

Terms of Reference for a UK-based Expert to Support the AUA Center for Responsible Mining in Preparing a Mining Law and Institutional Capacity Review for Armenia

1. Background

Armenia began the process of becoming an EITI member in July 2015, when the Prime Minister formally stated the intention to become a country member.

The EITI MSG of the Republic of Armenia comprises fifteen members, as follows:

- Six representatives from the Government of the Republic of Armenia;
- Four representatives from mining companies, elected in February 2016; and
- Five representatives from civil society (including one from academia).

On June 27, 2016, the first meeting of the Armenian EITI Multi-Stakeholder Group took place. On December 26, 2016, the MSG adopted by consensus the ToR of the EITI MSG of the Republic of Armenia, and its 2017-2018 EITI Work Plan.¹ By letter dated 28 December 2016, the Government formally submitted its application for candidate status.

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). In accordance with the work plan submitted by the MSG, the EITI Board expects Armenia to publish a beneficial ownership roadmap by 1 January 2018.

The EITI workplan for 2017-2018 has identified the following priorities:

1. Ensuring awareness about the mining sector;
2. Increasing the mining sector transparency and accountability;

¹ The Work Plan can be accessed here: [http://www.gov.am/u_files/file/ardyunaberakan-cragir/EITI_Workplan_Armenia_eng\(1\).pdf](http://www.gov.am/u_files/file/ardyunaberakan-cragir/EITI_Workplan_Armenia_eng(1).pdf)

3. Enhancing the culture of responsible mining through application of the best international practices, and based on legal regulations;
4. Enhancing competitive investment environment for responsible investors; and
5. Institutional capacity development of sector beneficiaries.

The workplan also sets out 6 objectives:

- Ensuring accessible and timely information;
- Development of roadmap for disclosure of ultimate beneficial owners;
- Review of the legal framework of Armenia, disclosure of inconsistencies and gaps with EITI Standard;
- Review of the best international practices and development of roadmap for harmonization with the EITI and best responsible mining international experience;
- Ensuring Armenia's EITI candidacy status; and
- Comprehensive report consistent with the EITI standard.

The American University of Armenia's Center for Responsible Mining (CRM) has been supporting Armenia with its application for EITI membership, and in particular has facilitated the process of consultations with civil society, including conducting trainings and facilitating the election of civil society representatives to the MSG.

With support from the British Embassy in Armenia, the CRM has now undertaken to support the enhancement of Armenia's capacity to implement EITI, including preparing a final report and proposed action plan on the legislative and institutional framework review (the "Review"), to be submitted to the MSG.

In this regard, the CRM seeks a highly qualified legal and institutional advisor (hereafter, "Consultant") to support the CRM team in the preparation of the Review in accordance with these Terms of Reference.

2. Objectives

The overall objective is to support the CRM team in the preparation of a final report and proposed action plan on the legislative and institutional framework review (the "Review"), responding to MSG comments. The final report shall be subject to MSG approval.

The scope and content of the Review is based on the EITI standards, which require disclosure of information related to the rules for how the extractive sector is managed, enabling stakeholders to understand the laws and procedures for the award of exploration and production rights, the legal, regulatory and contractual framework that apply to the extractive sector, and the institutional responsibilities of the state in managing the sector. During the Review, consideration will be given to the legal obstacles to revealing information which is required for the Report and which is provided by state bodies and companies. The Report will also present recommendations as to which legal, regulatory and

other mechanisms can be introduced to ensure that information provided by state bodies and companies complies with EITI accountability requirements.

With regard to a transparent legal framework and award of extractive industry rights, the EITI requirements are related to the following areas:

- Legal framework and fiscal regime,
- License allocations,
- Register of licenses,
- Contracts, and
- Beneficial ownership (in cooperation and coordination with an expert provided by the EBRD who will lead beneficial ownership legislative and institutional analysis and preparation of the beneficial ownership roadmap)

The MSG has also identified as a key issue the role of the EITI process in creating a culture of responsible mining. Therefore, the scope of this Review should also consider how regulations concerning the areas listed above are enforced in practice, as well as the following matters:

- The regulation of mining companies' environmental, health and social obligations, including oversight of those obligations;
- Existing sources, mechanisms and obligations concerning the compilation and disclosure of information about beneficial ownership, reliability of information, as well as obligations and restrictions in respect of beneficial ownership;
- Specific reform measures that could have a large impact in encouraging a culture of responsible mining; and
- Presentation of proposals to address gaps revealed in the various sectors, bringing international examples of best practice mechanisms which would be relevant to and applicable in the Armenian environment.

The scope of this Review includes analysis of the Armenian regulatory and institutional framework with respect to all of the areas listed above. The analysis will examine the gaps and loopholes within the domestic legal and institutional framework which could create obstacles in effective enforcement of the EITI requirements. The scope of work will also cover a broader review and analysis of the mining legislative and institutional framework in Armenia in terms of gaps and inconsistencies with global best practices with respect to transparency and accountability.

The Review will consider the scope of legal tools necessary for effective enforcement of the EITI requirements and identify what is missing in the domestic framework. The full scope of the Review is prepared by July 14.

3. Methodology

The methodology to be employed in this assignment will include:

- A comprehensive approach, ensuring that all relevant aspects of the Armenian legislative and institutional framework are examined in relation to the EITI standards
- Application of international best practice to Armenia's challenges
- Responsiveness to the local conditions and to the views of and feedback from MSG and other stakeholders. The list of stakeholders includes but is not limited to the following: the Ministry of Justice (the state registry agency for legal entities), the Ministry of Nature Protection, the Ministry of Energy Infrastructure and Natural Resources, the Ministry of Finance (State Revenue Committee), the Central Bank (central depository), the Ethics Commission for High-ranking Officials, as well as NGOs engaged in legislative issues and the private sector.

4. Deliverables

- Draft Review, to be prepared by 13th October 2017, and which will include analysis of the scope of the Review and the action plan on legislative and institutional framework.
- Final Review, incorporating MSG feedback, to be prepared by 27th October 2017.

5. Engagement Timetable

It is expected that the expert will be engaged over the period from July to early November 2017. The Consultant is expected to visit Armenia in the first half of September for five days.

Overall, the Consultant will be engaged for a total of 10 days. Costs of travel to and subsistence in Armenia will be paid by CRM.

6. Consultant requirements

The Consultant will need to demonstrate:

- Technical and financial skills, including knowledge and work on transparency and governance, public finance and financial accountability, and multi-stakeholder dialogue. Preferably, proven experience related to the EITI.
- Knowledge of the mining sectors or other natural resources sectors, preferably in Armenia and other former Soviet countries.
- A demonstrable track record in similar work, including excellent report drafting and reviewing skills.
- Ability to travel to Armenia for maximum 2 days in September 2017.

7. Administrative arrangements

The CRM will be responsible for logistical and administrative arrangements, including arranging the expert's visit to Armenia and organising meetings with the MSG and other stakeholders. Costs of travel

to and subsistence in Armenia will be paid by CRM. The expert will report to the Director of the CRM or other staff as delegated by him, and will work closely with the CRM legal experts in preparing the report.

Interested and qualified UK-based experts should submit their CV and cover letter to crm@aua.am by the end of July 9, 2017.