



AMERICAN UNIVERSITY OF ARMENIA
Center for
Responsible Mining

**Scoping Study for
Republic of Armenia's
2018 Extractive Industries Transparency Initiative Report
(March 15, 2018)**

Prepared by the
AUA Center for Responsible Mining

For the
Republic of Armenia EITI Multi-Stakeholder Group

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“Support to Enhance Armenia's Capacity to Implement EITI and to Increase
Transparency and Accountability in Mining Licenses and Contracts” Project
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Note: The original version of this Scoping Study is in Armenian. The English version is a translated text and may not be idiomatic.

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Alen Amirkhanian, Interim-Director
AUA Center for Responsible Mining
American University of Armenia

List of Acronyms

Agency	State Register of the Legal Entities of the Ministry of Justice of the Republic of Armenia
AMD	Armenian Dram
AUA	American University of Armenia
AUA CRM	AUA Center for Responsible Mining
BO	Beneficial Owner (Also real beneficiary)
CDA	"Central Depository of Armenia" OJSC
CIS	Commonwealth of Independent States
CJSC	Closed Joint Stock Company
CMLTF	Law on Combating Money Laundering and Terrorism Financing of the Republic of Armenia
CSR	Corporate Social Responsibility
EBRD	European Bank for Reconstruction and Development
EIA	Environmental Impact Assessment
EITI	Extractive Industries Transparency Initiative
EMIC	Environmental Monitoring and Information Centre
ESIA	Environmental and Social Impact Assessment
EU	European Union
FATF	Financial Action Task Force
GDP	Gross Domestic Product
HIA	Health Impact Assessment
IASB	International Accounting Standards Board
IEC	International Electro-Technical Commission
IFRS	International Financial Reporting Standards
ISO	International Organization for Standardization
LLC	Limited Liability Company
MC	Mining Code of the RA
MEINR	Ministry of Energy Infrastructures and Natural Resources
MES	Ministry of Emergency Situations
MNP	Ministry of Nature Protection
MoF	Ministry of Finance
MoH	Ministry of Health
MSG	Multi-Stakeholder Group
MTAD	Ministry of Territorial Administration and Development
NGO	Non-Governmental Organization
NSS	National Statistical Services
OECD	Organization for Economic Co-operation and Development
OGP	Open Government Partnership
OJSC	Open Joint Stock Company
PEP	Politically Exposed Person
RA	Republic of Armenia
RO	Real beneficiary (also beneficial owner)
SEA	Sustainable Environmental Assessment

SNCO	State Non-Commercial Organization
SRC	State Revenue Committee
TC/RC	Treatment Costs/Refinement Costs
TOR	Terms of Reference
UK	United Kingdom
USD	United States Dollar
VAT	Value Added Tax

1. Introduction

This Scoping Study is intended to inform the Multi-Stakeholder Group's (MSG's) discussion on what should be included in Armenia's 2018 EITI report. It:

- Identifies all metal mining sector revenues and payments data for the years 2016 and 2017¹, determines their sources and availability, assesses their quality, suggests materiality criteria, and identifies legislative and institutional barriers to the disclosure of material revenues and payments information.
- Identifies disclosures needed on contracts and licenses and any legal or institutional barriers to such disclosures.
- Analyzes the existing situation with respect to beneficial ownership disclosure and outlines the steps being taken to meet the EITI Standard 2016's requirements.
- Recommends prioritization of disclosures and analyses required by the Work Plan that go beyond EITI Standard 2016.
- Provides all necessary information to prepare and finalize a TOR for the Independent Administrator, who will be preparing Armenia's 2018 EITI report in the first half of 2018. Armenia's report has to be submitted to the EITI International Secretariat by September 2018.

The Scoping Study team has collected information based on:

- a) Desk research and review,
- b) Discussions with MSG,
- c) Meetings with government and private sector, and
- d) Inputs from UK-based experts, Messrs. Jeremy Weate and Chris Nurse.

The project team has conducted series of consultative meetings with stakeholder state agencies as well as MSG members and working groups in the process of developing structure of the scoping study and the first draft. Critical input on the Scoping Study has been received from international experts from invited from Great Britain and local experts mobilized by the AUA Center for Responsible Mining.

In addition to more than 5 meetings with MSG that led to the preparation and approval of the outline of the scoping study, the project team along with the UK expert, held the following meetings with the EITI secretariat and MSG:

¹ Note that the Scoping Study will make recommendations on whether MSG should include both or only one of these years depending on the quality of data available when the Independent Administrator will be preparing the 2018 report, which is expected to be in the first half of 2018.

- EITI Armenian Secretariat (August 28, 2017)
- EITI MSG members (August 28, 2017)
- EITI MSG working group for Scoping Study (August 29, 2017)
- EITI MSG working group for Beneficial Ownership (August 29, 2017)

Meetings were held with the government and private sector. Among state agencies, we've met with the:

- State Register of the Legal Entities of the Ministry of Justice of the Republic of Armenia to discuss the functions of the Agency in requiring and registering data on beneficial ownership when registering a legal entity as well as procedures for accessing such data.
- RA Central Bank's representatives on the role of the "Central Depository of Armenia" OJSC and the requirements to beneficial owners as well the procedure for registration of and access to the data at the CDA.
- RA Ministry of Finance and State Revenues Committee under RA Government provided substantial consultative input in mapping state and community budgets' revenues, mechanisms for revenues' collection and allocation as well as availability of disaggregated data on budgetary revenues with view on EITI requirements.
- Four divisions of the recently restructured Mining Agency to map permitting process for mining rights, transparency of permitting procedures as well as availability of public access to permitting documents, e.g. mining permits, contracts, land use act and work plan or plan of operation.
- Environmental and Mining Inspectorate, a recently established body combining functions of both mining and environmental inspection. The project experts discussed with the Inspectorate availability of data on production volumes for the reporting period, level of disaggregation of the available data as well as what legal obstacles there might be for disclosing such information.
- Ministry of Justice, Davit Harutyunyan, the EITI process coordinator in the RA Government.

The Project's UK based international experts conducted series of consultations during their country visits with MSG members, specific MSG working groups, Big Four and non-Big Four audit companies.

Some of the reforms aimed at increasing the transparency of the mining sector derive from the membership in the Open Government Partnership (OGP). Under the OGP commitment (titled "Ensuring transparency in the mining sector"), the Government of Armenia has committed to launch the process of joining the EITI. Armenia started the process of joining the EITI in July, 2015, when the Prime-Minister of Armenia officially announced about the intention to join the initiative.

Armenia's EITI candidature application was approved on 9 March 2017 at the EITI board meeting in Bogota. According to the EITI standard, the Republic of Armenia is required to publish its first EITI report within 18 months of becoming a candidate (i.e. by 9 September 2018). Armenia is required to publish an annual activity report for 2017 by 1 July 2018. Validation will commence within two and half years of becoming a candidate (i.e. by 9 September 2019).

This study aims at identifying the compliance of the metal mining regulatory legislation with the requirements of the EITI standard, identify the tax regulation of the sector, the process of granting mining licenses, the publicity of the documents forming a part of the mining permit, the efficiency of the control exercised over the compliance with the envisaged terms, the necessary legislative amendments that are required to implement in order to ensure the compliance with the EITI standard. The study is not constrained with the requirements of EITI standard only and includes a separate section titled "beyond the minimum requirements", and it is called to promote the culture of responsible mining in the Republic of Armenia. Moreover, the EITI standard itself is not limited to mining only and may include also the water, fishery, forest and extraction of other natural resources.

In the main text or attached as appendices in the end of the study, the information-matrices furnished by the state government bodies of the RA, specifically the MEINR, are presented. The appendices relate to the social-economic measures undertaken under contracts by mining operators, implementation thereof, the subsidies allocated to the affected communities, the procedure of allocation of such subsidies, the list of companies holding mining permits, and the taxes and other mandatory payments paid to the state budget of Armenia.

2. Policy and Legal Framework

2.1. Legal Framework (EITI requirement 2.1)

Key Legislation

The key legislation governing the mineral sector is the Mining Code, supported by other laws such as the Environmental Impact Assessment and Expertise Law, Land Code, Civil Code, Mine Waste Law and other codes and laws (Table 1). An exhaustive list of all relevant codes and laws are provided in APPENDIX 3.

Mineral resource exploration and extraction is also regulated by secondary legislation, which mostly regulate the procedural aspects of the sector's governance. The exhaustive list of secondary legislations can be found in APPENDIX 4.

Table 1. Key Mining-related Codes and Laws

Name of legislative act	Date adopted	Date of latest amendment
RA Mining Code	28 November 2011	20 October 2016
RA Mine Waste Law	24 November 2004	18 October 2016
RA Law on Environmental Impact Assessment	21 June 2014	11 September 2014
RA Law on Environmental Monitoring	11 April 2005	28 November 2011
RA Law on Expropriation of Property for the Needs of Society and the State	27 November 2006	21 June 2014
RA Law on Taxes	14 April 1997	4 October 2016
RA Law on Profit Tax	30 September 1997	4 October 2016
RA Law on Income Tax	22 December 2010	4 October 2016
RA Tax Code	4 October 2016	1 March 2017
Law on Environmental and Natural Resource Use Fees	28 December 1998	4 October 2016
Law on Rates of Environmental Payments	20 December 2006	4 October 2016
Law on Targeted Use of Environmental Payments Paid by Companies	15 May 2001	11 June 2009

The mining sector's fiscal regime is governed, specifically, by the RA Mining Code, RA Laws on Environmental and Natural Resource Use Fees, Rates of Environmental Payments, Taxes, Profit Tax. The RA Law on Targeted use of Environmental Payments Paid by Companies regulates the procedure of disbursements to the community budgets from the environmental payments made by the companies. From 1 January 2018 the RA Tax Code will come into full force, codifying a series of laws existing in the tax regulatory framework. The legislation on mining fiscal regime and environmental payments includes a substantial number of secondary legislation.

Individual aspects of sectoral regulation, examined in this study, are governed by the RA Laws on Organizing and Conducting Audits, on Accounting, on Joint Stock Companies, on Freedom of Information, on Foundations, on Protection of Economic Competition, on Inspectorates.

The Right to Mine (EITI requirement 2.2)

The RA Mining Code establishes the key principles for conducting mining in Armenia, including ensuring the protection of rights and legitimate interests of the State and individuals in conducting mining activities.

Mining is permitted for following two purposes:

1. Exploration, which can have two types:
 - a) Exploration for reconnaissance
 - b) Exploration for further exploitation
2. Exploitation

Exploration permits, whether for reconnaissance or for further exploitation, are issued for 3 years (and are extendable). Appendix 9 includes the list of companies that have exploration permits. The exploration permits are granted on the basis of exploration agreement or exploration permit for further extraction, a contract, and an approved work plan.

To apply for an exploration permit, the following information and documents are required to be submitted:

- Name, address (location) of the applicant;
- Copy of the applicant's State Registration Certificate;
- The timeline required for the implementation of the activities;
- Description of the area of the sub-soil for exploration of which the application is submitted, and the mapping design of that area with the border-edge coordinates;
- The work plan for geological activities;
- Data on the mining rights held by the applicant in the past within the Republic of Armenia;
- Information on the financial and technical capacities and resources the contents and requirements for which are defined by the Government; and
- The list of documents enclosed with the application.

To receive an exploration permit for further exploitation, in addition to the above, the following information and documents are required to be submitted:

- A copy of the certificate of registration of the company;
- The time period required for conducting the exploration;

- The minerals that will be explored;
- A general and geological description of the area to be explored, including the coordinates and a geological map;
- The exploration program;
- Information regarding the applicant's previous mineral rights in the Republic of Armenia;
- Names and citizenship of natural persons having at least a 10% share in the company (in case the shareholder is a legal entity, the registration certificate of the legal entity should be submitted). It should be noted that if the shareholder or the owner of the equity share is a legal entity, it is not required to submit information on the participants or the shareholders of the latter with a view to disclosing the beneficial owner;
- Information concerning the financial and technical capacity and means, in the format prescribed by Government; and
- The list of documents submitted.

Information regarding the geological structure of subsoil, minerals, geological data, size of reserves, processing terms, as well as other peculiarities of subsoil, which are included in the geological reports, maps, primary and other geological documentations, are the property of the Republic of Armenia, irrespective of financing source for their acquisition. Moreover, irrespective of the financing source, geological information that has been subjected to state geological engineering examination, shall be submitted to the authorized body on a fee-free basis for administration, maintenance, classification and consolidation, as defined by the Government.

However, the geological data received during the geological exploration period may not be disclosed by parties other than the license holder while the exploration permit is valid. The period of the validity of geological exploration permit for the purpose of mining, after the verification of the reserves, may be extended by one year for development of a mining project. Even though in practice after the completion of the said 1-year extension, geological information can be disclosed by parties other than the license holder, we would recommend that the Mining Code clearly state that after completion of the 1-year extension period, the confidentiality "regime" can no longer be applied to geological information obtained during exploration.

To obtain the right for **mineral exploitation**, in addition to the required documents listed above, the following should also be submitted:

- An Operation plan;
- A Mine closure plan (including physical closure of the mine, an environmental amelioration plan, a social amelioration plan, an environmental monitoring plan and financial guarantees);
- The expected time of operating the mine, estimated based on the existing technical and economic indicators; and

- The approved list of minerals.

Applications are submitted to the MEINR's Mining Agency which acts as a "one-stop shop," coordinating with other agencies as necessary. As per Article 51(8) of the Mining Code, *having received positive conclusions from expert examination, the authorized body, within 180 days of registration of the application, shall take a decision on the application, about which it shall notify the applicant in written form.* As per Article 51(10) of the Mining Code, if two or more persons have applied for exploitation permit for the same subsoil allotment or such allotments which have a common area, the preference will be given to the "preferential applicant" that has conducted geological exploration on the site.² Meanwhile, if two or more persons have submitted applications for the right to conduct geological exploration of the subsoil for further extraction of minerals, preference shall be given to the "first comer."

Three types of expert reviews (expertise) are envisaged in the mining sector, all of which are conducted based on assessments and documents provided by the applicant:

- Mineral Reserve Expertise required for geological exploration for further exploitation.
- Environmental Impact Expertise for:
 - Geological exploration for reconnaissance permit using a preliminary EIA,
 - Geological exploration for further exploitation permit using EIA Category C and in some cases Category A,
 - Exploitation permit always using Category A.³
- Technical Safety Expertise required for exploitation permits.

The right to exploit minerals is granted for a period of 50 years and is extendable. The documents certifying the right to mine are as follows:

1. Mineral Permit (agreement, in case of geological exploration),
2. Land Use Act,
3. The company's approved operation plan, and
4. A contract with the RA MEINR.

Financial proposals and mining fees, the obligations envisaged in the mine closure plan, the commitments undertaken for social-economic development of the community, the environmental management plan, as well as the financial guarantees essential for waste management (and/or recycling) are considered a part of the contract, in the form of annexes.

The Mining Agency of the RA MEINR keeps a centralized register of mining rights, where information on such rights are registered, including the copies of the above-mentioned documents, as well as changes in

² Although, in practice, the "privileged applicant" is the one who is granted the mining license, it is recommended to define more precise criteria for granting of subsoil use rights to safeguard the rights of the legal person/entity who conducted geological exploration.

³ For details on categories of EIAs, see Article 14 of RA Law on Environmental Impact Assessment and Expertise.

the rights, transfers, pledges/collateral, warnings and terminations. The procedure of obtaining information from the centralized register of mining rights is defined in accordance with Decision No 1147-N of the RA Government, dated 6 September 2012.⁴

Mining rights in Armenia are transferable. The transfer of mining rights takes place with consent of the state authorities. Similarly, the consent of the authorized body is required, when in case of reorganization of a legal entity through split or separation the mining right by law on succession, based on the dividing balance sheet, is transferred to the newly created company. In this regard, it should be noted that in case of amalgamation or merger, the consent of the authorized body is not required for the transfer of the mining right.

In case of alienation of the mining right as well as in case of acquisition of the mining company, an issue of "concentration," as per Article 8 of the Law on Protection of Economic Competition, may occur. According to this article, acquisition of assets of one economic entity by another, if the acquisition per se or together with the assets already possessed by the acquirer constitutes 20% or more of the assets of such economic entity shall be deemed as concentration of economic entities. In this regard, it should be noted that the mining right, as such, has no book value. Thus, from the perspective of the RA legislation, alienation of the mining right only, supposedly, does not entail any limitations provided for under the RA Law on Protection of Economic Competition.

Mining rights can serve as subject of pledge/collateral. In this case, the pledge agreement between the mining operator (the pledger) and the pledgee is concluded after giving notice to the relevant state authority. In order to participate in public auctions held with a view to performing forced alienation of the mining right, the legal persons acquiring the rights must obtain the consent of the relevant state authority. It should be noted, that as provided by the Mining Code, mining rights are sold exceptionally through public auctions, which implies that the procedure of applying confiscation to the pledged property, without filing with court, provided for under Article 249 of the RA Civil Code, may not be exercised in case of pledging the mining rights.

Defining such procedure for transferring mining rights limits the possibility of activity trading such rights in the market. Moreover, the information to be submitted for obtaining the agreement to transfer relates to the company that wishes to sell it and its activities. Establishing such a complicated procedure for mining right transfers may lead to a situation where companies in financial difficulties are not allowed to transfer the mining right to a third person and, later, in case of suspension of the right, the investor shall be deprived of the possibility to receive any compensation for the investments it had made.

It should be noted that in case of transfer of the shares or the stock of the company that has a mining right, there are no requirements to report to mining-related state authorities. Even the authorized body may not be aware of the change in the owners of the shares or stock of the company. In other words, the RA legislation specifies no legal implications in terms of the legal regime applicable to the mining right in cases of so called "change of control."

⁴<http://www.arlis.am/DocumentView.aspx?DocID=78175>

Roles and Responsibilities of Government Agencies

The **Ministry of Energy Infrastructures and Natural Resources** (MEINR) plays the lead role in the development and implementation of government policy in the mining sector. Relevant agencies within the MEINR include the MEINR Mining Agency and the Republican Geological Fund SNCO.

The Mining Agency has gone through restructuring process and its current status, structure and responsibilities have been approved by RA Government on the 7 September 2017. The newly established Mining Agency has four divisions:

1. Mining Right Granting Division,
2. Mining Examination and Resource Approval Division,
3. Geology, Normative-Methodical and Analysis Division, and
4. Subsoil Use Projects, Programs and Agreement Division.

The specific responsibilities of these divisions were not defined in the RA Government Decision adopted on 7 September 2017.

The Mining Agency was established in 2012 to simplify the permitting process through creating a single body for contact and communications with the applicants (based on the principle of “one-window system” envisaged by the 2011 RA Mining Code). Thus, the agency administers the entire mineral permitting process and coordinates the process of expert examinations, submits the final package of permit application to the RA Minister of EInR for approval. The MEINR provides the exploration and exploitation permits and approvals through a ministerial order. The Agency also conducts subsoil examination with a view to appraising the deposits explored and the validity of other data on the subsoil, the conditions of mineral mines and deposits, as well as the writing off of the deposits that have lost their industrial relevance or have not been confirmed as a result of further works.

The Republican Geological Fund SNCO (Geo Fund) acts as a repository of historical geological data and information. This includes exploration and mining company reports and minerals reserves data. The various reports and data stem from decades of geological research, much of which was conducted during the Soviet period. In order to preserve this data and make it more accessible, in 2015 the Geo Fund began a process of digitalization, establishing an official website (www.geo-fund.am) which already has approximately 72000 documents⁵ uploaded, as well as an interactive map of natural resources. The website thus gives access to geological research, plus also summary information on issued licenses, although the names of the licensees, nor the location of the licensed mines is not disclosed.

The **Ministry of Nature Protection** (MNP) is responsible for environmental policy development and implementation in Armenia. MNP has three major roles in mining sector regulation and supervision:

- Expert review of EIAs for mineral exploitation and geological exploration projects;
- Environmental and mining inspections; and

⁵ Data as of 10.01.2018, provided by the company in charge of the website development.

