

Mining

Contributing editors

Michael Bourassa and John Turner



2018

GETTING THE
DEAL THROUGH 

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**Michael Bourassa and John Turner
Fasken**

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Preface

Mining 2018

Fourteenth edition

Getting the Deal Through is delighted to publish the fourteenth edition of *Mining*, which is available in print, as an e-book and online at www.gettingthedealthrough.com.

Getting the Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique **Getting the Deal Through** format, the same key questions are answered by leading practitioners in each of the jurisdictions featured. Our coverage this year includes new chapters on Armenia and the Democratic Republic of the Congo.

Getting the Deal Through titles are published annually in print. Please ensure you are referring to the latest edition or to the online version at www.gettingthedealthrough.com.

Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Getting the Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to the contributing editors, Michael Bourassa and John Turner of Fasken, for their continued assistance with this volume.

GETTING THE
DEAL THROUGH 

London
June 2018

Armenia

Aram Orbelyan, Lilit Karapetyan and Roustam Badasyan

Concern Dialog Law Firm

Mining industry

1 What is the nature and importance of the mining industry in your country?

Armenia's mining sector is one of the cornerstones of the national economy. In 2015, the mineral industry grew by 50.4 per cent and made up to 16.7 per cent of total industrial production of Armenia. Over half of the exports from Armenia are ore concentrates and metals. In the state register of mineral resources of the Republic of Armenia (RA) there are 670 mines of solid minerals (including 30 metal mines) currently registered.

2 What are the target minerals?

Armenia is rich in iron, copper, gold, molybdenum, lead, zinc, gold, silver, antimony and aluminium.

3 Which regions are most active?

Armenia has metallic mineral deposits in Syunik, Lori, Vayots Dzor and other regions.

Legal and regulatory structure

4 Is the legal system civil or common law-based?

Armenia's legal system is civil law-based.

5 How is the mining industry regulated?

Regulation of the mining industry in Armenia is centralised. Codes and laws regulate the industry at the national level. The state (the relevant regulatory authority) must enter into subsoil use agreements with relevant rights holders, under which the mandatory requirements of use of the subsoil and rights and obligations of the regulatory authority and the rights holder are set out.

6 What are the principal laws that regulate the mining industry? What are the principal regulatory bodies that administer those laws? Were there any major amendments in the past year?

The Subsoil Code of RA, which sets the main principles of subsoil use in the country, as well as protection of rights, obligations and legitimate interest of engaged parties. The specifics of the use of surface and subsoil water are regulated under the Land Code and the Water Code respectively. The RA Law on Environmental Impact Assessment determines the mandatory requirements of expertise of the impact of certain activities on the environment in compliance with internationally recognised practice.

The mining industry is regulated by:

- the Ministry of Energy Infrastructures and Natural Resources (the Ministry), which grants permissions and supervises mining activity; and
- the Ministry of Natural Protection, which oversees environmental issues and supervises recultivation works.

In order to ensure transparency in the sector, an amendment to the Subsoil Code was adopted in February 2018, setting the scope of the data subject to publication by the regulatory authorities, obliging the rights holders of extraction rights to publish the annual volume of the

minerals extracted and provide public reports to regulatory authorities and the government on the taxes paid by the rights holders.

7 What classification system does the mining industry use for reporting mineral resources and mineral reserves?

Armenia lacks any specific regulation with regard to this.

Mining rights and title

8 To what extent does the state control mining rights in your jurisdiction? Can those rights be granted to private parties and to what extent will they have title to minerals in the ground? Are there large areas where the mining rights are held privately or which belong to the owner of the surface rights? Is there a separate legal regime or process for third parties to obtain mining rights in those areas?

The right of ownership of subsoil exclusively belongs to the state. The right of use of subsoil can be granted only for exploration and extraction purposes.

The right of use of subsoil for the purposes of exploration and extraction is granted by the state. In the meantime legal and private entities may undertake extraction of mineral resources on the land parcels owned by them (up to 2 metres deep) for household purposes without the aim of making a profit. After extraction of the minerals, the rights holders have ownership of the extracted minerals.

Use of separate sections of subsoil is prohibited to ensure national security and protect the health and safety of individuals and historic-cultural values. Use of subsoil in the specially protected areas may be conducted in the manner prescribed under RA legislation.

