at the implementation of this principle in future years.

Production, export and employment

Mining companies will provide data by the production of product type, domestic sales and export, as well as employment. The State Revenue Committee Adjunct to the Government of the RA will also present data on export.

2. Presentation and Approval of the Draft ToR for the Independent Administrator, for the Development of First EITI Report

It was presented that the Draft ToR for the Independent Administrator had been submitted by AUA CRM on 20 February. It had been localized based on the sample developed by the International Secretariat of the EITI. The ToR was finalized by the National Secretariat and submitted to the MSG for consideration. The activities of preparation of the EITI Report will be carried out in several phases: preliminary analysis and Inception Report (phase 1); data collection (phase 2); initial reconciliation of data (phase 3); consideration of discrepancies and Draft EITI Report (phase 4); and Final EITI Report (phase 5). EITI Report should contain an analysis on the contribution of the extractive industry in the economy, making use of the data collected during reconciliation. Additionally, contextual (non-financial) information should include the context or explanation of the information found in the reconciliation report. The EITI Report should be provided in Armenian and English. Also, the Independent Administrator shall carry out the publication of the Report and the presentation of the adapted version of the Report, as well as submit the summary datasheet in the established format to the EITI's International Secretariat.

It has been established that the Independent Administrator should have at least 5 years' international external financial auditing experience; should submit the list and brief description of up to five auditing services / projects provided by themselves in accordance with the international auditing standards; and should have experience in conducting economic and legal studies, research or consultancy in the mining sector of Armenia. An EITI Report preparation or similar past experience would be regarded as an advantage. The personnel of the entity shall have a qualification by International Federation of Accountants (IFAC), Association of Chartered Certified Accountants (ACCA) or an equivalent qualification.

One representative from each constituency of the MSG should be included in the Independent Administrator Selection Committee. The constituencies of the MSG **presented** the candidates for the Committee members from the respective constituencies: D. Ananyan, A. Stepanyan and A. Grigoryan.

The MSG **decided** by general agreement to approve the ToR for the Independent Administrator and, in case of making changes to it, discuss and adopt the changes in accordance with an expedited procedure.

The MSG voiced a concern that the time period planned for the development of the Report was not sufficient for carrying out quality work and publishing an EITI Report in compliance with the EITI Standard and the requirements of the MSG. At the same time, taking into account that all the necessary steps had been taken to organize the fundamental work within a minimum period of time, the package of legislative amendments had been adopted, and relevant projects had been initiated with the international partners at the right time and were underway, the MSG **decided** to apply to the International Board of EITI with the request to extend the deadline for publication of the Report by 2.5 months, specifying the work carried out by the MSG and the RA Government to far, as well as the reasons hindering the timely publication of the Report and their substantiation.

3. Presentation of the Draft Reporting Template for the Reports by the Mining Companies and Government Agencies for the EITI Report

The draft reporting template for the reports by the mining companies and government agencies for the EITI Report developed by the National Secretariat was presented. During the development of the draft template several discussions had been held with the stakeholders. It was noted that reports for the EITI Report should be submitted electronically by 28 mining companies which had been issued a permit for metallic mineral extraction and three government agencies, i.e. the State Revenue Committee Adjunct to the Government of the RA, the RA Ministry of Nature Protection and the communities, through the RA Ministry of Territorial Administration and Development. The sections of the Reports include:

- Production, extraction and employment;
- Taxes, fees and duties;
- Local taxes and fees;
- Penalties and fines;
- The socioeconomic contribution to the community budget; and
- Donation, endowments and permanent alienations.

The attendees were informed that the financial flows would be reported on both accruals and cash bases. The MSG **made a decision** that the Independent Administrator would reconcile the data reported through tax calculation (on an accruals basis).

The opinion was voiced that the data presented in the reports were rather broad, and it was emphasized that it was necessary to agree upon them with the Independent Administrator prior to endorsing them by a Government decision. The MSG members **were assigned** to submit opinions on the draft templates by 3 April.

4. Approval of Performance of EITI's 2017 Work Plan

The performance of EITI's 2017 Work Plan was presented with the actual timeframes for the activities and the financial resources spent. The performance of EITI's 2017 Work Plan **was adopted** by the general agreement of MSG (consensus).

5. Presentation and Approval of the Final Draft of the Scoping Study for Designing the First EITI Report

The MSG **decided** to adopt the draft Scoping Study for designing the first EITI Report, however, the MSG members suggested to submit recommendations by 3 April on the final draft of the Scoping Study, thereafter the Inception Report would be published.

6. Presentation and Approval of EITI 2018 Revised Work Plan

The EITI 2018 revised Work Plan was presented which reflects the activities endorsed within the framework of cooperation with donors, with revised deadlines. The MSG suggested to make a change to the wording of Activity 23, and the EITI 2018 revised Work Plan was **adopted** by the general agreement of MSG (consensus), with an arrangement to make amendments in the near future.

The attendees were informed that the questionnaire on the activities to be implemented towards the activation of the civil society and the journalists within the framework of the USAID-supported grant project would be submitted to the MSG for an opinion. After summarizing the results, the list of activities to be implemented under the grant project provided to civil society will be presented.

7. Other Decisions and Issues

- It was presented that the activities of preparing the official website of Armenia's EITI are underway. The design of website has been completed, and development of the electronic reporting system will start when the EITI reporting templates are available.

- The MSG's civil society constituency suggested to hold an MSG meeting on the issue of termination of exploitation of Teghut mining site. **It was proposed** to submit the agenda of the meeting to the MSG.