- Regional environmental monitoring.

The Environmental Impact Expertise Center SNCO, under MNP, performs the expert review of EIAs for exploration and exploitation projects.

The Environmental and Mining Inspectorate is a newly-formed body created through merger of the Mining Inspectorate of the RA MEINR and the Environmental Inspectorate of the RA MNP in accordance with the RA Government Decree dated as of 27 April 2017. The role of this Inspectorate is to ensure that exploration and exploitation is conducted in line with contracts between operator/enterprise and MEINR as well as the approved exploration work plans and operational plans. The list of items or issues to be inspected (also known as the inspection questionnaire) was defined by government decree prior to the merger of the two institutions. A new questionnaire is in the process of development and approval by government. It is expected that the questionnaire will include issues such as:

- Declaration of production volumes;
- Conformity of operation of the mine with the modes, schedules and production volumes set out in the operational plan;
- Compliance with technical standards regarding construction of the mine; and
- Progress of implementation of the social-economic expenditure obligations. To date, checking implementation of social expenditure obligation set out in the mining contract has not been part of the inspectorate's remit.

The frequency of inspections is based on risk categories. As part of the government's policy to reduce red tape and obstacles to doing business, since August 2015 there was a moratorium on planned inspections. From August 2015 up until July 2017, planned inspections in the mining sector could only be initiated by the tax and customs inspectorates. On occasions during that period, the Tax Inspectorate co-opted members of the Mining Inspectorate when undertaking inspections in the mining sector, which enabled them to check mineral production rates and assess tax liability accordingly. As from 26 July 2017, inspectorates established under the 2014 Law on Inspection Bodies (which currently includes the Environmental and Mining Inspectorate and the Health Inspectorate) are also allowed to conduct planned inspections. Once the newly formed Environmental and Mining Inspectorate has completed the process of establishing its staff and functions, it will be able to conduct inspections in the mining sector.

The Environmental Monitoring and Information Centre (EMIC) SNCO, formed by Government Decision 1277-N dated 15 December 2016, merges four bodies under MNP. The four agencies merged are the Environmental Impact Monitoring Center, the Hydro-Geological Monitoring Center, the Waste Research Center, and the Information Analytical Center. Each of these four agencies continue to perform their mandates as previously defined, with only a change in the administrative structure.

The EMIC SNCO will continue with the mandate to sample water, air and soil across Armenia and analyze for pollutants. The water and air monitoring results should be published regularly. Soil testing has not been done due to lack of funds.

The **Ministry of Emergency Situations (MES)** is responsible for state expert review of the technical safety within the scope of mineral exploitation permitting process. The work is conducted by the National Center for Technical Safety Expertise, SNCO or other legal entities or sole proprietors (e.g., private engineering firms) certified in accordance with the process established by the Government and registered by MES.⁶ Documents confirming the safety of tailings dams and other infrastructures are subject to expert review of the technical safety. The procedures and requirements of technical safety assessments are regulated by the RA Law on State Regulation of Technical Safety and relevant pieces of secondary legislation. The functions of the MES include also classification of technically hazardous objects, keeping records of these objects, issuing passports for mine waste, and maintaining cadasters.

The State Health Inspectorate of the **Ministry of Health** is responsible for occupational health and safety inspections. Since 2013, this inspectorate has included a division on labor inspection, which since April 2017 is called the Supervisory Department for Ensuring the Health and Safety of Employees. The functions of this department include undertaking inspections to ensure the health and safety of employees, investigating work-related deaths and other accidents, as well as providing advice on compliance with the law.

As noted earlier, a moratorium on planned inspections was enforced starting in 2015 until mid 2017. Parallel to the Environmental and Mining Inspectorate, the State Health Inspectorate was reestablished under the Law on Inspection Bodies and, therefore, since July 2017 is authorized to conduct planned inspections.

As per Article 6 of the Law on Inspection Bodies, inspection bodies are responsible for exercising control, in manner prescribed by law, over the compliance by economic entities with the laws and other legal acts of the Republic of Armenia, including conducting checks in cases and manner defined by law. Such bodies must perform outreach on application of the Republic of Armenia laws in relevant spheres and the provisions of legal acts adopted thereon, inform the economic entities of their rights and responsibilities. They are authorized to file petitions with the licensing bodies on repealing or terminating the licenses issued to the physical and legal persons. Given that the inspection body in the sphere of mining rights has been formed recently, it is too early to judge the performance of these bodies in carrying out their inspection functions.

2.2. Fiscal Regime (EITI requirement 2.1)

In the metal-mining sector, the main types of **direct taxes** and fees are:

- Royalties;
- Profit tax (set at 20% on profits); and
- Personal income tax.

For 2016 and 2017, these taxes and fees are based on the following laws:

- Law on Taxes;

⁶ RA Government Decision 302-N, dated 16 February 2006, titled "On approving the system of accreditation and registration of entities implementing technical safety review."

- Law on Profit Tax;
- Law on Income Tax;
- Law on Natural Resource Use and Environmental Protection Fees (this law regulates the calculation of natural resource use fees and royalties, in case of metal mineral extraction); and
- Law on Environmental Fee Rates.

A new Tax Code was adopted in 2016 but the main provisions came into force in January 2018. The Code brings together in one document the key regulations governing taxation. The taxation rates for mining have remained essentially the same.

Royalties

Companies that mine metals or produce metal concentrate are required to pay a royalty on the sales proceeds of metal concentrate, smelting products, or final products sold. This is regulated by the Law on Environmental Payments and Natural Resource Use Fees, the Mining Code and a number of secondary legislative acts.

For sales of concentrate, the royalty base is the product of the price specified in the sales contract and the physical volume determined in accordance with the purchase agreement. For sales of smelter products or final products, the royalty base is calculated by multiplying the physical volume of concentrate used in production and the average price of concentrate based on LME price.

The royalty is payable on a quarterly basis based on the amount payable under the purchase agreement at the time of the sale. In the 2012-2017 period, there had been a rule that prices on which royalties were based could not differ by more than 10% from the international prices established by the London Metal Exchange (LME). The variation from LME prices was increased to 20% in March of 2017. Other than this preferential treatment, we are not aware of any preferences defined by the RA legislation or a preferential loan policy in effect or any other types of preferences, applied exceptionally in the mining sector.

The royalty rate to be applied against the bases described above is based on profitability.

As per new Tax Code coming into force in 2018, a value-based rate (in percentage) against the royalty base is specified for the royalty, calculated according to the following formula:

$$R = 4 + [P / (I \times 8)] \times 100$$

Where:

R = royalty rate (%)

P = profit before taxes in AMD, calculated as the positive difference between the royalty base and the deductions specified by the RA Tax Code (excluding costs of financial operations, the royalty referred to in this section and the tax losses carried forward from previous years)

I = Royalty base in AMD.

Per Article 209 of the Tax Code, when calculating profit before taxes, the expenses pertaining to financial activities, royalty prescribed by this Section and the tax losses of the previous years shall not be deducted from the sales turnover, irrespective of the fact that these expenses and tax losses are related to the exploitation of mines and/or production of metal concentrates.

In addition, when calculating the component of profit before taxes, deductions of the administrative expenses, selling expenses and other non-production expenses of the payer of the natural resources use fee shall be taken into account in the gross revenue at the portion corresponding to the sales turnover.

Profit Tax

Mining companies are subject to taxation in accordance with the RA Profit Tax Law of 1997. The profit tax applies to mining companies as it would to any other company in Armenia, with no apparent special provisions for the mining sector. The profit tax rate is 20%, levied on income calculated in accordance with the RA Law on Profit Tax.

Income Tax

Personal income tax is paid by employers on behalf of their employees on a monthly basis. The relevant law is the Law on Income Tax adopted in 2010. This provides for a progressive tax, with three bands: 24.4%, 29% and 36%. The top rate applies to monthly taxable income exceeding 2 million AMD (approximately USD 4,200). As from January 2018, the first two bands will be reduced to 23% and 28%⁷ respectively. There are no special provisions for the mining sector.

Other Payments

Other payments, also paid by mining operators, are as follows:

- Environmental Fees (for environment protection) – paid to the RA Central Budget.
- Contributions to the Environmental Protection Fund (for reclamation) – paid to the MNP extra-budgetary treasury fund. Payments are regulated through the Mining Code, Government Decision N 1079 on Approving the Procedure for Calculation of the Rates of Allocations to the Environmental Protection Fund, dated 23 August 2012, as well as by Government Decision No 365-N on Approving the Procedure of Calculation of Estimated Values of the Reclamation Works and Assigning Indices, dated 24 December 2012. The preliminary payment is made after the mining contract is signed, and the amount should not be less than 15% of the total estimated amount. Subsequent annual payments are calculated from the outstanding part of the total estimated cost, and the time period for planned reclamation activities. The system, however, does not ensure that there are sufficient funds for complete reclamation and closure at any point in time. There are also no provisions accounting for the possibility of changing monetary value over time, e.g. through exchange rate fluctuations or inflation. The monitoring and oversight of the Reclamation Fund is conducted by the RA Ministry of Finance according to the Government Decision N 404 adopted on 10 June 1999.

⁷ The tax base for the second band has been changed (150000 AMD)

- Payments to finance monitoring are kept in the deposit account opened in the name of the MNP at the RA Central Treasury. The MNP is the main manager of monitoring allocations. For each year, monitoring activities are financed through the means paid from this Deposit Account to the MNP extra-budgetary Environmental Targeted Fund, in accordance with Government Decision No 22- N on "On defining the procedure of conducting monitoring of the exploited area, the site of the industrial dumps generated in course of extraction, and with a view to ensuring the safety and health of the residents of the nearby communities, for calculation of the payment rates and making the payments".
- Payment for state duty.

Indirect taxes include VAT, excise and local taxes (land tax and property tax, which are collected by local self-government bodies and go to the local community budget). Land tax and tax on other real property is generally calculated on the basis of the cadastral value. For example, the annual tax on industrial property owned by legal entities is 0.6% of the cadastral value. In the case of land, annual tax rates are generally between 0.5% and 1% of the cadastral value. The exception is agricultural land, where the tax is set at 15% of the deemed income, based on a cadastral value.

2.3. Level of fiscal devolution

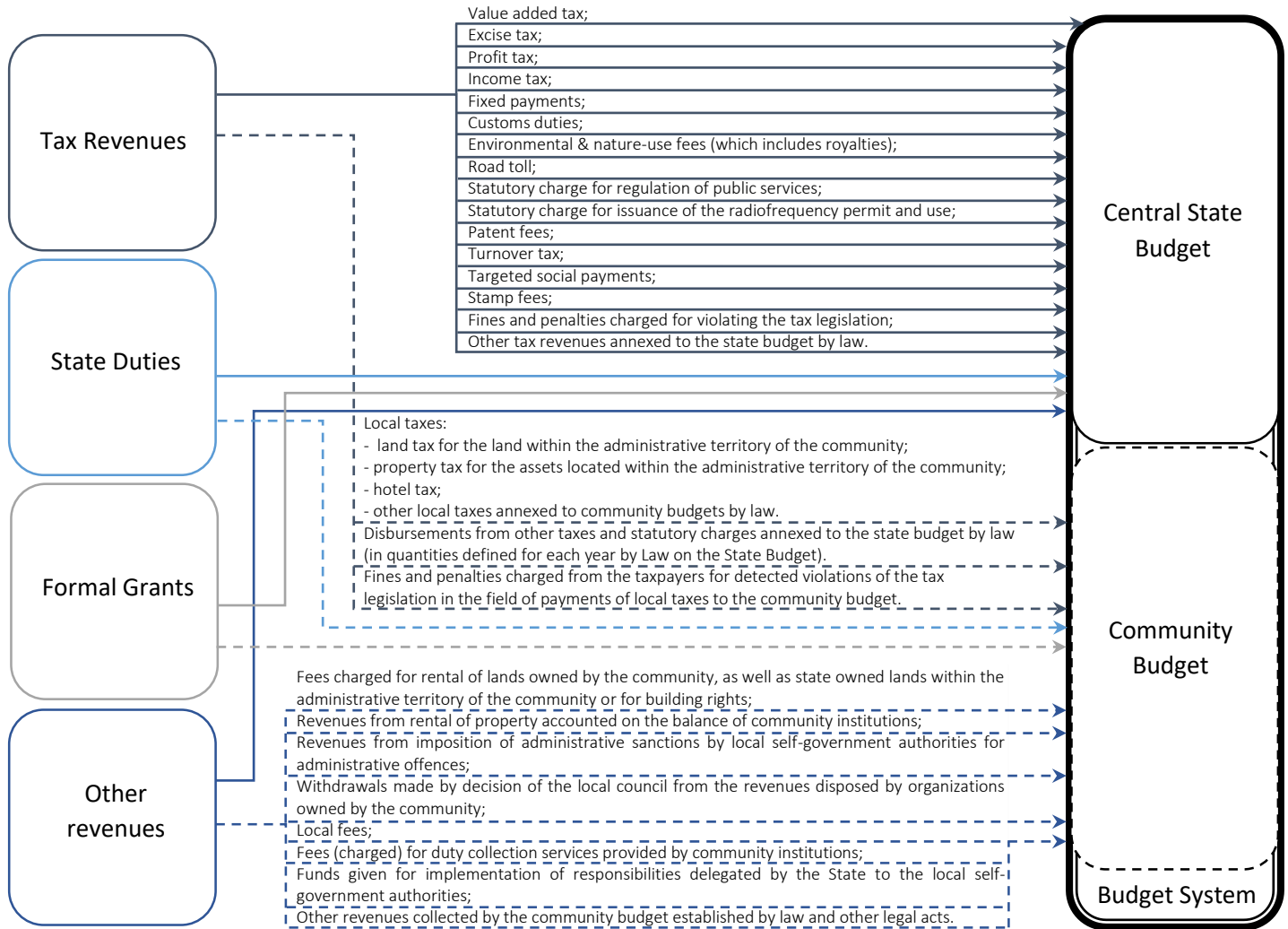
In line with the RA Law on Budgetary System, the budgetary system is based on two-levels of budgets: **state budget** and **community budgets** (Figure 1). All major taxes and fees are collected by central government agencies and paid into the state budget. These include major revenue sources from the mining sector including royalties, profit tax, personal income tax, natural resource use fees and environmental payments, and various other fees and duties.

Community budgets receive revenues from land, property, hotel, and rental taxes, donations from companies. Local self-government authorities collect, budget, and allocate community budgetary revenues. In addition, they may receive subsidies as per the Law "On targeted use of environmental fees paid by companies." The list of local governments eligible to apply is revised and approved annually. As per Article 3 of the RA Law "On targeted use of environmental fees paid by companies," eligible communities can propose projects that will offset the impact of activities of the companies paying the environmental fees. The project proposals are developed by the community head, based on local action plans or other programmatic and strategic documents for development (social-economic development) of the province or community or for protection of the environment, approved in manner defined by the legislation. The proposed project is published by the community head, after which, within fifteen days, legal and physical persons may furnish written recommendations to the community head. The implementation priorities of planned measures and the funding proportions are agreed with the authorized government bodies in nature protection and health. Only agreed projects are submitted by the community head to the elderly council for approval.

The process of selecting the projects, rejecting the proposals received, implementation of selected projects should be as transparent as possible. The community head must disclose the written recommendations received from third parties that relate to the projects, submit those also to the authorized bodies, as well as publicize the grounds for turning down the proposals received from third

persons and make the process of implementation of approved projects open, specifically the list of companies engaged, their beneficial owners, the selection procedure, etc.

Figure 1. State and Community Budgetary Revenues



According to the RA Law on Budgetary System, budget revenues may not have any connection with specific spending, except for targeted budgetary revenues, or revenues from **targeted budgetary funds**, whenever these funds are established according to legislation.

Targeted budgetary funds are the total sum of certain types of budgetary revenues separated from total budgetary revenues based on legislation, decisions by government or the elderly council of the local communities and the budgetary expenditures that are financed exclusively from these separated budgetary revenues. This means, targeted budgetary revenues can be an amount paid to the state or community budget in form of donations or loans, or mandatory fees.

Based on review of the following two sources, no specific information was found on mining-company payments that are classified as targeted budgetary funds:

- Official website of RA MTAD, particularly sections on Community Budgets (Budgetary Incomes and Expenditures of RA Communities) and
- Official website of the RA National Statistical Service.

As a general rule, there is no link between revenues and expenditures – e.g., royalties collected from the metal mining sector go to the treasury and not to a dedicated fund. The only exceptions are the environmental fees, which are paid into the central budget and certain (but not all) affected communities are eligible to apply for financing of environmental projects, in an aggregate amount not to exceed the total amount of environmental fees collected the previous year. Contributions to the extra-budgetary Reclamation Fund have targeted spending – the fund is spent specifically for the purpose of mine closure and environmental activities at the mine sites of those companies that have made contributions. Land and property taxes paid to the communities do not have targeted spending.

Marzes are part of the state (national) government according to the RA Constitution. The process of providing subsidies from Marzes to local governments (communities) is conducted via Regional Administration Bodies (Marzpetaran). The opposite process does not exist.

Local governments can have **extra-budgetary funds** according to the Article 1.2 point 16 of the RA Law on Budgetary System. Article 15.9 of the RA Law on Budgetary System provides that state institutions can only open an extra-budgetary account if permitted to do so by RA Government decision. Donations or loans can be put into an extra-budgetary account in the treasury or any bank in cases provided by the RA Law on Budgetary System or where the person making the donation or loan requests so, with authorization of the state authorized body and the decision of the community council. The concern can be the fact that amounts in extra-budgetary funds are not required to be reflected in municipality budgets. Section 7.4 of the Scoping Study on Extra-Budgetary Funds of Local Governments addresses key risks associated with these funds, issues related to data disclosure of such funds, and provides recommendations to the MSG for further discussion.

3. Overview of Recent Reforms (EITI requirement 2.1(b))

Armenia has recently undertaken several initiatives to reform its mining sector. In addition, in 2018, Armenia is slated to start a mining policy and strategy formulation process. These reform efforts and their related initiatives are discussed below.

3.1. EITI and Open Government Partnership

Some of the reforms aimed at increasing transparency in the mining sector stem from Armenia's membership in the Open Government Partnership (OGP). Armenia's second 2014-2015 action plan under the OGP has provisions concerning increasing transparency in the mining sector. The first is "Digitization and publication of data of the Republican Geological Fund, SNCO". This has involved establishing a new website, www.geo-fund.am, which contains details of geological data and documents (reports, maps, mine passports, etc.), as well as a list of issued permits. In the second OGP commitment (entitled "Ensuring transparency in mining") the Government of Armenia has committed to start the process of joining the EITI.

Armenia began the process of becoming an EITI member in July 2015 when the Prime Minister formally stated the intention to join the initiative. On 27 June 2016, the first meeting of the Armenian EITI Multi-Stakeholder Group took place. On 26 December 2016, the MSG adopted by consensus the Terms of Reference (rules of procedure) of the EITI MSG of the Republic of Armenia, and its 2017-2018 EITI Work Plan. By letter dated 28 December 2016, the Government formally submitted its candidature application to the EITI International Secretariat.

Armenia's EITI candidature application was approved on 9 March 2017 at the EITI board meeting in Bogota. The decision noted the following deadlines:

The EITI admits the Republic of Armenia as an EITI candidate country on 9 March 2017. In accordance with the EITI Standard, the Republic of Armenia is required to publish its first EITI Report within 18 months of becoming a candidate (i.e. by 9 September 2018). Armenia is required to publish an annual activity report for 2017 by 1 July 2018. Validation will commence within two and a half years of becoming a candidate (i.e. by 9 September 2019).

3.2. Important Legislative and Regulatory Changes

Mine Waste Planning and Management: Amendments to the waste management provisions in the RA Mining Code, which were introduced in October 2016, have considerably improved the regulation of mine waste. The new provisions require mining operators to prepare mine waste management plans and to have financial guarantees to back their plans. The amendments set out the standards for building facilities to contain mine waste, as well as the rules of conducting monitoring in mine waste facilities. The amendments are being supplemented by a series of Government resolutions setting out technical details and model forms where appropriate.