9 What information and data are publicly available to private parties that wish to engage in exploration and other mining activities? Is there an agency which collects mineral assessment reports from private parties? Must private parties file mineral assessment reports? Does the agency or the government conduct geoscience surveys, which become part of the database? Is the database available online?

Information on the structure of the subsoil section and quantity and other features of minerals in the subsoil, as well as technical indicators of subsoil use (geological information) is in the exclusive ownership of the state. Geological information is provided free of charge: only the expenses related to services rendered while providing the information shall be compensated. Geological information obtained within the scope of subsoil use rights shall not be published without the consent of the rights holder. The rights holder, at the same time, is obliged to use the geological information it has obtained only within the scope of his or her subsoil use rights. The rights holders extracting metal minerals shall present reports on their activities comprising information on annual volume of extraction and export of minerals.

The Republican Geological Fund SNCO (data on issued permits, passports of mines and ore occurrences and other useful information can be accessed online at www.geo-fund.am/en/) conducts registration of data on geological exploration works, subsoil use permits and agreements, mining allotment acts and reported balance of minerals, as well as collecting, maintaining and providing information on subsoil, exploration works, mineral mines and the supply thereof.

10 What mining rights may private parties acquire? How are these acquired? What obligations does the rights holder have? If exploration or reconnaissance licences are granted, does such tenure give the holder an automatic or preferential right to acquire a mining licence? What are the requirements to convert to a mining licence?

The subsoil may be used for the purpose of geological exploration and extraction of minerals. Subsoil use rights are granted by the Ministry based on the application of interested entities or through competitive tender organised (only rights exploration of radioactive raw materials are granted through competitive tender) in the manner prescribed under the Subsoil Code by issuing permits or consents, mine allotment acts, as well as concluding subsoil use agreements with the rights holders. The general order of acquiring subsoil use rights is through a regulated application process.

The exploration rights holders must:

- comply with the work plan approved by the Ministry;
- notify the Ministry on discovering minerals of industrial importance and transfer geological information to the Ministry;
- undertake waste management activities; and
- report on their activities and compliance with their obligations.

The extraction rights holders must:

- comply with the conditions of the plan of extraction and subsoil use agreement;
- comply with the standards and rules of extraction, transfer and recycling of minerals;
- provide safety of works related to subsoil use, ensure the protection of subsoil, atmosphere, land, forests, water and environment;
- duly undertake recultivation activities, waste management and recycling, plan of closing of mine; and
- present geological information, quarterly and annual reports on the movement of minerals to the Ministry, collect, maintain and submit to the ministry data on explored, extracted supply, quality and value of minerals.

The law does not determine the exploration rights as a precondition of obtaining an extraction licence, neither does it grant any priority rights to obtain the extraction licence. The procedure on converting the exploration licence to an extraction licence is not determined. In order to obtain a subsoil use licence for extraction of minerals, the applicants shall present an application to the Ministry in line with a plan of extraction, the details on geological description of the relevant section of subsoil, including information on the approved supply of minerals, a list of the approved minerals and the conditions for extraction of the minerals. Accordingly, the presumption is that after obtaining a licence on exploration and collecting the necessary information for extraction, the rights holders will be able to obtain an extraction licence.

11 What is the regime for the renewal and transfer of mineral licences?

Subsoil use rights are transferable. The consent of the Ministry must be obtained prior to transfer of the rights. The rights holder wishing to alienate his or her rights shall present an enquiry to the Ministry and in line with the information necessary for obtaining a licence shall present a report on works, including the environmental protection works conducted within the work plan and project, reports on works undertaken for waste management and a recycling plan. The Ministry, within 30 days following receipt of the application, shall come to a decision on granting consent or rejecting the application. If the authority does not undertake any activities within the envisaged period, the consent is deemed as granted.

Any transaction with respect to the subsoil use rights made without the consent of the Ministry is null and void. At the same time the restriction does not govern a change of control of the rights holders.

12 What is the typical duration of mining rights?

The right of subsoil use can be granted for exploration operations to discover mineral resources, and the right can be issued for a definite period of up to three years. The right of subsoil use for exploration can be extended for three successive periods of up to two years each. In order to extend the term of mining rights, an application shall be presented to the Ministry, indicating the circumstances that serve as

grounds for extending the term, reports on the works undertaken, the amended work plan and the grounds for continuing the exploration.