Calculation of Royalty Base: On March 1, 2017, the National Assembly adopted amendments to the Tax Code as well as to the Law on Environmental and Natural Resource Use Fees. It should be noted that before these amendments, mining companies could sell concentrate for up to 10% below the LME rate,

and the contract price would be accepted as the basis for calculating profit tax and royalties. Under the amendments a deviation of up to 20% below the LME rate will be accepted.

Ongoing changes to the EIA Law: On 21 August 2017 MNP published the online draft amendments to the law. The main focus of the amendments is twofold: to introduce the requirement to conduct Strategic Environmental Assessment (SEA), and to improve the public participation process. For the issue of SEA, the amendments propose to add a separate chapter to the law, while additional obligations to ensure effective public participation are foreseen in two articles to be added to chapter 6 of the law. The draft also provides that government resolutions should set out further details of both processes.

Adoption of a new Tax Code: Key provisions related to taxing mineral sector remain unchanged in the coming Tax Code. However environmental payments will become environmental taxes which involves certain tax administration changes. Starting from January 2021, new environmental tax rates are specified for one-time disposal or storage of mine waste into mine tailings, areas designated for industrial dumps, waste rock sites and (or) similar sites. The disposal of non-hazardous mine waste, including waste rock of metal mines in designated sites will be taxed for the first time at AMD 3 per ton. The environmental tax rates for one-time disposal or storage of waste that are in risk category 1-4 in designated sites, including tailings, for metal mines have also been changed. The rules of rate calculation will be changed every year up till 2020 after coming into force of the RA Tax Code, specifically from 1 January 2018, the rates for environmental tax for disposing production waste at designated sites shall be determined as a product of the rates defined in the RA Tax Code and coefficient "1.1", and from 1 January 2019 - as a product of the rates defined in the RA Tax Code and coefficient "1.2", while from 1 January 2020 - as a product of the rates defined in the RA Tax Code and coefficient "1.3."⁸

3.3. Mining Policy and Strategy Development

The World Bank commissioned a report called “Armenia: Strategic Mineral Sector Sustainability Assessment” aiming “... to assist the Armenian government to gain a better understanding of key social and environmental challenges and future opportunities for the Armenian Mining Sector; and to support the development of a minerals strategy which is in line with international good practices and which contributes to sustainable development” (p. vi).

A key report recommendation is that the country should develop a “holistic policy for the sustainable development of the mineral sector”, and that this should tie in with its efforts under the EITI towards greater transparency and participation. Furthermore, the report recommends that a number of narrower diagnostic studies should be undertaken in order to inform policy decisions. It is understood that with the support of the World Bank two of these – a study on environmental and social issues and a study on economic and financial issues – will be prepared in 2018. It is expected that 2018 will also see the development of the government’s mineral mining sector policy and strategy.

⁸ RA Tax Code, Article 170, Environmental tax rates for disposal or storage of mining, production and (or) consumption waste in designated sites.

4. Transparency in Mining Permitting and Contracts

4.1. Publishing Contracts and Other Documents

According to the EITI requirement 2.3, implementing countries are required to maintain publicly available timely and comprehensive register or cadastre on following information regarding each of the licenses pertaining to the companies covered in the EITI report:

- License holder (holders).
- When specified, the coordinates of the license area. When the coordinates are not specified, the government is required to ensure that the size and location of the license area are disclosed in the license register and that the coordinates are publicly available from the relevant government agency without unreasonable fees and restrictions. The EITI report should include guidance on how to access the coordinates and the cost, if any. The EITI report should also document plans and timelines for making this information freely and electronically available through the license register.
- Date of application, date of award and duration of the license.
- In case of production license, the commodity being produced.

It is expected that the license register or cadastre includes information on the licenses held by all entities, including companies that are not included in the EITI report, where the payments fall below the agreed materiality threshold. Any significant legal or practical barriers preventing such comprehensive disclosure should be documented and explained in the EITI report, including an account of government plans for seeking to overcome such barriers and the anticipated timescale for achieving them.

According to the RA Mining Code, mining rights consist of the mining permit or agreement (in case of geological exploration), approved work or operation plan, land use act and contract. Currently, after the mining right is granted, all the above-mentioned documents are registered and their copies are archived at the Mining Agency of the MEINR. The Mining Agency keeps the Register of Mining Rights. A summary of the information kept in the Register is currently published on the websites of MENR (<http://minenergy.am/en/page/422>), the Government (<https://www.e-gov.am/lists/>) as well as the recently established <https://www.geo-fund.am/hy/> in *Microsoft Word* and *PDF* formats. The copies of the documents or their full content, however, are not published yet, except for the work or operation plan. The initial versions of these plans are published at MNP's website in the course of EIA public consultations (<http://www.mnp.am/?p=315>).

The following information with respect to geological exploration and exploitation rights is shared through the publicly available Register of Mining Rights:

- Name of legal entity receiving the mining permit;
- Reference number of the permit;
- Date of permit issue;
- Permit expiration date;
- Place of the operation (only the area is noted without specific coordinates, though info on the coordinates are kept at the Mining Agency);

- Purpose of the operation;
- Reference number of the mining contract, contract's duration;
- Other data in the "Notes" section (i.e. information about renewal of the permit, etc.)

Recently, Ministerial Orders issued by MEINR granting mining permits have also been published on the MEINR website (http://minenergy.am/legislation/browse/cat_id/4).⁹

The EIA reports presented to the MNP for review, are placed on MNP's official website (<http://old.mnp.am/?p=200>) along with conclusions of state expert review. The proposed work or operation plan as well as application for preliminary impact assessment are published on the MNP website prior to the start of EIA public consultation process. These postings, however, are not updated in a way to reflect comments received in the course of EIA public hearings and the feedback provided to them. According to the observations of some members of the MSG, the work plans are either not uploaded on the website or the latter do not meet the requirements of the EIA. The findings of the EIA Expertise review are published on the website after the approval of the work plan or are not published at all. It is also required by Law on EIAE to publish public hearing minutes on the MNP website, however currently the website provides minutes only for 2015.

Brief descriptions (also called passports) of mines and ore occurrences are also available online and uploaded on MEINR's and Geo-Fund's websites. These descriptions, however, do not include coordinates of mines and ore occurrences. In addition, it should be noted, that the passports that are either available or are being prepared do not meet the current passport requirements and need updating. In other words, the information from the passports, as they are now, cannot be used as reliable information in the EITI process.

So, one can conclude that in terms of permits, the following pieces of information are not available to the public from among the data that EITI Standard requires to disclose:

- Coordinates of the site provided by the permit;
- Date of application; and
- Name of the mineral extracted in case of the mining permit.

Legal review on the gaps in legislation and institutional capacities has revealed that despite some publicity in the mining permitting process, the legal grounds for such permits are not comprehensible, as well as relevant information is not published in a structured or consistent way. In addition, information on the quantity of deposits provided, the volume of extraction is not published. In terms of compliance with the EITI standard, the transparency of permitting process and contracts, the publication of following information is critical:

1. Name of the business operator,
2. Reference number of the permit, year, month, date and period of issuance,
3. Coordinates of borders of the mining site,
4. Name of the mineral,
5. Quantity of the deposits provided,
6. Annual productivity of the mine, and
7. Volume of planned extraction.

⁹http://minenergy.am/legislation/browse/cat_id/4

Information referred to in points 1 and 2 above is currently published. Therefore there is no need to address the potential barriers preventing their public availability.

We find that in terms of the EITI Standard and public oversight, it is important to identify the barriers preventing the disclosure of information on the amount of deposits provided, the annual productivity of the mine and the volumes of extraction, specifically whether the information on the quantity of the deposits provided, the annual productivity of the mine and the planned volume of extraction may be commercial secret.

As per Article 141 of the RA Civil Code, information constitutes a commercial secret, if:

- A. The information has an actual or potential commercial value by virtue of being unknown to third persons;
- B. There is no free access to it on legal basis; and
- C. The holder of the information takes measures for defense of its confidentiality.

There are some provisions relating to the commercial secret in other articles of the RA Civil Code, too. In particular, Chapter 68 of the RA Civil Code relates to undisclosed information and its protection, and in accordance to Article 1164, such information includes technical, organizational or commercial data. One should note, however, that these provisions of the RA Civil Code are included in the section on intellectual property, henceforth, we believe the above provisions are not applicable to the relations in question.

The Law on Protection of Economic Competition also has referred to protection of undisclosed information. As per this law, undisclosed information is more broadly defined, hence, formally we think that information regarding the quantity of deposits provided, the annual productivity of the mine and the extraction volume can be undisclosed in terms of the Law on Protection of Economic Competition. Thus, according to Article 16 of the Law on Protection of Economic Competition, objects of undisclosed information can cover production modes, chemical formulas, design layouts, testing samples, forms of sale and distribution of a product, forms of contract, business plans, details of contractual prices, spheres (profiles) of professional activities of the consumers, promotion strategies, lists of suppliers or customers, software, databases, etc.

Given the lack of clearly specified definition of commercial secret in the RA Law, this study has sought to find the interpretation of the definition of commercial secret in research literature. Commercial secret is usually interpreted as a regime for secrecy of information, enabling the legal holder of the information to increase the profits in the existing or potential circumstances, avoid unjustified costs, maintain its position on the market of goods, works and services, or obtain other commercial gains. Information constituting commercial secret is interpreted as any type of data (production-related, technical, economic, organization, including on outputs of intellectual activities in the research and technical field, as well as data on means of performing professional activities) that by virtue of being unknown to third parties have actual or potential commercial value, are not accessible to third parties by virtue of law and for which a regime of commercial secret is defined (by the holder of such information).

The study has also shown that qualifying certain information as confidential, in fact, is the right of the company. This right belongs to the holder provided that the latter does not breach the limitations set forth by law. Businesses have the right to qualify any information regarding their activities, organization

of production, technological processes, technique (except those prohibited by law) and protect it from disclosure.

So, de facto the holder of information decides on its own which information qualifies as commercial secret and defines the rules of protecting such information. However, this power is not unlimited. Any country is entitled to specify the types of information which may not be qualified as commercial or other secret for purposes of protecting the interests of the state and the public, ensure military security, prevent unfair competition, and ensure protection of consumer rights.

In conclusion, we find that the quantity of the deposits or the annual permitted production level of the mine may not, per se, constitute a commercial secret, since these are certain rights granted by the state to the company. In light of this interpretation of the RA legislation and the research literature, it is questionable whether the above-mentioned information can be considered as a commercial secret.

It should be noted that the RA Government has approved, through Decree 437-N, dated 22 March 2012, model contracts that should be used for mineral extraction, recycling of mine waste, and geological exploration for further extraction.

With respect to other information provided in the contract, namely:

- (i) Financial proposals for extraction of minerals by mining operators,
- (ii) Payments to the Environmental Fund and payments for monitoring of the exploited site, the location of industrial dumps generated in course of extraction and for purposes of ensuring the safety and health of the residents of nearby communities,
- (iii) Obligations provided for under the mine closure plan,
- (iv) Obligations undertaken in the field of social-economic development of the community, and
- (v) Financial guarantees for activities planned in the mine waste management and (or) mine waste recycling plans and for implementation of such plans, etc.,

we believe that these elements of the contract do not constitute commercial secret, since they do not directly relate to the production processes of companies. Moreover, they are guarantees of the obligations undertaken toward the state or relate to ensuring the safety and health of the population, which legally cannot constitute a secret.

However, to avoid varying interpretations of the law, it is recommended to amend the Mining Code and Government Decision No 437-N, dated 22 March 2012, explicitly specifying the requirement to publish the contracts and permits in question.

Review of the existing mining permits reveals that only four permits out of those granted in 2016 relate to metal mines. None were granted in 2017. Requirement 2.2 of EITI Standard establishes that the Mining Agency should disclose/publish information regarding the award and transfer of permits. Article 2 of the Mining Code establishes that the right to mine is granted on general basis laid down by law or through bidding. Information on the process of awarding or transferring mining rights should be published. Requirement 2.2.c of the EITI Standard sets that where in the period covered in the EITI Report the licenses were awarded through a bidding process,¹⁰ the Government is required to disclose the list of applicants and the bid criteria. Similarly, if during the reporting period the operator has applied to the authorized body for agreement to transfer the mining right, that process should also be disclosed.

¹⁰This provision applies only in case of exploration of radio-active stock.

Requirement 2.2.b of the EITI Standard sets that when companies covered in the EITI report hold licenses that were allocated prior to the accounting period of the EITI report, implementing countries are encouraged, if possible, to disclose the information set out in 2.2.a for these licenses. The RA Government has approved, in its Decision No 368-N, dated 28 March 2013, the rules of assessing the qualitative criteria of information on financial and technical capacities and resources of the company applying for a mining right. It is worth noting that this decision has come into force on 5 May 2013. The current Mining Code has come into force on 1 January 2012. All permits issued prior to the new Code remain effective until a new license is issued in compliance with the new Code. As per Article 80, Provision 6 of the Mining Code, within 12 months of Code's entry into force, i.e., until 1 January 2013, mining operators are required to apply to the authorized body to reissue their mining right (license, contract, land use act). In response to our request, the letter of the Deputy Minister of EINR, dated 16 November 2017, states that until adoption of the new Mining Code, the legislation had no requirements to provide information on the technical and financial resources in the process of granting the right to mine.

Hence, given that the rules of assessing the qualitative criteria of information on the financial and technical capacities and resources of the company applying for the right to mine have come into force only on 5 May 2013, the financial and technical requirements were not considered when reissuing the permits existing before 1 January 2012, as well as when granting new permits from 1 January 2012 up till 5 May 2013, since the rules of assessing those were not in place.

4.2. Transparency of Expert Reviews

The following three state expert reviews (i.e., expertise) are conducted in the mining sector:

- Environmental Impact Assessment (EIA),
- Mineral Reserve Assessment, and
- Technical Safety Assessment.

For the EIA, four public hearings are held, while the other two reviews are closed to the public. Legislative requirements for each of the assessments, as well as the existing institutional capacities to ensure implementation of these requirements are examined below.

Expertise on Mineral Reserves Assessment

Geological expertise is conducted by the Division of Geological Expertise and Approval of Mineral Reserves of the Mining Agency of MEINR. The overall objective of the geological expertise is the assessment of the accuracy of information regarding mineral reserves and the subsoil, verification of the quantities of the mineral reserves, as well as making a conclusion whether or not to write off the reserves which are no longer industrially significant or the existence of which has not been confirmed. The extent of mineral reserves should be confirmed by explicit decision, followed by relevant changes in the state balance of deposits.

The state geological expertise is organized through a commission composed of 15 members, 5 of whom are not MEINR staff. An independent expert may join the team, and in the case of examination of metal reserves, 2-3 experts may be required to join the commission. The aim of participation of the commission

and independent experts in the process of geological expertise is to enable independent expert conclusions.

The opinion of the commission is taken into account by the Agency when issuing final expert opinion on following:

- Approval of resources;
- Re-appraisal and re-approval of resources;
- Non-approval of the reserves; and
- Writing off the reserves.

The summary of State Geological Expertise is published and updated on the website of MEINR (<http://minenergy.am/page/555>) and includes the following information:

- The work that was assessed with indication of the location of the mineral reserves;
- Number and date of the expertise conclusion;
- Category and amount of mineral reserves.

This information is updated on quarterly basis.

There is a number of legal and institutional gaps with respect to the methodology of geological expertise. The Government has approved the classification of deposits, according to which the balance sheet of mineral deposits in Armenia is kept. The explored and assessed reserves must be in line with the requirements of the above-referenced classification. In order to attract investments from international financial institutions, the operators conduct the assessment of mineral deposits in accordance with the requirements established by such institutions. Hence, assessment of deposits is conducted by the companies in accordance with the RA legislation, as well as the requirements of international financial institutions.

At present, the Mining Agency is conducting internal discussions on recommendations to prepare and amend a number of guidelines and secondary pieces of legislation, to improve the methodology of establishing mineral reserves.

The functions and responsibilities of the State Geological Expertise can be reviewed to include strategic and long-term cost-benefit assessment. This is a complex process and should involve other stakeholders as well as independent experts to ensure impartial decision making.

Expertise on the Environmental Impact Assessment

Environmental Impact Assessment (EIA) procedures, operator's responsibilities as well as state agencies' liabilities are clearly specified and regulated by the RA Law on Environmental Impact Assessment and Expertise and the relevant pieces of secondary legislation. Public involvement in the process of EIA is ensured through four public hearings as per the law cited above as well as the RA Government Decree No 1325-N on Defining the Rules of Public Notification and Consultation adopted on November 9, 2014.

In addition to public consultations, materials about environmental impact assessment and expertise, including the final conclusion of the commission of experts, is published on the MNP's website. However, for effective enforcement of the RA Law on Environmental Impact Assessment and Expertise, there is still

a number of secondary pieces of legislation and guidelines needed. In particular, legislation is needed on the methodology for assessment of impact on human health, methodology for assessment of cumulative environmental impact, as well as explicit formulas for compensation of the damage caused to human health.

Expertise on Technical Safety Assessment

The procedures and requirements of technical safety assessment and expertise are regulated by the RA Law on State Regulation of Technical Safety and relevant pieces of secondary legislation. Materials related to expertise as well as the draft and final conclusion of the state expert review is made available to the public only in summary. The brief summary is included in the register of hazardous production facilities published on websites of MES (<http://www.mes.am/hy/licensing/>) and Government (<https://www.e-gov.am/lists/>). The following pieces of information is available on the publicly disclosed part of the register:

- Brief information on the hazardous facility (for instance, sandstone mixture mine);
- Name of the company;
- Location of the hazardous production facility;
- Reference number of the hazardous facility;
- Date of registration of the hazardous facility;
- Reference number in the State Registry; and
- Section "Notes", where information, such as date of conservation or dismantling of the facility and other information is shared.

5. Beneficial Ownership (EITI Requirement 2.5)

5.1. Overview

The EITI requirements with regard beneficial ownership are:

- That the MSG should discuss disclosure of beneficial ownership;
- The country’s beneficial ownership roadmap should be published by January 1, 2018, (this roadmap should include a definition of beneficial ownership); and
- As of January 2020, companies should disclose their beneficial ownership.

In this section we offer a situation analysis with respect to Armenia’s laws as well as international agreements and initiatives related to beneficial ownership. A summary of all these is included in Table 2. Discussion of each of the major pieces of legislation and international initiatives are presented in the subsequent sections.

It should be noted that the Government of Armenia, under guidance from the MSG and funded by the European Bank for Reconstruction and Development (EBRD), had also recruited an international consultant, who has developed a Beneficial Ownership Roadmap for Armenia. This was a process separate from this Scoping Study or its related activities. Armenia’s Beneficial Ownership Roadmap has already been adopted by the MSG and is published by the RA Government on its website.¹¹

Table 2. Provisions on Beneficial Ownership in RA Legislation and Armenia’s International Initiatives

RA Legislation where the concept of “beneficial ownership” is used	
RA Law on Combating Money Laundering and Financing Terrorism (known by its Armenian acronym PLAF) (2008)	<ul style="list-style-type: none"> • Defines the concept of “Real beneficiary” based on FATF principles.
RA Law on State Registration of Legal Entities (2001)	Article 66 of the Law on State Registration of Legal Entities defines the cases when the legal entity, in accordance with PLAF, is required to furnish a declaration on the real beneficiary of the legal entity. The exhaustive list includes state registration of legal entities, changes in the statutory capital or the composition of the participants.
<ul style="list-style-type: none"> • RA Law on Securities' market • RA Law on Joint-Stock Companies • Regulation No 5/10 of the Central Bank 	The Central Depository of Armenia OJSC keeps the register of owners and nominal holders of securities in accordance with the mentioned laws and regulation, as well as maintains information on the quantities, types and category of the securities belonging thereto in accordance with the contract concluded with the issuer ¹² .
International Initiatives and Developments	
Financial Action Task Force (FATF)	<ul style="list-style-type: none"> • Independent inter-governmental body making policies to protect the international financial system from money laundering, terrorism financing and proliferation of

¹¹ http://www.gov.am/u_files/file/ardyunaberakan-cragir/BO%20roadmap_draft_EN.pdf

¹² https://www.cba.am/Storage/AM/downloads/FDK/Regulation/regulation_on_minimum_aml_cft_requirements_arm.pdf

	<p>weapons of mass destruction, as well as supporting implementation of such policies.</p> <ul style="list-style-type: none"> • All EU Member States are members of the FATF • Armenia is a member to MONEYVAL - originally an observer to the FATF and from June 2006 an associate member. • MONEYVAL is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems.
OECD Global Forum	<ul style="list-style-type: none"> • Introduce the standard of automatic exchange of information in all member countries of the Global Forum • Uses the concept of "beneficial owner" given in the financial methodology of the FATF, • Emphasized issue of access to reliable information about beneficiary owners, • Armenia has joined the forum in 2015 as a full member.
OECD Tax Base Erosion and Profit Shifting Project	<ul style="list-style-type: none"> • The actions of this project enable disclosure of the beneficial parties to a business operation, identify the schemes of aggressive tax planning, as well as exclude treaty shopping under agreements excluding double taxation. • The Republic of Armenia has signed Action 15, whereby it has joined the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.
EITI	<ul style="list-style-type: none"> • Recommends that implementing countries maintain a publicly available register of the beneficial owners of the corporate entities that bid for, operate or invest in extractive assets, including the identities of their beneficial owner(s), the level of ownership and details about how ownership or control is exerted. • Requires that: <ol style="list-style-type: none"> 1) the EITI Report documents the government's policy and MSG's discussion on disclosure of beneficial ownership - details of the relevant legal provisions, actual disclosure practices and any reforms that are planned or underway related to beneficial ownership disclosure; and 2) By 1 January 2018, the MSG publishes a roadmap for disclosing beneficial ownership information.

5.2. RA Definition of Beneficial Owner, FATF, MONEYVAL, and European Union

The most comprehensive definition of beneficial ownership in Armenian law is found in the Law on Combating Money Laundering and Terrorism Financing (known by its Armenian acronym PLAF):

Beneficial owner – a natural person who is not a party to the business relationship or transaction, and on whose behalf or for whose benefit the customer acts, and (or) who ultimately owns and (or) controls the customer or the person on whose behalf the transaction is being carried out. The beneficial owner of a legal person is the natural person, who exercises factual (real) control over the legal person or transaction (business relationship), and (or) for whose benefit the business relationship or transaction is being carried out. A natural person may also be recognized as the beneficial owner of a legal person, if such natural person: a. owns 20 percent or more of the voting stocks (equities, shares; hereinafter, stocks) of the given legal person; or, by force of his/her participation in or under the agreement concluded with the legal person, has the ability to predetermine its decisions; b. is a member of the management and (or) governing body of the given legal person; c. acts in agreement with given legal person, based on common economic interests; ... (Article 3, Clause 15).

This definition is based on one offered by the Financial Action Task Force (FATF), an independent inter-governmental body making policies to protect the international financial system from money laundering, terrorism financing and proliferation of weapons of mass destruction, as well as supporting implementation of such policies (<http://www.fatf-gafi.org/about/>).

The Republic of Armenia contributes to the works of several international organizations and structures involved in the development of international standards on anti-money laundering and combating of terrorism financing and in the implementation and enforcement of these standards internationally. These structures are considered FATF style regional bodies, which aim to ensure the implementation and enforcement of FATF's recommendations (see Table 2 for a full listing).

Republic of Armenia, as a member of the Council of Europe, is subject to regular monitoring by MONEYVAL (the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism), which is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems. Thus, the regular MONEYVAL monitoring visits and reports are the process through which Armenia aligns its tax and financial policy with international standards for combating money laundering and terrorism.

In addition, definition of the term "beneficial owner" in use by FATF shall be binding under the EU external strategy for promotion of efficient governance standards in the sphere of tax policy of the Council of the European Union initiated for ensuring organized combat of tax fraud, tax evasion and money laundering in the EU and internationally. In this context, in 2016 the EU Council adopted the document titled "Conclusions on criteria and process leading to the establishment of the EU list of non-cooperative jurisdictions for tax purposes," which contains objective indicators that should be observed by tax regimes of non-EU Member States.

5.3. OECD Tax Base Erosion and Profit Sharing Project

With respect to the OECD Tax Base Erosion and Profit Shifting Project, the total of 15 actions of the project enable disclosure of the beneficial parties to the business operation, identify aggressive tax planning schemes, as well as exclude treaty shopping under double taxation agreements.

The Republic of Armenia has signed Action 15, through which it has joined the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting. In the near future, the plan is to take action to implement transfer pricing measures under OECD Base Erosion and Profit Shifting Project. These actions are included in RA Government Program for 2017-2022.

5.4. The State Registry of Legal Entities and the Central Depository of Armenia

When registering limited liability companies with the State Register Agency of Legal Entities of the RA Ministry of Justice, the charter is submitted with information on the stock owners. Moreover, declaration on the real beneficiary, which is also a public document, must be submitted as well. Charters are public and are shared with any person upon payment of the state duty of AMD 3000. All remaining documents until page 10 included are provided free of charge, for pages 11-50 a state duty in amount AMD 3000, and for pages 51-100 - AMD 5000 is charged, while from page 101 on additional AMD 5 is charged for each page.

Joint-stock companies are registered with the Agency, but the register on the company issuing the shares of stock is run by the "Central Depository of Armenia" OJSC. When registering a company with the Agency declaration is, again, submitted with information on who the real beneficiary is. In case of joint-stock companies, it is not required to disclose the shareholders in the charter, except for cases when the company has only one shareholder.

All information kept at the Agency is publicly available. Upon payment of the state duty referred above, any person can get a document about the company. Meanwhile, the banks and investment companies running the register of joint-stock companies do not publicize any information.

For the Agency, the RA legislation explicitly specifies the cases when the authorized person of the company is required to submit a declaration on the real beneficiary, while in case of the CDA the reporting company is required to update the information on ongoing basis. Thus, in accordance with the PLAF Law, Article 17, point 2, *"the Central Depository is required to update the information collected through due (including additional or simplified) diligence of the client at frequency it has established, to verify the timeliness and relevance of such information. The frequency set for updating the information obtained from identification and verification of the identity of the client must be at least once a year."*

5.5. Ownership Disclosure in the Mining Sector

Provisions that encourage disclosure of beneficial ownership, specifically in the mining sector, are currently limited in scope. The Mining Code requires that an applicant for an exploitation license must supply details of all entities having at least a 10% share in the company. These may be natural persons, in which case names and citizenship must be supplied, or legal entities, in which case a copy of the registration certificate is supplied. If the shareholder or the owner of the stock is not a legal entity, it is not required to submit information on the participants or shareholders of the latter with a view to disclosing the real beneficiary of the legal entity. Moreover, no document on mining right mandates the mining operator to submit information to the authorized body about alienation of the share or stock of the company that is in excess of certain cap. While in case of limited-liability companies changes in the owners of stock is considered to be public information and is made available upon payment of relevant fee, in case of joint-stock companies the fact of alienation of the shares of stock is not publicized by the CDA or another company acting on behalf of the latter.

5.6. Other Related Concepts

In addition to the term "beneficial ownership," the RA legislation defines and uses concepts that may be deemed related in the context of a comprehensive analysis of the issue. These concepts include "related party transactions," "politically exposed persons," "registered or nominal owner," and "significant participation." Table 3 summarizes these concepts.

Table 3. Concepts in Armenian legislation related to beneficial ownership

Related RA Legislation	
RA Law on Securities Market, Article 3	<ul style="list-style-type: none"> Explains the concept of "Significant Participation" and separates between a) Direct, and b) Indirect participation; Defines the concept of "related parties".
RA Law on Combating Money Laundering and Financing Terrorism, Article 3	<ul style="list-style-type: none"> Defines the concept of "Single Affiliated Transaction" Explains the concept of "Politically Exposed Person (PEP)" and lists all entities that are considered PEPs.
RA Mining Code, Articles 38 and 49	<ul style="list-style-type: none"> The Mining Code requires that an applicant for an exploitation license must supply details of all entities having at least a 10% share in the company.
RA Law on Public Procurement, Article 5	The law gives a definition of " related parties " and provides that two or more related parties may not apply at the same time for the same public tender. A government resolution under the law gives a fuller definition of related parties.

6. Revenues and Payments (EITI Requirement 4)

Disclosure of company payments and government revenues can inform public debate about the governance of the extractive industries. The EITI requires a comprehensive reconciliation of company payments and government revenues from the extractive sector. The EITI requirements related to revenue collection include comprehensive disclosure of taxes and revenues, sale of the state's share of production or other revenues collected in-kind, infrastructure provisions and barter arrangements, transportation revenues, state-owned enterprise (COE) transactions, sub national payments, level of disaggregation, as well as data timeliness and quality.

6.1. Public-Sector Budgetary Revenues

RA law identifies the following **state budgetary revenues**:

- a) Value-added tax;
- b) Excise tax;
- c) Profit tax;
- d) Income tax;
- e) Property tax for assets located outside of the administrative territory of the community;
- f) Land tax for the land outside of the administrative territory of the community;
- g) Fixed payments;
- h) Customs duties;
- i) Environmental and nature use fees (which includes royalties);
- j) Road toll;
- k) Statutory charge for regulation of public services;
- l) Statutory charge for issuance of the radiofrequency use permit (renewal) and the statutory charge for using it;
- m) Patent fees;
- n) Turnover tax;
- o) Targeted social payments;
- p) Stamp fees;
- q) Fines and penalties charged for violating the tax legislation, except for the fines and penalties charged for non-payment of taxes collected by community budgets, as per law;
- r) Other tax revenues annexed to the state budget by law.

Community budget revenues include:

1. Tax revenues

- a) Local taxes
 - Land tax for the land within the administrative territory of the community;
 - Property tax for the assets located within the administrative territory of the community;
 - Hotel tax;
 - Other local taxes prescribed by law;
- b) Disbursements from other taxes and statutory charges annexed to the state budget by law (in quantities defined for each year by Law on the State Budget).

- c) Fines and penalties charged from the taxpayers for detected violations of the tax legislation in the field of payments of local taxes to the community budget.

2. Duties, which include:

- a) State duty charged for registering civil status acts, issuing copies of certificates to the citizens, issuing certificates in connection with making changes, supplements, corrections in the records made in the civil status acts and with restoration;
- b) State duty charged for notary services provided by notary offices, issuing copies of documents ratified through notary, compiling drafts of deals and applications by mentioned bodies, getting the copies of documents and providing excerpts from those documents; and
- c) Local duties.

3. Formal grants

4. Other revenues are:

- a) Fees charged for rental of lands owned by the community, as well as state owned lands within the administrative territory of the community or for construction rights;
- b) Revenues from rental of property accounted on the balance of community institutions;
- c) Revenues from imposition of administrative sanctions by local self-government authorities for administrative offences;
- d) Withdrawals made by decision of the local council from the profits of community-owned organizations;
- e) Local fees;
- f) Fees (charged) for duty collection services provided by community institutions;
- g) Funds given for implementation of responsibilities delegated by the State to the local self-government authorities; and
- h) Other revenues collected by the community budget established by law and other legal acts.

Given the revenue streams listed in requirements 4.1 and 4.6 of the EITI Standard, the specificities of the RA legislation, as well as consultations with the MSG and other bodies, it was decided to include following revenue streams:

Payments by mining operators to central government bodies

- Profit Tax
- Income Tax
- Value-Added Tax
- Royalties (which is considered as a type of nature-use fee)
- Other Nature-Use Fees
- Environmental Fees (the new Tax Code, in effect starting in January 1, 2018, calls this environmental tax)
- Contributions to Environmental Protection Fund (a.k.a., Reclamation Fund)
- Payments for Monitoring Plan
- State Duty Fees

Payments by mining operators to local government bodies

- Land tax
- Property tax
- Land lease payments

Requirement 4.1 of the EITI standard establishes that before launch of the reporting process, the MSG must agree on several issues, such as a) which payments and revenues are considered material and, therefore, should be disclosed and b) definitions and thresholds of materiality. Requirement 4.1 of the EITI Standard clarifies that payments and revenues are considered material, if omission of information thereon or submission of wrong information may significantly affect the comprehensiveness of the EITI Report.

In some countries, there are, in fact, *no* thresholds defined.¹³ The MSG in Armenia has decided that for Armenia's EITI reporting purposes, all companies having a metal mining permit should present financial reports. The AUA Center for Responsible Mining recommends to separate these companies into two categories (see section 11.1 of this Scoping Study for the separation criteria). One category comprises companies that have relatively small revenues and their taxes constitute an insignificant share of the total taxes paid in the sector. The second category includes companies that have relatively large revenues and pay significant share of the total taxes in the sector. The material payments of this second group will be subject to reconciliation by the Independent Administrator. Based on the AUA Center for Responsible Mining reading of the EITI Standard Requirement 4.9, these large companies shall present audited reports of their material tax and fee payments for the years of 2016 and 2017.

With respect to materiality of specific payments and revenues, the AUA Center for Responsible Mining recommends a threshold of 1%. That is, a revenue/payment type is material if that revenue/payment type constitutes one percent or more (1%) of the total taxes paid by companies having metal mining permits.

As regards requirement 4.1.d of the EITI Standard, viz., to identify the aggregate amount paid/charged for each type of tax in the sector, it should be noted that our queries to the State Revenue Committee (SRC) were left unanswered as of early March 2018. As of that time, per RA legislation, this information was not subject to disclosure. This issue should be resolved with the adoption of EITI-related legislative amendments, which were in process in March 2018. See EITI section of the RA Government website for updates. Upon adoption of these changes, the Independent Administrator will be able to address EITI Standard 4.1.d requirement.

Section 7.11 of this study discussed the social payments (EITI Standard Requirement 6.1b – “discretionary social expenditures and transfers”) in detail.

The potential revenue streams identified in requirements 4.2 (sale of the state's share of production or other revenues collected in kind) and 4.3 (infrastructure provisions and barter arrangements) are not relevant to Armenia.

6.2. State extra-budgetary funds in the mining sector (revenues)

Pursuant to Article 61 of the RA Mining Code, during mining, contributions are made to the Environmental Protection Fund (a.k.a., Reclamation Fund) in case the mining company fails to perform on its land reclamation obligations. Resources of this Fund are kept in extra budgetary accounts of the RA MNP, with an account for each company. The level of use of the Environmental Protection Fund, the amounts of compensation, and the procedure of calculation are defined in the RA Government Decree No 1079-N,

¹³ For instance, in Myanmar, in accordance with the 2015 survey, it was recommended to include all revenue streams. Similarly, the study conducted in Nigeria in October 2011 has no recommendation on materiality, which implies that all revenue streams should be included.

dated as of August 23, 2012. A criticism of the Reclamation Fund has been that it is severely underfunded to meet the reclamation costs should the company fail to perform on its obligations. This is an issue that the Government of Armenia should address in the near future.

Information on amounts paid by metal mine companies to the Environmental Protection Fund is presented in Appendix 5. The list of companies and actually paid amounts were shared on 8 November, 2017 by the Deputy Minister of the Nature Protection in response to the inquiry made by the AUA Center for Responsible Mining. In that same letter the deputy minister conveys that no amounts were returned to the mining operators from the payments made to the Environmental Protection Fund of the RA MNP.

6.3. Budgetary revenues of local self-government authorities

Official information on community budgets is available from the RA National Statistical Service of the Republic of Armenia.¹⁴ Information on the following types of revenues are published each autumn for the previous year:

- 1) Real property taxes,
- 2) Property taxes from other assets,
- 3) Fees for the license to use goods or engage in operations,
- 4) Other statutory charges from supply of goods and provision of services, and
- 5) Other tax revenues.

Information on community budget revenues by Marzes and by communities is available on the official website of the RA MTAD. Moreover, information pertaining to Marz and community budgets is shared in "Budgetary process-Budget revenues of RA communities" section on the official website of the RA MTAD.¹⁵ Most recent information on budget revenues of RA communities is as of 01.07.2017, and the following revenues are presented:

- 1) Property tax,
- 2) Land tax,
- 3) Local duties,
- 4) State duties paid to the community budget,
- 5) Other revenues collected by communities.

Information from NSS and MTAD is aggregate and does not specify how much is paid by each taxpayer. The communities possess the information on how much they get from each taxpayer, and the SRC possesses information on the amounts payable from each taxpayer to the communities, however they do not know which communities get the payment.

6.4. Extra-budgetary funds of local governments

Local governments can have **extra budgetary funds** according to the Article 1.2 point 16 of the RA Law on Budgetary System. Article 15.9 of the RA Law on Budgetary System provides that state institutions can only open an extra-budgetary account in Treasury of the Ministry of Finance or a bank if permitted to do

¹⁴See <http://armstat.am/file/doc/99499473.pdf>

¹⁵See <http://www.mtad.am/hy/budgetary-incomes/>

so by RA Government decision. Donations or loans can be paid into extra-budgetary accounts of the Treasury in cases provided by law or where the physical or legal person making the donation or loan requests it, provided that the state authorized body permits it and the community council has approved it.

There are many purposes for which local governments can have an extra budgetary fund. They can be set up as “escrow” accounts in which confiscated funds are held. They can also be set up to offer incentives for good performance of municipal employees. These funds can receive financial inflows from many different sources including private companies. While there may be very good public finance reasons to allow for extra budgetary funds (such as creating revolving loan funds for energy savings, etc.), there are risks of abuse, which should be managed. No information of extra-budgetary funds has been identified through review of the official website of the RA MTAD, specifically the sections on "Community Budgets"(Budgetary Incomes and Expenditures of RA Communities),¹⁶ as well as the official website of the RA National Statistical Service.¹⁷

We recommend that the MSG discuss the importance of requiring disclosure (publication) of data on existing extra-budgetary funds, their specific purpose, their sources of the fund, and mechanisms for tracking their spending. This is particularly important to comply with EITI Requirement 5.1., which mandates reporting on distribution of revenues from the extractive industries to the national budget and, in cases where revenues are not recorded in the national budget, explaining the allocation of these revenues with links provided to relevant financial reports if applicable, e.g., sovereign wealth and development funds, sub national governments, state-owned enterprises, and other extra-budgetary entities. MTAD has provided the list of communities (settlements) that have had extra-budgetary funds in 2016-2017 (Appendix 12). This list includes names of 44 communities (settlements), including cities of Kapan and Kajaran. However, there is no data on the amounts in the accounts or the sources of the amounts.

6.5. Auditing and Accounting Standards (EITI Requirement 4.9)

Quality of Data Provided by Companies

National accounting standards are based on the International Financial Reporting Standards (IFRS) and International Accounting Standards Board (IASB) standards and guidelines. They currently apply to all companies, regardless of size, although from 2018, SMEs will apply IFRS, which will be less burdensome for them.

According to Article 24 of the Law on Accounting, *"large" companies are those with turnover from operations in the reporting year and the balance sheet value of the assets as of the end of the reporting year exceeding one billion AMD*. These companies are required to publish their annual financial accounts. In case of failure to publish such accounts, the penalty is 50,000 AMD (approximately USD 105), increasing to 500,000 AMD (approximately USD 1050) if an initial fine is levied and the organization has failed to publish the accounts within a 30-day period. Currently, the requirement to submit financial accounts for mandatory independent audit applies only to open joint stock companies. As per Articles 94 and 96 of the Law on Joint-Stock Companies, *"the truthfulness of the annual reports, annual balance sheet, and profit*

¹⁶ See <http://www.mtad.am/hy/budgetary-incomes/>

¹⁷ See <http://www.armstat.am/am/>

and loss statement of the open joint-stock company submitted to the Annual Board Meeting for approval, shall be affirmed by conclusion of the Controls Commission (the Controller) of the Company. These documents shall be audited before publication and their truthfulness shall be approved by the person performing the audit that has no property interests in common with the Company and its shareholders.”