Right of extraction of mineral resources may not be granted for a period exceeding 50 years. The rights holder may at any time (but not later than six months prior to expiry of the term of licence) apply to the Ministry in order to extend the term of the licence. The application shall comprise details on the remaining supplies of minerals in the mine, grounds for extending the right of use and the amended work plan.

The right of subsoil use may be terminated on the basis and manner prescribed by law. As a preliminary step, the Ministry shall give a written notice to the rights holder in the event that the latter does not comply with his or her obligations or the conditions of subsoil use, or does not make the necessary payments. The Ministry is prohibited from adopting a decision on termination of subsoil use if the rights holder has eliminated the grounds determined in the written notice within 90 days following its receipt.

The right of subsoil use may be terminated if:

- the term of the right has expired;
- the rights holder has been liquidated;
- the rights holder has not eliminated the grounds for written notice within 90 days;
- the subsoil has been used for a purpose other than the purpose for which the right has been granted; and
- the rights holder has discovered and failed to notify the Ministry on discovering minerals not listed in the subsoil use permit, existence of rare and scientific-cultural values or appearance of unpredicted environmental risks.

13 Is there any distinction in law or practice between the mining rights that may be acquired by domestic parties and those that may be acquired by foreign parties?

No restriction applicable to the foreign entities with regard to mining rights are determined under RA legislation.

14 How are mining rights protected? Are foreign arbitration awards in respect of domestic mining disputes freely enforceable in your jurisdiction?

The Constitution of RA recognises and protects ownership rights. Any person is entitled to judicial protection before independent courts organised and acting under the rule of law.

Armenia is a member of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, and respectively foreign awards adopted in other member states are enforceable in Armenia.

15 What types of surface rights may mining rights holders request and acquire? How are these rights acquired? Can surface rights holders oppose these requests?

In order to commence exploration or extraction of minerals, the rights holders shall acquire the consent of the owner of the surface. Alternatively, a land usage agreement may be presented. The surface rights can be owned by private entities (except for foreigners). The rights holders are also entitled to use the land under land usage, lease, servitude and other agreements. While foreigners are prohibited from acquiring ownership rights over the land, they may also enjoy any other rights including right of use, servitude, etc. Thus the surface rights holders are free to give their consent or enter into relevant agreements for authorising subsoil rights holders to commence mining activities.

16 Does the government or do state agencies have the right to participate in mining projects? Is there a local listing requirement for the project company?

While the government itself is not able to participate in mining projects, it can establish entities through which participation in mining projects is not prohibited.

Both domestic and foreign companies are entitled to carry out mining activities.

17 Are there provisions in law dealing with government expropriation of licences? What are the compensation provisions?

The RA Law on Alienation of Property for Public or State Needs envisages the procedure of alienation of ownership rights in the public interest. The law is applicable to immovable and movable property, proprietary rights, securities, etc. A prior compensation in the amount of the market price of property plus 15 per cent shall be paid to the owner of the right.

Pursuant to the Subsoil Code, the subsoil use rights may be terminated for the needs of the public or the state. However, to the best of our knowledge, such alienation has never been conducted and it is hard to evaluate the practical implications of the law on alienation of subsoil use rights.

18 Are any areas designated as protected areas within your jurisdiction and which are off-limits or specially regulated?

Pursuant to the RA Law on Specially Protected Nature Areas the specially protected nature areas in Armenia can have four statuses: state reserve (eg, Shikahogh State Reserve, Khosrov State Reserve, Erebuni State Reserve), national park (eg, Sevan National Park, Arpi Lake National Park, Arevik National Park, Dilijan National Park), reservation (eg, Aragats Alpien, Arzakan, Meghradzor Reservations, etc) and nature monument (natural-historical, biological, geological and other monuments). The specially protected nature areas are created and classified by the RA government. The lands of protected areas cannot be alienated to the physical and legal entities (unless their purpose is changed in the manner prescribed by the government). At the same time, the maintenance and use of these areas may be conducted based on an entrusted management agreement.

Duties, royalties and taxes

19 What duties, royalties and taxes are payable by private parties carrying on mining activities? Are these revenue-based or profit-based?