Table 4 summarizes the availability of financial audited reports for select metal-mining companies based on information available at Azdarar (www.azdarar.am) and the companies' own websites. It may be that these companies are audited though the information is not made public. Note that unlike Open Joint Stock Companies (OJSCs), there is no legal requirement for Closed Joint Stock Companies (CJSCs) and Limited Liability Companies (LLCs) to publish their audits. Based on the AUA Center for Responsible Mining reading of the EITI Standard Requirement 4.9, companies whose payments are subject to reconciliation (see Section 11.1 of this) shall present audited reports of their material tax and fee payments for the years of 2016 and 2017. Per AUA Center for Responsible Mining, this needs to be a legal requirement.

Table 4. Information on available audited financial reports for select companies

Company	Source of information (as of 30 October, 2017)	Audited and published reports	Links
MeghradzorGold LLC	www.azdarar.am	Not found	-
Akhtala MPE CJSC	www.azdarar.am	Not found	-
Kapan Mining and Processing Enterprise CJSC	www.polymetal.ru , www.azdarar.am	Not found	-
GeoProMiningGold LLC	http://www.geopromining.com/en/our-business/operations/gpm-gold/ , www.azdarar.am	Not found	-
Zangezur Copper and Molybdenum Combine CJSC	www.zcmc.am , www.azdarar.am	Not found	-
Agarak Copper and Molybdenum Combine CJSC	http://www.geopromining.com/en/our-business/operations/agarak/ , www.azdarar.am	Not found	-
Teghut CJSC	http://teghout.vallexgroup.am/	Found (2015)	http://teghout.vallexgroup.am/hy/Information-Center-Financial-Reports
Lydian Armenia CJSC	http://www.geoteam.am/home.html	Found (2016)	http://www.geoteam.am/economy/financial-reports.html

Quality of Data Provided by Government

The Audit Chamber (in 2016 and 2017 known as the Control Chamber) performs audit of the central government and local self-government bodies funded from the State Budget and local community budgets. With regards to the years 2016 and 2017, while central government expenditures have been audited as required by law, there has been no independent audit of state revenues. As of early March 2018, there was no legal requirement to audit state revenues. Furthermore, there has been no legal requirement to audit local government revenues and expenditures.

Pursuant to the RA Law on Tax Service, one of the functions of the tax authority is to account for revenues of the RA State and community budget. All these data are available in the "**Taxpayer 3**" information database kept by the State Revenue Committee at the RA Government. The "**Taxpayer 3**" information database is a flexible software that contains comprehensive information about taxpayers and revenues as well as is equipped to conduct in-depth analyses of them. In particular, the database includes all transactions of a given taxpayer, including relations among businesses. The management of this information database is based on ISO/IEC-27001:2013 standard, compliance to which has been validated by the internationally recognized BUREAUVERITAS Company.

Accounting Standard: Cash vs. Accrual

According to EITI Guidance Note 24 (Data Quality and Assurance), EITI reporting countries typically adopt the cash reporting accounting standard. The AUA Center for Responsible Mining has commissioned an analysis by the accounting and audit firm, BDO Armenia, to present its view on whether cash basis, accrual accounting method, or both should be used in reporting revenues and payments.

a) For the option of requesting and publishing data on accrual basis

Pros are:

- i) Data derived under accrual basis will be easily reconciled with published (and) audited financial statements.
- ii) Accrued tax obligations of the entities will be allocable to reporting periods - for example profit tax pertinent to 2016 will be explicitly separated from profit tax charge for 2017.
- iii) There will be no need to reconcile data obtained from state agencies with those provided by entities since both of them will be derived from the same source - tax returns provided by the entities.

Cons are:

- i) Data under accrual basis after being provided by the entities may be changed (by providing corrected returns) either by the entities themselves or due to tax inspections conducted. It is not impossible that such changes be material.
- ii) Obligations under accrual basis may materially differ from actual cash payments for two reasons - a) they may be reported in one period and paid in another period and b) they may be reported and not paid at all, instead they may be netted off against other receivables (for example VAT recoverable) from the state budget.
- iii) Most of the users of published reports will not be able to differentiate between accrual basis and cash basis of accounting and the amounts presented under accrual basis will be probably perceived as cash payments by most of the society.

b) For the option of requesting and publishing data on cash basis

Pros are:

- i) The system of budgeting and reporting for state revenues is working under cash basis, so the revenues received and reported under cash basis for EITI reporting purposes will be congruent with data and logic of accounting for public resources.
- ii) Cash payments are facts, they may not be later changed due to new circumstances discovered by the entities or inspecting agencies.

- iii) When cash received from entities is used or directed by the government bodies for some particular causes, the public will see inflows and outflows of cash for some purpose instead of comparing accruals from one side with payments on the other.

Cons are:

- i) Cash payments in some cases may exceed the actual obligations due to paying advances and prepayments. Such payments actually build assets in the paying entity's accounts for recovery in later periods but may be perceived as part of state revenue amounts in the EITI reports.
- ii) Cash payments may be first conducted as advances for one category of taxes and later transferred to cover other obligations, thus creating discrepancy between the breakdown of originally reported (and published) composition of taxes with those ultimately paid.
- iii) Entities could use VAT recoverable to cover some tax obligations without actual transfer of cash resources. For such cases absence of cash payments may be perceived as failing to meet tax obligations or reducing payments on taxes from one period to another. This shortcoming may be rectified by presented amounts of VAT recoverable redirected to payment of other tax obligations as cash inflows from VAT and cash outflows to pay other taxes in the EITI reports.

Recommendation by BDO

Both presentation methods have advantages and drawbacks, however, in our opinion, advantages of reporting under cash basis outweigh the drawbacks. Assuming that payments and receipts on VAT will be also reported, the cash basis of reporting would result in more objective and complete picture from the perspective of a potential user of the reported information. Also, the EITI standard Requirements 4 to 6 predominantly refer to term "payments" by companies and our understanding is that the writers of the standard were assuming cash basis of reporting is going to be used.

For cases when VAT recoverable was not received in cash by the entities, but instead was redirected to payments of other taxes we would suggest that cash inflows in VAT refunds be reported in the report together with cash payments on other tax obligations covered by the refund.

EITI Armenia's MSG Decision

The MSG decided to collect information from companies both on cash and accrual basis. The rationale was that from a one year perspective, the cash-basis accounting may be misleading with respect to obligations and payments. The cash reports will be used in a 3-5 year period to verify payments and revenues.

6.6. Sale of State's share of production or other revenues collected in kind (EITI Requirement 4.2)

We have not seen any evidence that the State owns any share in production or receives any revenues collected in kind from any mining operation. It should be noted that we haven't studied the documents that are an integral part of the exploitation license, specifically, the contracts with mining operators. As of the beginning of March 2018, this information was not subject to publication. The issue of making such

documents publicly available will be solved when the legislative amendments recommended in the framework of the EITI are adopted. In that case the Independent Administrator will be able to look into relevant documents and provide their analysis.

6.7. Infrastructure provisions and barter arrangements (EITI Requirement 4.3)

We have not seen any evidence that there are any agreements envisioning supply of the goods and services provided under EITI (Requirement 4.3 of the Standard). It should be noted that we haven't studied the documents that are integral part of the exploitation license, specifically, the contracts with mining operators. As of the beginning of March 2018, this information is not subject to publication. The issue of making such documents publicly available will be solved when the legislative amendments recommended in the framework of the EITI are adopted. In that case the Independent Administrator will be able to look into relevant documents and provide its analysis.

6.8. Transportation revenues (EITI Requirement 4.4)

In its Meeting No. 7,¹⁸ the MSG decided that transport revenues are not material for Armenia's first EITI report. The focus of the first report will be on the metal-mining sector. As such, the AUA Center for Responsible Mining has not fully investigated any transport revenues that Armenia may have had in the reporting period.¹⁹

6.9. State-owned enterprises

EITI Requirement 4.5 asks for disclosure of transactions related to state-owned enterprises. By state-owned enterprise, we mean a mining company in the statutory capital of which any amount of equity (share or stock) belongs to the Republic of Armenia or any other company where the Republic participates. In this regard, we have sent a letter of inquiry to the State Property Management Department of the RA Government. Similarly, we have tried to find out whether there is any right of pledge against any share or stock of a mining company in favor of the Republic of Armenia or any other company with participation of the latter. In response to our inquiry, in 22 November 2017, the deputy head of the State Property Management Department responded that the state owned no share in any commercial metal-mining companies.

6.10. List of Potential Reporting Companies

Table 5 summarizes information on companies that have been active in the upstream level of mining sector in 2017.

¹⁸ See point # 10 of the Minutes of the Meeting: http://www.gov.am/u_files/file/ardyunaberakan-cragir/MSG_meeting_minute_17_10_%202017.pdf

¹⁹ According to an article published in Pan-Armenian Network online news outlet (see http://www.panarmenian.net/eng/news/220067/62 mln_worth_gas_shipped_to_Georgia_from_Armenia), the SRC reported on September 6, 2016 that 24.7 million cubic meters of gas was exported to Georgia from Armenia in the first six months of 2016. The total volume of the exported gas amounted to \$6.2 million. The article also states that Iran and Georgia in the winter of 2016 agreed on the export of 500 million cubic meters of gas via Armenia. It should be noted in this regard that in response to our request, the SRC has indicated that there is no revenue stream from this activity registered in its system.

Table 5. Active Metal Mining Companies in Armenia, 2017

Name of the Company	Date of License issue	License expiry date	Mine	Mineral	Current situation (Development-D /Production-P)		
					2015	2016	2017
Meghradzor Gold LLC	20.08.2012	10.09.2023	Meghradzor	Gold, silver, tellurium	P	P	P
Akhtala Mining and Processing Enterprise CJSC	20.10.2012	07.09.2022	Shamlugh	Copper, silver, selenium, tellurium, gold, zink	P	P	P
Kapan Mining and Processing Company CJSC	27.11.2012	01.04.2050	Shahumyang old-multi-dimensional	Gold, copper, silver, zink	P	P	P
GeoProMining Gold Ltd	20.10.2012	10.09.2028	Sotk	Gold, silver, selenium, tellurium	P	P	P
Zangezur Copper Molybdenum Combine CJSC	27.11.2012	30.05.2041	Kajaran	Molybdenum, copper, gold, silver, rhenium, tellurium sulfur, bismuth	P	P	P
Agarak Copper Molybdenum Combine CJSC	05.04.2013	08.02.2027	Agarak	Molybdenum, gold, silver, copper, bismuth selenium	P	P	P
Teghut CJSC	20.02.2013	08.02.2026	Teghut	Molybdenum, copper	P	P	P
Lydian Armenia CJSC	26.09.2012	01.01.2034	Amulsar	Gold, silver	D	D	D

Tables 5 and 6 include information sourced from the response provided by RA MEINR on 25.10.2017. The list attached to the response is included as Appendix 6 to this Report. The Table, where current status of the company is marked as development phase, is based on the data from the companies' website and www.harkatu.am, to reveal whether the company is paying taxes, as well as on data available at <http://taxservice.am/Content.aspx?itn=TILists>, including the list of companies holding the right to mine, that have provided "zero balance report" or have reported temporary suspension of their operations.

Table 6. List of companies holding metal mining licenses, with indication of their tax ID number (TIN) and current operations

Company	Tax ID Number (TIN)	"Zero-balance" or suspension	Mine	Current status (development phase,	Comments
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		report submitted to SRC (Yes/No)			production phase, other)	
		2015	2016			
Meghradzor Gold LLC	02709666	No	No	Meghradzor	Production	
Akhtala Mining and Processing Enterprise CJSC	06602309	No	No	Shamlugh	Production	
Kapan Mining and Processing Company CJSC	09416902	No	No	Shahumyan Gold, Poli-metal	Production	
GeoProMining Gold Ltd	01530525	No	No	Sotk	Production	
Zangezour Copper Molybdenum Combine CJSC	09400818	No	No	Kajaran	Production	
Agarak Copper Molybdenum Combine CJSC	09700039	No	No	Agarak	Production	
Teghut CJSC	02700773	No	No	Teghut	Production	
Lydian Armenia CJSC	00091919	No	No	Amulsar	Development phase	
Sagamar CJSC	00410036	No	Yes	Armanis		
Lichqvaz CJSC	00410036	Yes	No	Lichqvaz		
Tatstun LLC	00079433	Yes	No	Lichq		
Tatstun LLC	00079433	Yes	No	Aygedzor, Tghkut site		
Paramount Gold Mining Ltd.	04219371	No	No	Meghradzor		
Molybdenum World LLC	02580107	No	No	Dastakert		
Multi Group Concern LLC	03516447	No	No	Mghart		
Mego-Gold LLC	04213127	No	No	Tukhmanuk		Harkatu.am does not show any tax paid since 2013
Ler-Ex LLC	09412188	No	No	Hankasar		
Fortune Resources LLC	02806526	No	No	Hazdan (iron)		
Vardani Zartonk LLC	09414399	No	No	Sofi-Bina		

Sipan 1 LLC	04001189	No	No	Terterasar		Harkatu.am does not show any tax paid since 2009
Asat LLC	03807664	No	No	Karaberd		
Active Miner LLC	01544838	Yes	No	Aygedzor, Central site		
Marjan Mining Company LLC	01569837	Yes	Yes	Marjani		
Vayk Gold LLC	00114369	Yes	No	Azatek		
AT-METALS LLC	00118721	No	No	Meghrasar		
BAKTEK ECO LLC	00870494	No	Yes	Arjut		
BAKTEK ECO LLC	00870494	No	Yes	Lernajur		
Wonderful Metal LLC	04226807	No	Yes	Bardzradir		
Geghi Gold LLC	09423012	No	No	Voskedzor		
Gharagyulyanner CJSC	02583292	No	No	Verin Vardinadzor		

The current "production" status was indicated based on the data from the RA MEINR. The "development phase" of Lydian Armenia CJSC is indicated based on 2016 financial accounts, where Lydian Armenia CJSC plans to start production in 2018.

The MSG notes that if the reporting requirements are restricted to "active" companies, then this raises the question of which companies are to be included in that category. If, on the other hand, the reporting requirements are extended to all metal mining license-holders, then the likelihood increases that some of the companies will fail to fully report data.

It should be noted that companies report and pay taxes to the state based on their aggregate revenues (on the principle: one legal entity therefore one set of accounts), although where a company has more than one operation (e.g. two mines, or a mine and a smelting plant) it will likely be able to disaggregate the finances of each operation for the purposes of assessing their financial status. The issue of disaggregating revenues per operation is also analyzed in the section below on government reporting entities. In discussions with MSG members and financial auditing companies, we have learned that it is possible to disaggregate company financials by projects or operations. Thus, we recommend that companies provide disaggregated reporting – i.e. per project, as this is in line with requirement 4.7 of the Standard.

6.11. Government Reporting Entities

Based on the identified revenue streams and other reporting requirements, the list of government reporting entities is summarized in Table 7.

Table 7. List of EITI-relevant government reporting entities for 2016 and 2017

EITI Mandatory Reporting entities	
State Revenue Committee of the RA Government	All tax, fees & royalties (and mandatory payments for export) are recorded. Note that the SRC has taxpayer-level and not mining project level data. See discussion of issues with disaggregation of revenues in Section 6.13 of this report.
Ministry of Nature Protection, Environmental Protection Fund (a.k.a., Reclamation Fund)	Contributions to the Environmental Protection Fund, payments for monitoring
Relevant Local Self-Government Bodies	<ul style="list-style-type: none"> • Land tax, • Property tax, • Land lease payments, • Potential receipts into extra-budgetary funds
EITI Encouraged Reporting	
RA Ministry of Energy Infrastructures and Natural Resources	Publication of mining right documents (mining permit/agreement, contracts, land use acts, approved work plan or plan of operation.) as soon as such a disclosure requirement is approved by law
RA Ministry of Nature Protection	Production data available at Environmental and Mining Inspectorate under MNP. 2016 information should be available from the same Inspectorate as it is the successor agency to the Mining Inspectorate ²⁰
State Register Agency of Legal Entities of the RA Ministry of Justice	Data on beneficial owners of the mining companies registered in 2016 and 2017

SRC has the technical capacity to provide quarterly and annual data, disaggregated per revenue type, by taxpayer (individuals or companies). Currently, on a quarterly basis, SRC publishes data concerning the payments made by the top 1000 taxpayers. This can be accessed from www.taxservice.am, and also, in a more user-friendly format, from www.harkatu.am. However, there are a number of respects in which this falls short of the EITI disclosure requirements, requiring legislative amendments which as of early March 2018 were in the National Assembly for approval:

- The revenue streams are not fully disaggregated: direct taxes are not separated, and nor are indirect taxes, so it is not possible, for example, to ascertain how much a company paid in profit tax, in royalties or in environmental use fees. When the new Tax Code comes into force in 2018, a greater level of disaggregation will be ensured, though still not adequate for EITI. This will create

²⁰ It should be noted that paragraph 2 of Minutes No 6 of MSG session states that "the issue of availability of information on selling price at tax and customs bodies was raised, as the EITI Standard requires disclosure of production and export volumes and values. The international expert pointed that the Standard requires disclosure of aggregated indicators for production and export of each type of mineral and the actual payment made for those. It relates to actual transactions in the reporting year, rather than the contracts. It was mentioned that MSG may decide to furnish disaggregated values per company. As a result of discussions **it was decided** to use only the data shared with the RA National Statistical Service and present the methodology of calculations in the report".

See paragraph 2 of Minutes No 6 of MSG session: http://www.gov.am/u_files/file/ardyunaberakan-cragir/MSG_meeting_minute_10_10_%202017.pdf

serious obstacles for the EITI first year reporting, therefore legislative amendments to both the Mining Code and Tax Code are recommended to make disaggregated tax data available for reconciliation for 2016 and afterwards.

- Publication is only foreseen with respect to the top 1000 taxpayers. This includes many mining companies, but would not include a loss-making company, which could be or should be making material tax contributions.²¹
- A company is required to report – and pay taxes – on its entire operations. Where a company has more than one operation (e.g. two mines, or a mine and other economic activity), it does not submit – and therefore the State Revenue Committee does not receive – disaggregated figures per operation/project. To require mining companies to submit disaggregated reports in respect of their various operations would necessitate an amendment to the Tax Code. Currently, in the metal-mining sector, it is common practice for parent companies to establish separate legal entities in respect of each operation. The only exception to this rule that has been identified is GeoProMining Gold LLC, which directly operates both the Sotk mine and the Ararat gold extraction plant. However, it is quite possible that in future a company could hold two or more licenses in respect of different mines, and if both operations were active then the issue of disaggregation would arise.

6.12. Social & Economic Spending (EITI Requirement 6.1)

In Armenia, the issue of the availability of information on social and economic spending has two aspects. First, there are requirements under contract or law to undertake social and economic spending (see Table 8), and second, companies may spend voluntarily without any legal or contractual obligation. Appendix 7 includes the social and economic projects of mining companies declared by them and which may include both obligatory and voluntary contributions.

The model contract (see Table 9) established by RA Government under the RA Mining Code provides that the holder of an exploitation license should specify its responsibilities for social-economic development of the communities. Annex 3 of the model contract provides for a list of actions that the company must undertake, indicating the deadlines and the amount of investment. However, as the contract is not a public document, neither the community involved nor civil society is necessarily aware of what the company has committed to. In addition, up to early March 2018, neither MEINR nor any other agency undertook the task of monitoring companies' implementation of the commitments under Annex 3.