Rights holders must pay general taxes, such as value added tax (VAT) (20 per cent), income tax (20 per cent) and so on (income tax of employees as a tax agent, local taxes) and some other taxes established by the Tax Code of RA.

Value added tax

VAT is an indirect tax, which is applicable in the case of implementing transactions, such as supply of good, rendering services, importing goods, free or partially free consumption. The reporting period for VAT is one month, submission and payment of VAT shall be implemented by the 20th day of the month following the reporting period.

Income tax

Income tax for companies is calculated on an annual basis. Relevant expenses needed for securing income and evidenced by certain documents can be deducted from the gross income. Then 20 per cent tax shall be applicable for taxable income.

Environmental (nature protection) tax

Environmental (nature protection) tax is applicable:

- for pollution of air basin;
- for pollution of water resources with harmful substances;
- for allotting production and consumption wastes in the environment according to the specified procedure; and
- for importing or (and) selling harmful goods for the environment.

Payment for pollution of environment with harmful substances shall be calculated on the basis of the volume of harmful substances ejected into the environment within the reporting period, payment for goods imported into the RA that are hazardous for the environment shall be calculated based on the customs value of such goods. Payment for allocation of production and consumption wastes according to the specified procedure in the environment shall be calculated based on volumes of production and consumption wastes allocated in landfills and production areas, and the level of hazard. Different types of tax rates are defined for each tax object based on the types of harmful substances, the level of hazard, etc. Certain dosages are established by the

law and different rates shall be applicable for breaching such dosages. The reporting period is three months.

Nature utilisation payments

Nature utilisation payments are aimed at effective and targeted use of state-owned natural resources and providing remuneration for such use. Nature utilisation payments are intended:

- for the use of surface water (tax base is the actual amount of the extracted water);
- for extracting fresh (sweet) underground water (tax base is the actual amount of the extracted water);
- for extracting mineral water (including production of carbonate gas) (tax base is the actual amount of the extracted water, in the case of production of carbonate gas, also the actual amount produced);
- for extracting salt (tax base is the actual amount of the extracted salt);
- for exhausted hard mineral wealth supplies (tax base is the total of hard mineral resources extracted and those lost during extraction within the reporting period, excluding inevitable in-process losses); and
- for exhausted bio resources.

Certain dosages are established by law for the use of natural resources and different rates shall be applicable for breaching such dosages (sanctions shall also be applied). Such dosages are established by the permissions granted to taxpayers according to the Mining Code, Water Code and other legal acts.

The following payment rates are established:

- use of surface water – 0,5 dram for each cubic metre;
- use of fresh (sweet) water – 1 dram for each cubic metre;
- extraction of mineral water – if for production means – 5,650 drams for each cubic metre; and
- different rates are established for the extraction of each type of hard mineral wealth supplies.

Royalties

Royalties must also be paid for the use of precious metals and high income derived from the supply of such goods. The royalty is paid by the producers of metal concentrate or mixture or any final product obtained by the use of concentrate or mixture.

The base of royalties is calculated from the supply of concentrates of precious metals for the recording period. The royalty rate is calculated using the following formula:

- $R = 4 + (\text{profit before taxation}) \times 100 / (\text{revenue from the supply of concentrates} \times 8)$.

There is also a methodology for calculation and adjustment of revenue from the supply of concentrates, aimed at avoiding transfer pricing.

Foreign investors

Special incentives are established in case of legislative changes for foreign investors. Rights holders can apply to the authorised government body not to implement new tax regulations on their behalf for five years from the moment of the investment. Such regulation is foreseen in the Law on Foreign Investment in Armenia.

20 What tax advantages and incentives are available to private parties carrying on mining activities?

To ensure the protection of investments in mining, a special incentive is planned that provides an opportunity for mining entities, in the case of legislative amendments, to apply to and preserve the rates of natural utilisation payments (including royalties), corporate tax of residents, dividends, interest and royalties for non-residents that were in force at the moment of the granting of mining rights. This incentive is possible within three years from the time of granting mining rights.

21 Does any legislation provide for tax stabilisation or are there tax stabilisation agreements in force?

See question 20.

22 Is the government entitled to a carried interest, or a free carried interest in mining projects?

No restriction is provided by law.

23 Are there any transfer taxes or capital gains imposed regarding the transfer of licences?

A licence is regarded as an intangible act, the alienation of which is qualified as service provision; thus it is a VAT-liable transaction.

24 Is there any distinction between the duties, royalties and taxes payable by domestic parties and those payable by foreign parties?

There are no differences.

Business structures**25 What are the principal business structures used by private parties carrying on mining activities?**

Pursuant to the Civil Code of Armenia, business entities may be incorporated in the form of limited liability companies (LLCs), closed and open joint stock companies (JSCs), partnerships and cooperatives. Considering the characteristics of these entities, mostly companies are incorporated in the form of LLCs and JSCs, which presume limited liability of the participants. Similarly, in the case of mining activities the parties would choose between these structures.

26 Is there a requirement that a local entity be a party to the transaction?

No such requirements are determined under RA legislation.

27 Are there jurisdictions with favourable bilateral investment treaties or tax treaties with your jurisdiction through which foreign entities will commonly structure their operations in your jurisdiction?

Armenia has 42 bilateral investment treaties, including with Germany, Russia, the UK and the US, which comprise internationally recognised principles such as the most-favoured nation provision, prohibition of expropriation, reference to the International Center for Settlement of Investment Disputes, etc. Furthermore, 36 double taxation treaties have been concluded by Armenia (the full list and texts of the treaties can be found at www.petekamutner.am/Content.aspx?itn=tsTLDoubleTaxationAvoidance).

Financing**28 What are the principal sources of financing available to private parties carrying on mining activities? What role does the domestic public securities market play in financing the mining industry?**

Mining activities in Armenia are mainly conducted through financing from the headquarters of foreign entities conducting mining in Armenia and foreign private equity funds. International and regional development banks have also been interested in financing mining activities in Armenia. Domestic banks have also been engaged in financing mining activities. The public securities market in Armenia is not developed to the level of playing a significant role in the mining industry.

29 Does the government, its agencies or major pension funds provide direct financing to mining projects?

Provision of direct financing is not prohibited under the law; however, in practice there has not been a case of financing from the government of any pension funds.

30 Describe the regime for taking security over mining interests.

The right of subsoil use may be subject to pledge. The pledge agreement with rights holders and pledgee shall be conducted with prior notice of the Ministry. Subsequently, the pledge agreement shall be presented to the authority in order to have it recorded in the register of subsoil use rights. It can also be registered in the manner prescribed under RA Law on Registration of Security rights towards movable property.

Alienation of the pledged rights shall be conducted exclusively through public auction. Legal entities (including foreign legal entities) may participate in public auctions provided that consent of the Ministry is received. In order to obtain the consent of the authority, the entity shall submit an application which is considered in the manner prescribed for review of application of transfer of the right (discussed in question 11).

Restrictions**31 What restrictions are imposed on the importation of machinery and equipment or services required in connection with exploration and extraction?**

There are generally no sale, export or import restrictions. However, as Armenia is a member of the Eurasian Economic Union, exportation licences are required for the exportation of precious metals. The government of Armenia prohibits (except in specially licensed cases) the transit of any nuclear material or substances emitting ionising radiation through Armenia.

32 Which standard conditions and agreements covering equipment supplies are used in your jurisdiction?

No specific requirements with regard to use of certain standard agreements are applicable. The parties are merely required to comply with imperative requirements of the Civil Code of RA, which has adopted a balanced approach to both the supplier and buyer.

With regard to dispute resolution of equipment supply agreements, no imperative requirements are determined. Generally, disputes are referred to resolution before the courts of RA, whereas in some cases the parties choose to refer the dispute to resolution under international or domestic arbitration depending on the characteristics of relations and the dispute.

33 What restrictions are imposed on the processing, export or sale of minerals? Are there any export quotas, licensing or other mechanisms that prevent producers from freely exporting their production?

There are no special restrictions on the processing of extracted mineral resources under Armenian legislation. Under the Subsoil Code, the agreement for extracting the mineral resources must set out the term for processing extracted minerals. Also, the rights holder must be entitled to manage the extracted minerals.

34 What restrictions are imposed on the import of funds for exploration and extraction or the use of the proceeds from the export or sale of minerals?