The Environmental and Mining Inspectorate, established by RA Government Decision adopted on 27 April 2017, through merger of the Mining Agency of the RA MEINR and the Environmental Inspectorate of the RA MNP, is called specifically to ensure that exploration and exploitation operations are conducted in accordance with the contracts concluded between the business operator and the MEINR, as well as the exploration work plans and operation plans. The list of issues to be inspected are in the process of

²¹ As of 02.11.2017, the Mining section of www.harkatu.am website covers following companies that hold exploitation licenses: Zangezour CMC CJSC, GeoProMining Gold LLC, Teghut CJSC, Kapan MPC CJSC, Lydian Armenia CJSC, Agarak CMC CJSC, Meghradzor Gold LLC, Tatstone LLC, Akhtala MPC CJSC, Sagamar CJSC, as well as one non-metal mine operator - ML Mining. It should be noted that the companies included in list of top 1000 taxpayers change depending on the period selected. The website has information since 2009, therefore some of the mentioned companies that were active in previous years, are no longer active or profit making.

preparation and approval by the RA Government. It is expected that the questionnaire will cover also the process of social-economic expenditures though that remains to be seen. To date, verification of social expenditures under mining contracts was not the mandate of the inspectorate. Meanwhile, as per EITI Requirement 6.1, “where material social expenditures by companies are mandated by law or the contract, implementing countries must disclose and, where possible, reconcile these transactions ...”

Table 8. List of metal-mining companies and their social expenditure commitments under contract

Company	Tax ID Number (TIN)	Mine	Social-Economic commitments under contract (thousand AMD per year)	Current status (Development, production, etc.)
Meghradzor Gold LLC	02709666	Meghradzor	No obligation	Production
Akhtala Mining and Processing Enterprise CJSC	06602309	Shamlugh	No obligation	Production
Kapan Mining and Processing Company CJSC	09416902	Shahumyan gold polimetal	No obligation	Production
GeoProMining Gold Ltd	01530525	Sotk	2,400 ²²	Production
Zangezur Copper Molybdenum Combine CJSC	09400818	Kajaran	No obligation	Production
Agarak Copper Molybdenum Combine CJSC	09700039	Agarak	3,800	Production
Teghut CJSC	02700773	Teghut	No obligation	Production
Lydian Armenia CJSC	00091919	Amulsar	61,500	Development
Sagamar CJSC	00410036	Armanis	1,000	
Lichqvaz CJSC	00410036	Lichqvaz	No obligation	
Tatstone LLC	00079433	Lichq	2,030	
Tatstone LLC	00079433	Aygedzor	3,000	
Paramount Gold Mining Ltd.	04219371	Meghradzor gold	No obligation	
Molybdenum World LLC	02580107	Dastakert	12,800	
Multi Group Concern LLC	03516447	Mghart	No obligation	

²² Commitments under contract amount to 12 million AMD for every five years, it is indicated also to provide 1.2 million AMD to 2-3 students for their studies.

Armenian Copper Program CJSC	06605968	Alaverdi	No obligation	
Mego Gold LLC	04213127	Tukhmanuk	No obligation	
Ler-Ex LLC	09412188	Hankasar	No obligation	
Golden Ore LLC	02582025	Hankasar	No obligation	
Fortune Resources LLC	02806526	Hrazdan	No obligation	
Vardan Zartok LLC	09414399	Sophi-Bina	No obligation	
Sipan-1 LLC	04001189	Terterasar	No obligation	
Asat LLC	03807664	Karaberd	1000	
Active Miner LLC	01544838	Aygedzor	No obligation	
Marjan Mining Company LLC	01569837	Marjan	No obligation	
Vayk Gold LLC	00114369	Azatek	3,000	
AT-METALS LLC	00118721	Meghrasar	3,600	
BAKTEK EKO LLC	00870494	Arjut	650	
Wonderful Metal LLC	04226807	Bardzradir	550	
Geghi Gold LLC	09423012	Voskedzor	650	
Gharagulyanner CJSC	02583292	Verin Vanrani Dzor	1,250	
TOTAL			97,230	

Source: The list was provided by the RA MEINR (figures are given in thousand AMD).

Table 9. Brief structure of the model mining contract per Republic of Armenia legislation

<p>Model Mining Contract Structure approved by Government Decision N437, adopted on 22 March 2012</p> <p>Structure</p> <p>General Provisions Subject of the Contract Rights and Responsibilities of Parties Caution Reports and Information Duration of the contract, date the contact enters into force, termination Grounds for amending the contract and grounds for dispute resolution Notification Other provisions Main structure: Location of the parties, bank account details, signatures</p> <p>Annexes:</p> <p>Financial Proposals and Mineral Resource Fees Responsibilities under Mine Closure Plan Responsibilities for social-economic development of the communities Environmental Management Plan Financial Guarantees for Mine Waste Management and/or activities under Mine Waste Reprocessing Plans</p> <p>The Contract can have other annexes if necessary, such as time schedule for exploitation and ore reprocessing activities, and in case of conducting simultaneous exploration projects, the time schedule of the exploration activities.</p> <p>Geological Exploration Contract</p> <p>The Geological Exploration Contract has a similar structure to the mining contract, except for the fact that Geological Exploration Contract requires only a time schedule for conducting geological exploration and submitting findings for State expert examination.</p>

Disclosure of the contract (or, as a minimum, of Annex 3) would enable monitoring by interested parties. While there is no legal requirement for mining companies to publish details of social and economic spending in the community, some companies provide details on their websites. The quality of reports varies; in some cases, dates and amounts spent are provided. However, generally it is not clear whether the projects undertaken were in fulfillment of the contractual obligations, or were in addition to any contractual obligations. In some cases, the projects have been implemented not by the license-holder itself, but by related entities (e.g. parent company, foundation established by the parent company or by persons related to the parent company).

Requiring disclosure of social spending incurred would allow interested parties to have the full picture of social and economic investment in the community.

It should be clarified whether, in addition to mandatory activities in social-economic domain prescribed by mining contracts, other voluntary payments should also be disclosed. Concerns have been raised by some MSG members that mining companies may directly or indirectly make payments, the purpose of which may not be to undertake social and economic investments, but to curry favor with interested parties. This clearly entails corruption risks. To address this risk, at least in part, within the legislative amendments developed in the framework of applying the EITI Standard, companies will be required to provide information on their voluntary payments. The information, shall be presented types and names of recipients for foundations and non-governmental organizations. For natural persons (individuals)

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receiving such funds, companies shall present the numbers in aggregate, without specifying the names of the individuals. See discussion of data privacy and confidentiality below.

According to the data from the Ministry of Justice, there are 4782 NGOs and 1148 foundations.²³ Pursuant to Article 39 of the Law on Foundations adopted on 29 December 2002, *foundations are required to publish their annual reports on www.azdarar.am website.*²⁴ Review of that website shows that only 816 foundations are publishing their reports on the website.²⁵ A closer review may tell which foundations and NGOs have received non-refundable financial resources from metal-mine operators, whether such financial resources were used in the affected community, and how many foundations or NGOs were set up by metal-mine operators.

According to the EITI Standard, mining companies must report or supply information on the payments made to the state and community budgets, as well as social and charity payments to other persons, which then must be published per company and community in the national report. Within the Scoping Study the question of personal data protection and privacy was examined in cases where companies would be required to submit **social and charity payments per beneficiary**, i.e. indicating to whom specifically the name of the natural or legal person receiving funding from the mining company in the reporting year. On this issue, the MSG has received the opinion from the Ministry of Justice on protection of personal data. The Ministry of Justice analysis follows.

Pursuant to Article 3(1) of the RA Law on Protection of Personal Data, “‘personal data’ shall mean any information relating to a natural person, which allows or may allow for direct or indirect identification of a person’s identity.” Literal reading of the above provision leads to the conclusion that protection of personal data are applicable in case of natural persons only and do not apply to information about legal persons. In other words, when the beneficiary is a natural person, to include their personal information in any report submitted by mining companies, consent from the beneficiary natural person should be sought.

It should be noted that in some situations, such as in the RA bankruptcy legislation, personal information can be disclosed. This disclosed information includes the natural person’s name, the amount, and purpose of sums paid to them. Pursuant to Article 54 of the Law on Bankruptcy, “Not later than within one year after filing a bankruptcy claim, the Administrator may apply for recovering the following through judicial procedure: (a) non-refundable (including non-cash) transfers of the debtor to persons affiliated to the debtor that were made during the five years preceding the declaration of the debtor as bankrupt; (b) non-refundable transfers of the debtor to any third parties that were made during the three years preceding the filing of a bankruptcy application.”

Moreover, from a corporate governance perspective, company's governing body is encouraged to explicitly justify when transferring non-refundable cash to a person (natural or otherwise). For instance, it should disclose the identity of the beneficiary, the motivation for the contribution, and the affiliation of the beneficiary to the company. Such disclosures can be seen within the context of bankruptcy and corporate governance where RA legislation offers protection of the rights of shareholders, creditors and other beneficiaries.

²³ Foundations are a type of legal entity under Armenian legislation. Their mission is similar to that of NGOs, viz., social activities, charity, etc. http://moj.am/storage/files/legal_acts/legal_acts_9907708458971_002stat_2017.06_1_.pdf

²⁴ Moreover, if the assets of foundation are above 10 million AMD, the auditor's opinion on the financial accounts must also be published.

²⁵ As of 2 November 2017.

Some members of the EITI Armenia's MSG have expressed the opinion that given the need to balance privacy interest and managing corruption risks, it is necessary to define threshold of financial assistance, above which companies must disclose the identity of natural persons receiving the assistance and the amount and purpose of the assistance.

Finally, an alternative suggestion by the MSG members that in future, to provide such support companies must obtain consent of the beneficiaries to disclose names, amounts, and purpose of the donation. Without consent, individuals will not receive assistance.

6.13. Level of Disaggregation (EITI Requirement 4.7)

As has been discussed in the sections "List of Reporting Companies" and "Government Reporting Entities," SRC is technically able though legally unable to submit data at the level of individual company and revenue stream. This needs to be facilitated through legal amendments to require such reporting.

Project-level reporting is feasible for companies, provided that they maintain separate accounts in those cases where a single company has two or more projects. However, since they are not required to report to the SRC at project level, it follows that the latter does not have that level of disaggregated data.

6.14. Data timeliness (EITI Requirement 4.8)

In order to assess Armenia's obligations with regard to EITI Requirement 4.8 on data timeliness the timeline for reporting is set out below:

- Armenia was accepted as a candidate country on 9 March 2017.
- Under requirement 4.8a, the first Report is due within 18 months. Therefore, the first Report deadline is 9 *September 2018*.
- The Independent Administrator must be contracted before May 2018, in order to allow sufficient time to prepare the Report. (Accordingly, under the MSG work plan, the selection process to appoint the Independent Administrator begins in October 2017, and the Report is due to be approved by July 2018).

The financial year in Armenia runs from 1 January to 31 December. In cases provided under the Law on Accounting, financial accounts should be published by 1st July.

EITI Requirement 4.8.b provides that "Implementing countries must disclose data no older than the second to last complete accounting period, ..." It follows that reporting 2016 data in the 2018 report is acceptable. In discussions with the MSG, concerns were raised that the deadlines for submitting audited reports would be too late for the Independent Administrator to incorporate into the 2018 Report.

6.15. Online reporting of data for the Independent Administrator

In discussions with the MSG it is clear that an online reporting facility is envisaged, which will obviate the need for paper-based reporting. Terms of reference for a national EITI website are currently being developed, and include a detailed description of the requirements for companies to register on the site and to complete and submit online forms. It is planned that Armenia's EITI website will be operational in

time for submission of data in early 2018. The legislation then will be needed to oblige companies and state agencies to disclose to the site can also include the model online forms.²⁶

²⁶In future years, the MSG can consider introducing a continuous reporting framework, where companies and other reporting entities upload data to the portal as and when the data is generated. However, initially it may be preferable if reporting entities focus on understanding the basic requirements and how to provide data on an annual basis.

7. Mining Sector Overview (EITI Requirements 3 and 6.3)

The metal-mining industry in Armenia has a long history, dating back to the late-eighteenth century, when copper mining began in Alaverdi, Lori marz (province). Copper was also discovered in Kapan in Syunik marz, where mining began in the mid-nineteenth century, and these two marzes continue to be the main focus of the metal-mining industry to this day.²⁷

The main metals mined are copper, molybdenum and gold. The main deposits are copper, gold, molybdenum and polymetallic (lead and zinc). Currently the biggest mine is operated by the Zangezur Copper-Molybdenum Combine, CJSC (ZCMC), located in Kajaran (Syunik province). ZCMC is a copper-molybdenum deposit that started operations in the middle of the 20th century and, currently, represents more than half of the total output of the sector in the country.

According to its website,²⁸ ZCMC produces 12.8 million tons of ore per year (this information may need updating). Teghut (a copper-molybdenum mine in Lori province) began operation in 2014²⁹ with volumes that is less than the production of Kajaran, while Amulsar (gold quartzite, Vayots Dzor province) is a low content, large volume deposit currently at the construction stage. In the operation stage of this mine the annual production value would be 10 million tons of ore, and the mine operation will last for 10 years.

In total, 29 metal mining licenses have been identified as valid in 2016, with a similar number in 2017. Of those 29 licenses 7 companies were active in 2016, in the sense that there was production. However, “active” can be a misleading term, since a mine which has not reached the production stage may have many employees and therefore appear in the top 1000 taxpayers while at the same time having no production data. This is the case with Lydian International, developer/operator of the Amulsar mine.

The non-metal mining sector is significant in terms of the number of operations (more than 400 permits), but the vast majority are low volume quarries. Production is much less than during the Soviet period, as it mainly focuses on meeting local demand for construction materials, and there is little export.

There is no information in the data submitted to MEINR and in the official statistics on artisanal/informal activities conducted in the sector.

EITI requires disclosure of information on exploration, extraction, and exports data. This enhances the transparency of the sector’s core operational activities, and offers additional information to cross check with revenues and payments data. Sub-sections 2.1 through 2.5, below, provide information on availability of data to meet the exploration, production, and exports disclosure requirements of EITI. They also provide information on availability of data that MSG has requested according to EITI requirement 6.3.

²⁷Most of the information in this and the following four paragraphs is based on the World Bank, “Armenia: Strategic Mineral Sector Sustainability Assessment” (2016) report.

²⁸www.zcmc.am, section under Our Operations/Mining, visited on 21 September 2017.

²⁹ In February 2018, Vallex Group, parent company of the operator of the Teghut mine, suspended operations of the mine indefinitely.

7.1. Share of Economy: GDP, Employment, and Foreign Investment

GDP: National and Marz-Level

Mining statistics in Armenia is presented using the same classification system as used by EuroStat, viz., NACE Rev. 2. This system divides economic activities into 21 broad areas. Two of these that are of interest to the EITI Standard are Categories B and C. Category B is Mining and Quarrying whereas Category C is Manufacturing. The specific categories of activities related to Mining and Quarrying are summarized in Table 10 (left). Ore beneficiation and smelting is categorized under Manufacturing (Table 10, right). As such, the statistics on Mining and Quarrying captures only upstream activities, whereas midstream activities (such as refining and smelting) are captured in Manufacturing (2-digit level, #24).

Table 10. All Mining and Quarrying activities (left) and Manufacturing related to metal processing (right)

SECTION B — MINING AND QUARRYING			
05	05.1		Mining of coal and lignite
		05.10	Mining of hard coal
06	06.1		Extraction of crude petroleum and natural gas
		06.10	Extraction of crude petroleum
07	07.1		Mining of metal ores
		07.10	Mining of iron ores
08	08.1		Other mining and quarrying
		08.11	Quarrying of stone, sand and clay
09	09.1		Mining support service activities
		09.10	Support activities for petroleum and natural gas extraction

SECTION C — MANUFACTURING			
24	24.1		Manufacture of basic metals
		24.10	Manufacture of basic iron and steel and of ferro-alloys
		24.20	Manufacture of tubes, pipes, hollow profiles and related fittings, of steel
	24.2		Manufacture of tubes, pipes, hollow profiles and related fittings, of steel
		24.30	Manufacture of other products of first processing of steel
	24.3		Cold drawing of bars
		24.31	Cold rolling of narrow strip
	24.4		Cold forming or folding
		24.41	Cold drawing of wire
	24.5		Manufacture of basic precious and other non-ferrous metals
		24.51	Precious metals production
	24.6		Aluminium production
		24.61	Lead, zinc and tin production
	24.7		Copper production
		24.71	Other non-ferrous metal production
24.8		Processing of nuclear fuel	
	24.81	Casting of metals	
24.9		Casting of iron	
	24.91	Casting of steel	
24.0		Casting of light metals	
	24.01	Casting of other non-ferrous metals	

Source: NACE, Rev. 2: Statistical classification of economic activities in the European Community. EUROSTAT (2008)

Armenia's GDP estimates include data for high-level activities, for our purposes Sections B and C. Table 11 shows the GDP statistics, specifically output and share of total output, as per Section (B) of Mining and Quarrying. In the structure of GDP, the economic activity in the mining sector is presented as overall classification of the major industry, while in case of individual types, for instance, 2-digit classification, data on "Mining of Metal Ores" (07) are not published. Data on "Mining and Quarrying" are available in another publication of the RA National Statistics (NSS), i.e. "Main Indicators of Industrial Organizations" statistical handbook. This latter report has values in AMD, real-growth index by current and comparative prices, and employment data. The report is published annually, which can result in a significant lag in data. The same information, however, is also available quarterly and annually from the Status of Social and Economic Indicators of the Republic of Armenia informative-analytical report (RA NSS). Quarterly data is available in the month following the preceding quarter. Annual data is available around the beginning of the second quarter for the previous calendar year. In other words, data for 2017 should be available in March or April 2018. NSS receives the initial information on economic activities carried out in the sector

from companies in form of state statistical reports, while data on export is obtained from the SRC, which runs the customs statistics based on consignment customs declarations submitted by companies. It should be noted that NSS, with a view to verifying the credibility of data furnished by companies, may conduct checks in the companies, however it has no function to reconcile the data received from companies with other information received from state government bodies.

Table 11. Mining and Quarrying, Total Output and Share of GDP

	2011	2012	2013	2014	2015	2016 ³⁰
GDP, total, in million AMD	3,777,945.6	4,266,460.5	4,555,638.2	4,828,626.3	5,032,089.0	5,079,864.6
Output at basic prices, in million AMD	172,401.8	197,473.5	203,221.0	202,361.5	231,676.4	
Intermediate consumption, in million AMD	69,555.3	81,795.8	100,534.2	99,808.3	126,653.1	
Gross value added, in million AMD	102,846.5	115,677.7	102,686.8	102,553.2	105,023.3	132,416.1
The share of GDP (as % to GDP)	2.7	2.7	2.3	2.1	2.1	2.6
Real volume index, %	113.9	115.7	105.9	93.6	157.9	111.6

Source: RA National Statistical Services

Armenia does not officially account for GDP at sub national (Marz) level. Any estimates at the Marz level is calculated with the help of gross value added indicator, exclusive of production and import taxes. Therefore, at Marz level, GDP is calculated at basic (non-market) prices. Therefore, the GDP calculated at any Marz level in Armenia may entail uncertainties. Despite this, Marz-level data is available for mining production volumes. This data is discussed in the section on Production Data, below.

To conduct a comprehensive assessment of production and revenues at the sector level, there is sufficient information available from the National Accounts of Armenia, specifically, on output volumes, value addition, intermediate consumption, revenue generation, depreciation, and so on. Table 12 summarizes the available data.