Pursuant to the RA Law on Foreign Investment, the profit (income) of the foreign investor after payment of taxes and other fees determined under the law may be freely disposed of by the investor. The law guarantees and entitles the investor to freely export its property, profit (income) received from the investment and other means, which have been lawfully gained. Therefore, there are no restrictions on import or export of funds.

Environment**35 What are the principal environmental laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?**

The Subsoil Code determines the obligations of the rights holder with regard to environmental protection when conducting mining activities. The RA Law on Environmental Impact Assessment (EIA) envisages an obligation to conduct preliminary and initial impact assessment prior to applying to obtain a right of subsoil use for extracting mineral resources.

The Ministry of Natural Protection is the responsible authority that supervises compliance with environmental laws, oversees environmental issues and supervises recultivation works.

36 What is the environmental review and permitting process for a mining project? How long does it normally take to obtain the necessary permits?

To obtain a right of subsoil use for extracting mineral resources, a preliminary and initial EIA must be conducted. These procedures are set

out in the Law of Environmental Impact Assessment. The activities of subsoil use fall under Categories A or B (for exploration works only) based on the impact on the environment.

The expertise procedures are subject to public consultations to inform and engage the public. Informing the public and holding public hearings is done by the relevant state authorities, the developer of the project and the head of the affected community. The justified comments of the public are then considered and addressed under the EIA.

Preliminary phase of assessment shall be conducted within 30 days following the day when the application has been presented to the relevant authority. The initial phase of assessment shall not exceed 60 days in the event of Category A activities and 40 days in the event of Category B activities.

37 What is the closure and remediation process for a mining project? What performance bonds, guarantees and other financial assurances are required?

Rights holders are obliged to undertake recultivation works. If the rights holder fail to do this, the Ministry of Natural Protection may notify the rights holder and undertake the recultivation works by any specified natural protection means at the expense of the rights holder.

Under the Subsoil Code, mines must have a closure plan, which is initially submitted with the application to obtain the licence. The closure plan will generally include:

- a plan for the physical closure of the mine;
- a plan for land recultivation during and after mine exploitation;
- an employees' social mitigation plan, as provided by law (at the moment no such mitigation is provided);
- a monitoring plan for the purpose of ensuring the safety and protection of public health in the territories where:
 - minerals have been extracted; or
 - industrial dumps that have emerged during extraction and in the surrounding communities;
- a confirmation of the closure plan two years before the mine's closure; and
- financial guarantees for the mine's closure.

38 What are the restrictions for building tailings or waste dams?

Waste management is conducted by the rights holders at their expense in the manner prescribed under the waste management plan. The waste management plan is developed by the rights holders and is a mandatory document for obtaining of the subsoil use rights in line with financial guarantees for undertaking the envisaged waste management procedure.

The inspection of this facilities is conducted in accordance with RA Law on Organisation and Processing of Inspections. The general approach of inspections is risk-based. The risk is defined as probability of the damage to the life and health of a person, environment, state, proprietary interest of physical and legal entities, preserving of natural and energy supplies – considering the extent of the damage. Based on the risk category of the entity, the inspections may be conducted at the following frequency:

- high-risk entities: no more than once every year;
- average-risk entities: no more than once every three years; and
- low-risk entities: no more than once every five years.

The rights holder bears responsibility for ensuring the security of the waste dams and tailings, development and adoption of waste management plans, as well as use of technical and management systems for increasing of security and mitigating risks. Therefore, prior to commencing the activities of use of subsoil, the rights holder shall:

- develop means for preventing accidents and operate a secure management plan for implementation of such means;
- develop a plan of action in such emergency situations, determining the events that in pursuance with RA Law on Protection of People in Emergency Situations; and
- adopt an internal plan for reacting to emergency situations.

The affected community shall be given the opportunity to participate in development and review of the plan of actions in emergency situations. For this purpose, the relevant authorities shall notify the population of affected community about conducting of the relevant works. The

population should have reasonable time in order to present proposals that must be considered when adopting the plan.

Pursuant to the RA Law on Protection of People in Emergency Situations the protection of people may be conducted in the following ways: evacuation, sheltering and individual protection.

Evacuation is conducted by territorial and municipal authorities in the manner envisaged by the RA government. Sheltering is conducted in underground, overground special buildings and other territories of residential fund. It is done through special signals for notifying public protection.