Table 12. National Accounts of Armenia, Annual and Quarterly data, Statistical Handbook

Level	National
Frequency	Annual
Time of publication	IV quarter, November
Language	Armenian, English
Source	http://armstat.am/am/?nid=82&year=2017 http://armstat.am/am/?nid=82&id=1839
Type of activity	Mining and quarrying
Indicators	Output in basic prices, million AMD
	Intermediate consumption, million AMD
	<i>Gross value added, million AMD</i>
	<i>Gross value added by domestic private sector, million AMD</i>
	<i>Gross value added by the sector under foreign control, million AMD</i>
	Mining and quarrying, share in GDP, %

³⁰ Initial data, see the Social-economic situation in the RA in January-March 2017, http://armstat.am/file/article/sv_03_17a_112.pdf

	Index of real volume of mining and quarrying, %
	Remuneration of the work of paid employees, million AMD
	Other net taxes on production, million AMD
	Gross profit and gross mixed income, million AMD
	Consumption of basic capital, million AMD
	Net profit and net mixed income of the economy, million AMD
	Gross value added, % of total
	Remuneration of the work of paid employees, % of total
	Other net taxes on production, % of total
	<i>Gross profit and gross mixed income, % of total</i>
	<i>Consumption of basic capital, % of total</i>
	<i>Net profit and net mixed income of the economy, % of total</i>
	Remuneration of the work of paid employees, % of total gross value added
	Other net taxes on production, % of total gross value added
	<i>Gross profit and gross mixed income, % of total gross value added</i>
	<i>Consumption of basic capital, % of total gross value added</i>
	<i>Net profit and net mixed income of the economy, % of total gross value added</i>

Employment: National and Marz-Level

National information on employment, remuneration and other indicators are available in the “Labor Market in the Republic of Armenia 2011-2015 Statistical Handbook”. The Handbook is published in December each year and has information up to and including the previous year (Table 13). While companies have to report their number of employees, salaries, etc. to state authorities, there is no requirement to make this information public. As per EITI requirement 6.3, countries, where available, should disclose information on the investments made by extractive industries in the economy for the year covered in the EITI report. It is required that such information should also include the employment level in the extractive industries, in absolute values and as a percentage of total employment.

Table 13. Annual employment statistics for the Republic of Armenia

Level	National
Periodicity	Annual
Time of publication	IV quarter, December
Language	Armenian, English
Source	http://armstat.am/am/?nid=82&id=1861
Type of activity	Mining and quarrying
Indicators	Employed by economic activity and gender, person
	Share of the employed in the employment, %
	Usually and actually worked annual hours in a week by economic activity, hour
	Actually worked average hours in a week by economic activity, gender of the employed and place of residence, hour
	Number of those employed in hazardous and dangerous conditions, %, person
	Number of employed, who have benefited from any of the listed fringe benefits and compensations, %, person
	Average monthly nominal salary by quarters and economic activity, AMD
	Average monthly nominal salary by economic activity, AMD
	Average monthly nominal salary in metal ore extraction sector, AMD
	Average monthly nominal salary in other subsectors of mining and quarrying, AMD
	Rate of growth of the average monthly nominal salary, %

	Real salary index by economic activity, %
	Average monthly nominal salary by gender, AMD
	Average monthly nominal salary of the managing staff, AMD
	Number of employees by the size of salary, %
	Average monthly expenditures on unit work, AMD

Table 14. Number and percentage of employees in the mining industry and open mine exploitation

	Total		Man		Woman	
	2015	2016	2015	2016	2015	2016
	1000 people					
Total	1 072.6	1 006.2	562.3	528.2	510.4	478.0
Mining industry and open mine exploitation	9.3	8.8	8.9	8	0.4	0.7
Manufacturing	84.2	83.2	53	52.6	31.2	30.6
Water supply, sewerage, waste management and recycling	4.6	5.2	3.2	4.3	1.5	0.9
	Share of total (%)					
Total	100	100	100	100	100	100
Mining industry and open mine exploitation	0.9	0.9	1.6	1.5	0.1	0.2
Manufacturing	7.9	8.3	9.4	10	6.1	6.4
Water supply, sewerage, waste management and recycling	0.4	0.5	0.6	0.8	0.3	0.2

Source: National Statistical Service of the Republic of Armenia

Foreign Investment

The RA National Statistical Service publishes annual data on foreign investments made in the real sector of the Armenian economy. The information is published in the "Social and Economic Situation in the Republic of Armenia in January-February" monthly informational report and is reported by types of economic activity (Table 15). Foreign investment national data is also available by the origin of the country from where investments flow (Table 16).

Table 15. Foreign investment data, including mining sector

Title	"Social and economic situation in the Republic of Armenia in January-February" monthly informational report
Level	National
Frequency	Monthly, but the data are published only in the mentioned report
Time of publication	II quarter, March
Language	Armenian, Russian
Source	http://armstat.am/am/?nid=82&id=1890
Type of activity	Extraction of metal ore
	Other mining and quarrying
	Mining and quarrying related activity
Indicators	Foreign investments

	Foreign direct investments
	Foreign investments by country
	Foreign direct investments by country

Table 16. Net inflows of foreign investments into the real sector by country, Total and for Mining and Quarrying, million AMD

Type of activity (by NACE REV. 2)	Country	January-December 2015		January-December 2016	
		Net inflows		Net inflows	
		Total investments	Of which direct investments	Total investments	Of which direct investments
Total		118 409.3	69 426.8	81 581.3	62 679.3
<i>Including</i>					
Extraction of metal ore		4 319.3	3 006.8	-34 100.9	-17 845.5
	Cyprus	1 444.9	-	-946.4	-
	Netherlands	-132.5	-	-16 739.4	-1 430.5
	Russian Federation	3 006.8	3 006.8	-16 415.0	-16 415.0
Other mining and quarrying		56 462.0	26 460.7	-19 167.7	-7 318.5
	Croatia	-43.1	-	-74.0	-
	Cyprus	8.2	59.3	-	-
	Germany	12 300.7	-15 765.6	-15 003.5	-7 333.1
	Russian Federation	-	-	-4 449.7	14.6
	Switzerland	43 650.8	42 167.0	385.4	-
	United Kingdom	545.4	-	-25.9	-
Mining related activities		3 666.4	3 371.5	40 923.9	41 852.8
	Russian Federation	295.0	-	253.7	1 182.5
	United Kingdom	3 371.5	3 371.5	30 551.2	30 551.2
	Jersey	-	-	10 119.1	10 119.1

7.2. Exploration Permits for Exploitation and Key Activities

Number of Exploration Permits

Information on exploration licenses is available on the following websites:

- Official website of the Government of Armenia: <https://www.e-gov.am/lists/>
- Official website of the MEINR RA: <http://www.minenergy.am/page/422>
- Official website of the MEINR's Republican Geological Fund: www.geo-fund.am/en/issued-permits/

The Geo-fund website, which was launched in September 2017, provides a list of exploration licenses (these are exploration licenses provided for exploration for the purpose of exploitation), but does not give a list of reconnaissance licenses (general geological exploration without particular type of mineral specified). Its list of exploration licenses appears to be incomplete:

- According to Geo Fund, there are 14 exploration licenses for the purpose of exploitation

- According to the list on the Government’s website there are 41 such licenses.

It may be that the difference is due to the fact that the Geo Fund website was only recently established and is still in the process of further development.³¹

The information on all three websites is for the current year only. Separate lists of licenses in force in 2016 and earlier years are not available online. In response to the written request to the MEINR, the list of companies that have received exploration permits was received and is provided in Appendix 9. Meanwhile, Table 17 summarizes the info available from all 3 sources.

Table 17. Information on exploration permits held on government websites

Website	Date of list	Details included
https://www.e-gov.am/lists/	1 July 2017	41 licenses listed, with the following details: <ul style="list-style-type: none"> • Company name, • location of activity, • license number, • purpose of license, • date license issued, • date license expires, • contract number, • comments
http://www.minenergy.am/page/422	1 July 2017	41 licenses listed, with the following details: <ul style="list-style-type: none"> • Company name, • location of activity, • license number, • purpose of license, • date license issued, • date license expires, • contract number, • comments
www.geo-fund.am/en/issued-permits/	Not dated, presumed to be current	14 licenses listed, with the following details: <ul style="list-style-type: none"> • Company name, • Number of license, • Name of agency issuing license, • Date license issued, • Date license expires, • “Other” – number and date of contract and date of land use act

Volume of Exploration Activity

³¹ On the other hand it should be taken into account that the Fund receives information later. But another reason for the difference in the start year, in one instance in the 2000s and the other 2012.

The RA National Statistics Service provides information on the value of exploration works undertaken (<http://armstat.am/am/?nid=82&id=1824>). This shows that in 2015 the total value of geological exploration was approximately 718 million AMD (approximately \$1.5 million), all of which was implemented by the private sector. At the time of accessing the National Statistics Service official website (www.armstat.am was last accessed on 21 September 2017) it appears that the report “Environment and natural resources in the Republic of Armenia for 2016” has not yet been published, therefore there is no official data available on the value of exploration work undertaken in 2016.

Table 18. Geological works by spheres and work stages, 2016, 65thousand AMDs

Sphere	Total	Of which by stages			
		prospecting	preliminary investigation	detailed investigation	other works
Non-ferrous metals	21 346.8	21 346.8	-	-	-
Noble metals	472 846.3	225 887.5	246 958.8	-	-
Non-metals	4 200.0	-	-	1 945.0	2 255.0
Regional geological, geophysical, hydrogeological works	4 475.2	4 475.2	-	-	-
Hydrogeological and geological engineering works	280.0	-	-	280.0	-
Other works	40 243.9	20 750.9	-	700.0	18 793.0
Total volume of geological works	543 392.2	272 460.4	246 958.8	2 925.0	21 048.0

Table 19. Volume of geological works by financing sources, 2012-2016, mln. drams

	2012	2013	2014	2015	2016
At the expenses of state budget	-	-	-	-	-
At the expenses of extra-budget	153.7	125.0	1 332.7	717.8	543.4
Total	153.7	125.0	1 332.7	717.8	543.4

Table 20. Geological exploration works by types, 2012-2016

		2012	2013	2014	2015	2016
Mechanical drilling, <i>m</i>	<i>Total</i>	-	-	9 481.0	5 995.0	4 302.8
	Core	-	-	9 381.0	5 920.0	4 302.8
	non-core	-	-	100.0	-	-
	rotary –percussion drill	-	-	-	75.0	-
Overhead mountainous excavations	gutter, trench, cleaning, <i>cub.m</i>	-	-	8 636.0	11 416.0	3 392.0
	prospective boring-wells below 5 m of depth, <i>sq. m</i>	-	-	66.0	79.0	-
Geological mining, <i>sq. km</i>		-	-	44.0	32.0	14.0
Geochemical mining, <i>sq. km</i>		-	-	75.0	12.0	4.5
Geophysical mining, <i>sq. km</i>	<i>Total</i>	-	-	74.0	10.0	3.0
	electrical exploration	-	-	2.0	2.0	-
	gravity and magnetic exploration	-	-	72.0	8.0	3.0
Hydrogeological and geological engineering mining, <i>sq. km</i>		-	-	3.0	1.0	-
Regional works, <i>thsd. drams</i>	<i>Total</i>	-	-	356 175.0	112 628.0	158 823.2
		-	-	352 050.0	105 428.0	157 066.2

	geological					
	hydrogeological and geological engineering	-	-	-	7 200.0	-
	geophysical	-	-	4 125.0	-	1 757.0
Transportation of personnel and cargo, <i>thsd. drams</i>		-	-	22 713.0	15 927.0	15 054.9
Laboratory work, <i>thsd. drams</i>		68 338.5	110 146.7	106 806.0	104 292.0	20 604.5
Field work (map compilation, design and other), <i>thsd. drams</i>		85 375.0	14 850.0	350 372.0	48 472.0	63 227.6
Improvement, <i>thsd. drams</i>		-	-	69 564.0	3 328.0	12 118.0
Temporary buildings, <i>thsd. drams</i>		-	-	34 600.0	170.0	4 316.4
Other works, <i>thsd. Drams</i>		-	-	125 748.0	232 889.0	154 066.6

Table 21. Geological works by work stages, 2012-2016, mln. drams

	2012	2013	2014	2015	2016
Prospecting works	-	-	116.4	138.1	272.5
investigative-evaluative	-	-	-	202.3	-
Preliminary investigation	-	-	310.9	143.8	247.0
Detailed investigation	-	-	826.0	132.1	2.9
Other works	-	-	79.4	101.5	21.0
Total	-	-	1 332.7	717.8	543.4

Table 22. Implemented drilling works by depth of boring – wells, 2012-2016

	2012	2013	2014	2015	2016
Total depth of finished boring - wells, <i>m</i>	-	-	9 482	6 578	4 302.8
Quantity of drilled boring-wells, <i>unit</i>	-	-	72	103	24
of which: by depth					
below 25 m	-	-	8	29	-
25 – 100 m	-	-	16	59	2
101 – 200 m	-	-	41	13	15
201 – 300 m	-	-	4	2	4
501 –1200 m	-	-	3	-	3
Average depth of finished boring wells, <i>m</i>	-	-	131.7	63.9	179.3

Significant Exploration Activities

There is no systematic classification of exploration activities as “major” or “significant.” All of the above-cited sources on exploration activities simply list licenses issues without classifying them as “major” or “significant”, nor does it identify whether the works are active or inactive. To identify exploration activities as major or significant, the MSG will have to decide on criteria³², although MSG members have expressed opinions that using such classification is not appropriate at all.

³² The criteria could include the size of the exploration area granted, work-plan cost, appearance of company on list of top 1000 taxpayers, etc.

It should be noted that recent analytical work by the World Bank³³ does not classify exploration activities as “major” or “significant”. It does, however, give an overview of the exploration activities in the country. It states that:

- There has been very little recent greenfield exploration undertaken by the private sector in Armenia, and current exploration efforts focus mostly on attempts to develop deposits known from historical exploration work.
- The total area covered by exploration licenses amounts to about 5% of Armenia’s land area.³⁴

The list of companies that have received exploration permits is presented in Appendix 9.

7.3. Exploitation Permits

Exploitation permits are documented in the same publicly available sites as those outlined in the section above on exploration permits.³⁵ All active metal mines, which necessarily have exploitation permits, are specified below - Section 7.8 on “List of Potential Reporting Companies.”

7.4. Production Data

Production data is available at the national and Marz level (Table 23).The RA MEINR also receives extraction/production data from mining operators on a monthly basis, though this information is not publicly made available by MEINR. This is information that is used both for national estimation of mineral reserves as well as contract compliance inspections (see section of Environmental and Mining Inspectorate, below).

Table 23. Main Indicators of Industrial Organizations by Types of Economic Activity (2-digit code), by Marzes and Yerevan city.

Level	National economy and Marzes (city of Yerevan)
Frequency	Quarterly
Time of publication	In the month following the quarter
Language	Armenian
Source	http://armstat.am/am/?nid=82&id=1739
Type of activity	Mining and quarrying
	Extraction of metal ore
	Other branches of mining and quarrying
Indicators	1. Volume of produce (works, services) in comparable prices/thousand AMD, exclusive of VAT and Excise Tax
	2. Volume of produce (works, services) in current prices/ thousand AMD, exclusive of VAT and Excise Tax
	3. Sale of end products at current prices of the given year /thousand AMD, exclusive of VAT and Excise Tax
	3a. in CIS countries

³³ World Bank, “Armenia: Strategic Mineral Sector Sustainability Assessment” (2016)

³⁴ Concerning non-metal minerals and semi-precious stones, there are 21 permits (as per December 2015) including exploration for opalite, nepheline, diatomite, jasper, limestone, sand, gravel, basalt, tuff, sandstone, pumice, travertine, breccia and clays.

³⁵ However, only duration, permit number, and name of the company are published.

	3b. in other countries
	4. The average number/ person/ of industrial and manufacturing staff Is filled in on quarterly bases
	5. Work productivity /AMD/ is filled in on quarterly basis

7.5. Exports Data

Exports data is readily available at the national sector level. Marz and project-level exports data, however, is not publicly available. At the national sector level, the volumes of export of mining produce in monetary and in-kind value are accounted for by the RA State Revenue Committee and are published by the RA National Statistics Services. The data is published in three handbooks available in September and October for the previous year.

- FOREIGN TRADE OF THE REPUBLIC OF ARMENIA FOR 2015 According to the Commodity Nomenclature of External Economic Activity at 2-digit level, Statistical Handbook - <http://armstat.am/am/?nid=82&id=1825>
- FOREIGN TRADE OF THE REPUBLIC OF ARMENIA FOR 2015 according to the Commodity Nomenclature of External Economic Activity at 4-digit level, Statistical Handbook - <http://armstat.am/am/?nid=82&id=1806>
- FOREIGN TRADE OF THE REPUBLIC OF ARMENIA FOR 2015 According to the Commodity Nomenclature of External Economic Activity at 10-digit level, Statistical Handbook - <http://armstat.am/file/article/f. t-2015-10-nish-00.pdf>

Table 24 summarizes the statistics reported at the 10-digit level.

Table 24. Total mineral and metal export volumes and USD Values (metals at the 10-digit level)

Year	2011		2012		2013		2014		2015		2016	
	ton	US \$	ton	US \$	ton	US \$	ton	US \$	ton	US \$	ton	US \$
% of total exports												
TOTAL, of which	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
V. Total of mineral production, of which	44.9	30.3	44.2	29.2	56.0	27.5	48.5	24.9	55.6	32.1	44.4	26.3
Metallic ores, slag and ash, of which	18.4	21.5	18.7	20.2	24.9	20.5	32.7	18.8	41.8	24.6	40.0	22.4
Iron ores and concentrates, roasted iron pyrites	0.0033	0.0000	0.0002	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Copper ores and concentrates	15.9	19.5	15.8	16.5	22.4	18.9	29.3	15.2	39.0	21.3	38.5	19.9
Ore and concentrates leaden	0.0000	0.0000	0.0105	0.0121	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0	0.0
Zinc ores and concentrates	2.0	1.0	2.1	1.3	2.3	1.1	2.3	0.9	1.8	0.8	0.9	0.5

Ore and concentrates molybdenic	0.1	0.8	0.1	0.6	0.1	0.4	0.1	0.6	0.1	0.4	0.02	0.1
Ore and concentrates niobium, tantalum, vanadic or zirconium	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0063	0.0027	0.0000	0.0000	0.0000	0.0000
Titanium ores and concentrates	0.3366	0.1266	0.2619	0.0468	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Precious metal ores and concentrates	0.0	0.0	0.4	1.8	0.0	0.0	0.9	2.1	0.8	2.1	0.6	1.9
Ore and concentrates other	0.0010	0.0001	0.0006	0.0001	0.0001	0.0000	0.0016	0.0000	0.0000	0.0000	0.0001	0.000003

Source: http://armstat.am/file/article/f_t-2015-10-nish-00.pdf, http://armstat.am/file/article/f_t-2016-10-nish-5.pdf

Export data from the mid-stream mining sector

While the metal-mining sector has a comparatively modest share of Armenia’s GDP—only 2.1% in 2015 and 2.6% in 2016 (see Table 11)—its share of exports is relatively significant. Here it is worth pointing out that the classification of “metallic ores, slag and ash” includes concentrates, however it does not include the export of metals that have been further refined. These figures are found elsewhere in the NSS export data.

There are at least four refineries currently operating in Armenia: Plant of Pure Iron in Yerevan produces molybdenum and ferro-molybdenum; the Armenian Molybdenum Production plant in Yerevan produces ferromolybdenum, the ACP smelter in Alaverdi produces copper, and the Ararat Gold Extraction Plant (GeoProMining Gold LLC) in Ararat produces gold. Whilst the export statistics are not disaggregated per company, we are not aware of any other significant initiatives that would generate sizeable exports. See Table 25 for statistics on export and import of the relevant pure metals in 2015.

Table 25. Value of exports and imports for selected metals (2015)

Metal (NSS classification)	Export (US \$)	Import (US \$)
Molybdenum and articles thereof, including waste or scrap	11,131,414	1,219
Ferro-alloys	55,507,997	6,359,479
Copper, copper alloy, waste or scrap	6,252,970	166
Unrefined copper, copper anodes, electrolytic refining	65,539,160	2438
Gold, unwrought, semi-manufactured, powder form	96,941,809	23,269,289

Source: <http://www.armstat.am/en/?nid=148&thid%5B%5D=7404&years%5B%5D=2015&year%5B%5D=2015&submit=Search>

Notes:

- “Ferro-alloys” is not specific, however, apart from ferro-molybdenum, we are not aware of any other ferro-alloy which could generate \$55m in export value.
- “Unrefined copper, copper anodes, electrolytic refining”: we assume that the product of the Alaverdi copper smelter will fall into this category, as it does not constitute “ores and concentrates”, nor is it “waste or scrap” [NB if this interpretation is correct, then the row “Copper, copper alloy, waste or scrap” can be deleted]
- “Gold, unwrought, semi-manufactured, powder form”: there are significant imports, which – it is assumed – are for the jewelry industry. It may be that there is some value added and that gold jewelry is then re-exported as a semi-manufactured product, but it seems possible that the bulk of the exports in this line are the product of the Ararat Gold Extraction Plant.

Table 26a. Export of mineral raw materials in 2015

Product category, group, subgroup name and product's 10-digit code	EXPORT - 2015			
	Weight, tons	Cost, USD	Weight, %	Cost, %
Total (including trade made by individuals)	791923.0	1485331877.0	100.0	100.0
V. Mining product	439985.7	476902920	55.6	32.1
Ores, slags and ash	330777.7	365981584	41.8	24.6
Copper ore, concentrate	309183.7	316635817	39.0	21.3
Zinc ore, concentrate	14137.2	12021210	1.8	0.8
Chromium ore, concentrate	-	-		
Tungsten ore, concentrate	-	-		
Molybdenum ore, concentrate	959.7	5762644	0.1	0.4
Precious metal ore, concentrate	6497	31561872	0.8	2.1
Other ore, concentrate	0.1	40	0.0	0.0

Source: National Statistical Service of the Republic of Armenia

Table 26b. Export of mineral raw materials in 2016

Product category, group, subgroup name and product's 10-digit code	EXPORT - 2016			
	Weight, tons	Cost, USD	Weight, %	Cost, %
Total (including trade made by individuals)	1031804	1791723680	100.0	100.0
V. Mining product	458555	471124377	44.4	26.3
Ores, slags and ash	413178	400501526	40.0	22.4
Copper ore, concentrate	397207.1	356721080	38.5	19.9
Zinc ore, concentrate	9256.1	9617132	0.9	0.5
Molybdenum ore, concentrate	210.4	938396	0.0	0.1
Tantalum, vanadium, zircon ore, concentrate	-	-		
Precious metal ore, concentrate	6062.1	33171842	0.6	1.9
Other ore, concentrate	0.7	55	0.0	0.0

Source: National Statistical Service of the Republic of Armenia

7.6. Methodological comments on statistics

The statistics is based predominantly on the data furnished by mining operators. Lack of systematic inspections during the declared moratorium,³⁶ in fact, didn't allow for adequate verification of the data provided by mining operators. On the other hand, there are numerous types of reports with lack of

³⁶ The frequency of inspections is driven by the level of risk. Under the Government Policy to reduce the number of administrative processes and the barriers to doing business, the planned inspections were have been suspended since August 2015. Between August 2015 and July 2017 inspections planned for the mining sector could have been performed only by tax and customs inspectorates.

regular reconciliation and publication of the data available therein. Below are the statistical reporting forms from the NSS RA:

A) The Ministry of Energy Infrastructures and Natural Resources submits following reports to the NSS RA:

1. Form No 71-TA "On mineral processing, metallurgical processing, integrated use of exploited rock and industrial dumps" - Annual national statistical summary report
2. Form No 70-TA "Mineral extraction during exploitation" - Annual national statistical summary report
3. Form No 01-GE "On geological explorations" - Annual national statistical summary report

B) The Ministry of Nature Protection submits following reports to the NSS RA:

1. Form No 1 - Waste "On waste generation, utilization and disposal" - Annual national statistical summary report (The report is submitted separately for the national, regional (Marz) and urban levels, and in summary for rural communities)
2. Form No 2-TA (WaterEcon) "On water use" - Annual national statistical summary report
3. Form No 1-BAV "On environmental and nature utilization fees" - Annual national statistical summary report (The report is submitted separately for national, regional (Marz) and urban levels, and in summary for rural communities)
4. Form No 1- Nature Protection "On government oversight over nature protection and efficient use of natural resources" - Quarterly national statistical summary report
5. Form No 5-EH "On reportable balance of mineral deposits" - Annual national statistical summary report.

C) For-profit organizations and individual entrepreneurs submit following reports to the NSS RA:

1. Form No 1-MineWater "On extraction and utilization of mineral waters" - Annual national statistical report
2. Form No 4-MP "On recurring environmental expenditures" - Annual national statistical report (The report is produced by legal entities, enterprises, individual entrepreneurs (that have treatment plants or undertake environmental measures))
3. Report No 1-ART "Report on produce of the industrial company" - Monthly, annual state statistical report (The reports are furnished by legal entities, individual entrepreneurs (hereinafter "entities)).

The above-mentioned reports, in fact, are not subjected to deep, critical cross-checking and evaluation that would enable identifying inaccuracies and contradictions. Capacities of public administration bodies to do this and maintain accurate and verified statistics should be strengthened.

Finally, in specific areas there is lack of data. The volumes of production and extraction, data on extracted deposits, as well as the quantity of substances disposed into tailing dams (and emitted into the atmosphere) should be published based on the monthly reports furnished by companies, the findings of inspections and the data from monitoring by competent authorities. This is essential to ensure proper governance of the sector, specifically, controlling the transparency of real production volumes by companies under mining contracts, and reconciliation of the extraction and export volumes.

8. Going Beyond Minimum Requirements

8.1. Public disclosure of contracts

Requirement 2.4(a) of the Standard provides that: “Implementing countries are encouraged to publicly disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas and minerals.” As such, public disclosure of the content of contracts is not a mandatory requirement. However, there are a number of reasons in favor of disclosing contracts:

- Contract transparency allows for public disclosure of what companies *should* pay.
- It enables affected communities to discover the company’s social and economic expenditure commitments under the contract, and therefore to conclude whether the company has honored its obligations.
- It enables civil society to assess the implementation of the company’s investment commitments.
- It sends a signal to the stakeholders that the government encourages maximum transparency in the sector.

If there is confidential data in the contract or annexes, one option would be to redact the relevant sections when publicizing the contract. Amendments to the legislation recommended in the scope of implementation of EITI standards will resolve this issue.

8.2. Future expansion of EITI Armenia

While the EITI Standard has traditionally focused on the oil, gas and mining industries, some countries have considered the extractive sectors more widely. For example, Tanzania includes forestry while Tajikistan includes electricity generation. In Armenia’s case, the MSG in approving the TOR for this study has asked to consider widening the mandatory scope of the report, to include income from other sectors. Bearing in mind the benefits to be gained from increased transparency of revenue flows, as well as environmental issues, both the water and forestry sectors should be considered for inclusion. In assessing the water sector, one could include mineral water extraction, groundwater extraction for fisheries and agriculture, and water use for hydroelectric power generation, and more.

8.3. Disclosure of Non-Contractual and Not Legally Required Charitable Contributions

EITI Standard requires disclosure of social and economic expenditures required by law or contract. Disclosure of any other voluntary contributions are not required by the Standard. The EITI Armenia MSG, however, has decided to require disclosure of all charitable contributions to foundations, NGOs, and individuals. For foundations and NGOs, mining companies must disclose the names, amounts, and purpose of the contribution. For natural persons (individuals), mining companies must disclose the total amount to all individuals and the total number of individuals receiving charitable contributions without identifying the individuals’ identity. For a full discussion, see Section 6.12 of this Study,

9. Obstacles to Reporting

This section summarizes the various issues where there may be legal or institutional barriers, specifically:

- Barriers to full compliance with EITI requirements and
- Barriers to ensuring enhanced transparency in areas which have been discussed with the MSG

The main barriers concern transparency in contracts, licensing, revenues and payments.

Contracts

Issue: Contracts are currently not systematically disclosed to the public, nor would they necessarily be available to the Independent Administrator.

Solution: Amending the RA Mining Code to oblige the authorized body (i.e., MEINR) and companies make contracts available to the Independent Administrator, or, as an enhanced transparency initiative, to publish them. As a minimum, the government should develop a policy on contract disclosure prior to the validation deadline of September 2019.

Licenses

Issue: The EITI Standard requires there to be a publically available register which contains the following details:

- The license holder
- The coordinates of the license area
- Date of application for the license
- Date of award of the license
- Duration of the license
- In the case of production licenses, the commodity being produced

Solution: Amending the RA Mining Code to oblige the authorized body (i.e., MEINR) to make this information available to the Independent Administrator, or, as an enhanced transparency initiative, to publish them. As a minimum, the government should develop a policy on license information disclosure prior to the validation deadline of September 2019.

Revenues

Issue: There are a number of issues here:

- SRC does not currently publish all EITI required disaggregated data for mining companies. The data currently available is limited to companies that fall within the category of top 1000 taxpayers and is not disaggregated into individual revenue types and projects (where a company has more than one mine or operation).
- Local government bodies do not currently publish disaggregated data regarding their revenues from local taxpayers. It is not possible to ascertain how much a mining company may have paid in, e.g., land tax, property tax, or land lease fees.

Solution: Disaggregation per operation/project will be possible only if companies concerned would be able to provide separate financial accounts for each operation, as currently SRC does not have such data. It is recommended to make this as a requirement to furnish data to the Independent Administrator or as a more comprehensive requirement to publish the data for ensuring increased transparency.

Payments

Issues: There are concerns that not all mining companies will voluntarily submit full data on payments to the Independent Administrator. Further, there is no current requirement for companies with more than one project to submit disaggregated data (i.e. by project) to SRC.

Solution: Amendments to legislation (viz., Mining Code and tax legislation) will be required. Considering that project level reporting is required by EITI (Requirement 4.7. Level of Disaggregation), MSG is recommended to discuss introducing such a provision.³⁷

³⁷ It should be noted that through the EITI Standard encourages sharing of the revenue streams at project level, however it does not mandate implementing countries to change the tax or budgetary systems, in case of contradictions. The Secretariat, also, does not encourage amending the law for that single purpose only.

10. PROMOTING CULTURE OF RESPONSIBLE MINING

In the scope of EITI, AUA Center for Responsible Mining, in parallel to the current study, is developing a Mining Preliminary Roadmap to be submitted for MSG approval. The Roadmap will consider issues such as:

- Examine the issue of the sector’s contribution to sustainable development and the extent to which there exists data to assess this;
- Analyze the following areas to identify major gaps:
 - a. Cost-benefit valuation of mining projects;
 - b. EIA process in the Republic of Armenia (both quality of report preparation as well as the rules and quality of their reviews); and
 - c. Environmental, community health, and occupational safety monitoring.

MSG in its review of the Responsible Mining Preliminary Roadmap is invited to consider which issues should be reflected in the First EITI Report and which issues can be developed further to form part of a revised MSG work plan and more broadly national policy and strategy on mining.

11. Next Steps

11.1. Materiality Recommendations

Tables 5 and 6 in Chapter 6.10 provide the list of metal mining companies that hold exploitation licenses, as well as the phase they are in, e.g., production or development/preparation. Table 27 provides the total volume of taxes and customs duties paid by metal mining companies (metal mine operators, smelting and refining processors included in the 1000 top taxpayers in 2014, 2015, 2016 and the 1st semester of 2017), based on review of www.harkatu.am website.

Table 27. Taxes and statutory fees paid by metal mining companies to the State Budget

Company	1st semester of 2017		2016		2015		2014		Employment ³⁸
	AMD million	Category	AMD million	Category	AMD million	Category	AMD million	Category	
Zangezur CMC CJSC	9751	1	9122	3	27506	1	19941	1	3294
GeoProMining Gold LLC	8164	2	9377	2	3862	3	3897	3	935
Teghut CJSC	6021	3	13357	1	4673	2	3246	4	1067
Kapan MPP CJSC	4084	4	3213	4	3372	4	5215	2	1183
Lydian Armenia CJSC	1628	5	737	10	623	11	245	13	140
Pure Iron CJSC	940	6	1459	5	2181	6	2271	7	562
Armenian Titanium Production LLC	835	7	1115	8	1188	7	1353	8	347
Armenian Molybdenum Production LLC	669	8	1153	7	986	9	906	9	492
Agarak CMC CJSC	524	9	1449	6	2935	5	3194	5	1017
Armenian Copper Program CJSC	383	10	536	11	988	8	2593	6	668
Meghradzor Gold LLC	305	11	261	13	197	13	450	12	198
Tatstone LLC	31	12	20	15	-	-	-	-	-
Akhtala MPC CJSC	-	-	289	12	804	10	860	10	587
Sagamar CJSC	-	-	808	9	550	12	547	11	437
Zangezur Mining LLC	-	-	-	-	313	9	513	8	-
Ler-Ex LLC	-	-	129	14	296	10	271	9	162
Paramount Gold Mining LLC	-	-	-	-	-	-	49	11	-

³⁸ It should be noted that in the last three years the employment is shown as unchanged, which gives a basis to assume that these data are not updated.

The AUA Center for Responsible Mining has requested SRC to provide comprehensive information on the taxes paid by companies in the sector. As of March 10, 2018 our request for information has remained unanswered. However, even review of www.harkatu.am website enables disclosing larger taxpayers and identifying a significant difference between companies paying hundreds of millions AMD in taxes, and those paying well below one hundred million AMD in taxes. Section 6.1 of this study recommends establishing 100 million AMD as a materiality threshold, where companies paying at least 100 million AMD in the reporting years will need to present audited reports for all material taxes and payments. All material payments by these companies will be subject to reconciliation. When reconciling company payments and government receipts, we recommend the tolerance for variation to be one percent (1%).³⁹

So, we will have two possible scenarios:

- A. For metal mining companies it is recommended to take as a base the taxes and statutory payments they have made to the State Budget.
- B. For companies operating midstream, referred to in point 7.9 of this Scoping Study, the latter become reporting entities, if the mining company considered to be affiliated with them in accordance with point 7.9 is a reporting entity as per legal criteria referred to in point "A" and they, in their turn, meet the condition referred to in point "A".

If the above-referred materiality criteria are to be applied, the companies that, based on available data, are among the 1-11 top companies paying larger taxes in the sector, shall be reporting entities.⁴⁰

This report also recommends that where social and economic payments are stated in the contract, they must be disclosed to the Independent Administrator, in line with the EITI Standard. This study also recommends that all payments by mining companies (either directly or indirectly) must be disclosed to the Independent Administrator.

The report also recommends that following four groups of government entities provide receipt data to the Independent Administrator:

- SRC (all taxes and statutory fees, including royalty payments as well as customs export data)
- RA MNP (contributions to Environmental Protection Fund)
- RA MEINR (production data)
- Relevant Local Self-Government Bodies that receive land tax & property tax and land lease payments, as well as potential receipts into community extra-budgetary funds. In the recommendations on legislative amendments elaborated for implementation of the EITI Standard, this role is performed by the MTAD.

With regard to the disclosure of taxes and revenues in compliance with requirements 4.1 and 4.6 of the EITI Standard, the following revenue streams have been identified:

³⁹ The proposed variation threshold is recommended by BDO Armenia auditing company as a rule of thumb as there are no accounting standards in this regard.

⁴⁰ In the first semester of 2017, the 1-12 companies having paid larger taxes have jointly contributed 33335 million AMD to the State Budget. Taxes paid by Tatstone LLC that is the 12th on this list is 0,09% of the total. Hence, the 11 companies together pay 99,91% of the taxes and mandatory fees payable.

Payments to central government bodies

- Corporate profit tax
- Royalties
- Income tax
- Value added tax
- Environmental Fees
- Contributions to Environmental Protection Fund (for reclamation)
- Payments for Monitoring Plan
- Payments of State duties.

Payments to local government bodies

- Land tax
- Property tax
- Land lease payments.

For the reasons outlined earlier in the text, this report also recommends that the first EITI report (2018) should include data for 2016 and 2017 financial years.

11.2. Recommended Legislative Changes for Required Disclosures

Social and economic spending disclosure: Amendments to the Mining Code and to the Law on Local Self-Government to oblige the companies and local communities to publish (or, as a minimum, to provide to the Independent Administrator) details of actual social expenditures which were mandated by contract or law. If the MSG chooses enhanced transparency, amendment to the Mining Code, tax legislation, Law on Foundation, Law on Public Organizations should be made to oblige relevant parties to publish (or, as minimum, to provide to the Independent Administrator) details of actual discretionary (non-mandatory) social expenditures which were mandated by contract or law, and payments/benefits received by local communities, foundations and NGOs.

Table 28. Overview of recommended legislative changes and preliminary list of affected legal acts

Recommended changes	Preliminary List of Legal Act to be amended/adopted
Reporting state agencies must provide disaggregated project level data on revenue streams received from mining license holders;	<ul style="list-style-type: none">• RA Mining Code,• Tax legislation (both Law on Taxes and Tax Code)• Government Decision on Approving Model Mining Contract
License-holders must publish (or, as a minimum, provide to the Independent Administrator) disaggregated details of taxes and other payments made to reporting state agencies	<ul style="list-style-type: none">• RA Mining Code,• Tax legislation (both Law on Taxes and tax Code)• Government Decision on Approving Model Mining Contract
Local self-government bodies must publish (or, as a minimum, provide to the Independent Administrator) disaggregated details of land tax, property tax and other revenue streams received from the identified reporting companies. The Ministry of Territorial Administration and Development shall assist in the collection of this information.	Law on Local Self-Government Bodies, Tax Legislation

11.3. Online Reporting Capacity

Currently a variety of information is available online in different sources, partially fulfilling EITI requirements. In particular:

- Brief information on licenses and contracts is available on three different official websites, which lack actual copies of the documents;
- There is a variety of statistical information on the mining sector's share of GDP and exports, as well as data about production, investment and employment. Some of the data is disaggregated per mineral type, but none of the data is disaggregated to the level of individual company or mine project.
- The State Revenue Committee publishes online tax data about the top 1000 taxpayers, but the level of disaggregation into types of taxes does not fully meet EITI requirements, and not all metal mining license-holders are covered, since some are making little or no profit.
- Many of the mining companies publish their financial reports online⁴¹, but this does not give the full range of details which will be required from companies.
- Some foundations publish information on funds acquired and/or spent on social and economic activities in affected communities, but financial details are often incomplete.
- The range of issues subject to disclosure requirements but currently not available online includes the land and property tax income flows from companies to the local community budgets, as well as the contents of mining contracts.
- Disaggregated data on payments by companies to extra-budgetary Reclamation Fund is not publicly available yet.

In designing an online reporting system, consideration should be given as to whether the necessary data will be collected on a range of websites, all on a single site, or a combination of both. In Armenia's case, one option would be to expand the existing Geo-Fund website (www.geo-fund.am), so that it has all the data required by the EITI Standard. A second option would be the creation of new website with comprehensive information, although this would overlap with Geo-Fund and other websites to an extent. A third option would be to clearly describe which data would appear on the new website, and which data would continue to be accessed on the Geo-Fund and other websites.

The MSG favors an online reporting arrangement which will ensure the collection of much of the data to a single EITI portal, with links to other websites where appropriate. This has been discussed briefly in section 7.14 above. There are three main factors which could affect the success of this approach:

- Legislation will be required to ensure that various reporting requirements become mandatory, in time for submission of data for review by the Independent Administrator
- The portal will need to be carefully designed to ensure that it provides for the whole range of data types and sources
- Capacity building of the reporting entities will be required to ensure that they are fully aware of the requirements and able to comply within the timeframe.

⁴¹ Figure 5, given in Section 7.5.

APPENDICES

Appendix 1. List of Individuals and entities Interviewed for Study

Appendix 2. Review of Available Statistics

Appendix 3. List of Mining-Related Laws

Appendix 4. List of Mining-Related Sub-Legislative Acts

Appendix 5. Information on Payments Made by Metal-Mining Companies to the Environmental Protection Fund (Armenian Only)

Appendix 6. 2015, 2016, and 2017 List of Metal Mining Licensees (Armenian Only)

Appendix 7. Social and Economic Expenditures Self-Reported by Mining Companies

Appendix 8. Revenues and Payments Legislative and Institutional Analysis

Appendix 9. List of Companies with Exploration Licenses (Armenian Only)

Annex 10. Inclusion of requirements of EITI Standards in the Text of Scoping Study

Annex 11. Table of Information on Data Availability

Annex 12. 2016-2017 List of Communities with Extra-Budgetary Funds (Armenian Only)

Annex 13. Legislative Reform Package as Proposed by the AUA Center for Responsible Mining (Armenian Only)