In emergency situations private organisations have the following obligations:

- protection of their employees; and
- supporting rescue and emergency works and creating the necessary taskforces for performance of such works.

Health and safety, and labour issues

39 What are the principal health and safety and labour laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

The Labour Code of RA is the main act tackling the requirements for ensuring health and safety of employees. Furthermore, decisions of the government and relevant ministries consider further aspects of health and safety, the categorisation of severe and dangerous works, bonuses, additional leave and other benefits received by people working in dangerous conditions, etc.

Furthermore, the Subsoil Code considers certain aspects of health and safety in line with the RA Law on Protection of Population in Emergency Situations.

The principal authorities administering these laws are the Ministry of Healthcare and Ministry of Labour and Social Aspects.

40 What are the rules related to management and recycling of mining waste products? Who has title and the right to explore and exploit mining waste products in tailings ponds and waste piles?

The subsoil use right for extraction of minerals entitles the rights holders to recycle the mining waste, if the rights holder has initially presented a request to undertake such activities when applying for obtaining a subsoil use permit.

41 What restrictions and limitations are imposed on the use of domestic and foreign employees in connection with mining activities?

At the moment, there are no limitations. However, it is envisaged that the regulation on work permits will enter into force in January 2019 (Decree No. 493-N of 12 May 2016). According to this decree the employer shall provide the position requirements to the Ministry of Labour and Social Affairs and the latter shall provide the employer with the information about individuals seeking work, who correspond to the requirements submitted. In the absence of such candidates or if the employers reject the proposed candidates, they may request a work permit for the foreigner that they wish to recruit.

Social and community issues

42 What are the principal community engagement or CSR laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

No laws or imperative requirements with regard to CSR have been set in Armenia.

43 How do the rights of aboriginal, indigenous or currently or previously disadvantaged peoples affect the acquisition or exercise of mining rights?

Generally, protection of the rights of the population is one of the aims of mining legislation and governance in the sector. The regulations with regard to EIA require the engagement of the public, including through public hearings. In the meantime, no specific requirements with regard to rights affecting the mining sector are determined in RA legislation.

44 What international treaties, conventions or protocols relating to CSR issues are applicable in your jurisdiction?

Armenia has not ratified any treaties or conventions governing CSR. As stated above, the country does not have corresponding legislation specifically governing such obligations.

Anti-bribery and corrupt practices**45 Describe any local legislation governing anti-bribery and corrupt practices.**

The Criminal Code of RA describes the offences of commercial bribery, receiving and giving a bribe.

Commercial bribery is defined as giving a bribe to the provider of a commercial organisation or an arbitrator aimed at undertaking certain activities for the benefit of the person who has given the bribe.

Receiving a bribe is defined as receiving a bribe by a public official aimed at undertaking certain activities (or benefiting in another manner) within the scope of the authority of the public official for the benefit of the person who has given the bribe.

Furthermore, the RA Law on Combating Money Laundering and Terrorist Financing and provisions of the Civil Code on unjust enrichment indirectly tackle anti-bribery practices.

46 Do companies in your country pay particular attention to any foreign legislation governing anti-bribery and foreign corrupt practices in your jurisdiction?

Considering the fact that most of the companies carrying out mining activities in Armenia are established by foreign entities and (or) are financed by foreign private equity funds or development banks, the requirements to comply with foreign corrupt practices may be applicable to such entities.

47 Has your jurisdiction enacted legislation or adopted international best practices regarding disclosure of payments by resource companies to government entities in accordance with the Extractive Industries Transparency Initiative (EITI) Standard?

The EITI board approved Armenia's candidature application on 9 March 2017. The Final Report of Scope Study for 2018 EITI Report was recently presented, which, in line with details of EITI implementation in Armenia, can be found at www.gov.am/en/armeniaeiti/.

Foreign investment**48 Are there any foreign ownership restrictions in your jurisdiction relevant to the mining industry?**

Foreign entities are prohibited from having ownership rights over land in Armenia. They are, however, entitled to use the land under land usage, lease, servitude and other agreements.

International treaties**49 What international treaties apply to the mining industry or an investment in the mining industry?**

Armenia is a party to 42 bilateral investment treaties and 36 double taxation treaties, which are to a certain extent indirectly applicable to the mining industry and investment in mining in Armenia.



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