

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

**PROJECT COMPLAINT MECHANISM
ELIGIBILITY ASSESSMENT REPORT**

COMPLAINT:

DIF LYDIAN (AMULSAR GOLD MINE)

REQUEST NUMBERS: 2014/02 AND 2014/3

TABLE OF CONTENTS

I.	Executive Summary	
II.	Factual Background	2
III.	Steps Taken in Determining Eligibility	2
IV.	Summary of Parties' Positions	3
V.	Determination of Eligibility	7
VI.	Conclusion	16
	Annexes:	
	1 Complaints	
	2 Management's response	
	3 Client's response	

I EXECUTIVE SUMMARY

The PCM has received two closely related Complaints alleging EBRD's non-compliance with the 2008 Environmental and Social Policy (ESP) in respect of the Bank's equity investment in Lydian International, due to the company's proposed gold mining activities at Amulsar in Armenia. The Eligibility Assessors have determined that neither Complaint is eligible for either a Problem-solving Initiative or a Compliance Review.

Though it is not entirely clear whether either Complaint actually requests a Problem-solving Initiative, they have both been found ineligible for this option as any such initiative would be unlikely to resolve the dispute in question. In addition, the Complaints relate to activities which do not form part of a Project in respect of which the Bank has provided a clear indication that it is interested in providing finance.

Of more direct significance, both Complaints have been found ineligible for a Compliance Review as neither relates to activities which form part of a Project that has been approved by the Bank. Both Complaints focus, not on the exploration and project preparation activities for which existing EBRD funding may currently be used, but on the potential environmental and social impacts of the company's proposed gold mining activities, in respect of which environmental and social impact assessment is ongoing in close consultation with the Bank pursuant to the terms of its equity investment.

The PCM Eligibility Assessors find that neither Complaint satisfies the PCM criteria for either a Problem-solving Initiative or a Compliance Review as set out under the Project Complaint Mechanism (PCM) Rules of Procedure (RPs).

II FACTUAL BACKGROUND

1. On 29 July 2014, the PCM received a Complaint (Lydian No. 1)¹ from a range of stakeholders alleging non-compliance on the part of EBRD with its 2008 Environmental and Social Policy (ESP) in relation to the Bank's equity investment in Lydian International and the latter's proposed gold mining activities at Amulsar in Armenia. The Complaint was registered by the PCM Officer on 31 July 2014, pursuant to PCM RP 10, and posted on the PCM website, pursuant to PCM RP 13. Notification of registration was sent to the Complainants and Relevant Parties pursuant to PCM RP 12. PCM Expert Owen McIntyre was appointed as an Eligibility Expert to conduct an Eligibility Assessment of the Complaint jointly with the PCM Officer, pursuant to PCM RP 17.
2. Subsequently, on 29 October 2014, the PCM received a second, closely related Complaint (Lydian No. 2)² from the residents of the village of Gndevaz in Vayots Dzor, which concerns similar allegations of non-compliance with the relevant EBRD policy. As this second Complaint raises no new grounds of alleged non-compliance, the Eligibility Assessors decided to examine both Complaints together for the purposes of this Eligibility Assessment.
3. The Project consists of EBRD's equity investment in Lydian International Ltd., a publicly quoted Jersey-based junior mineral exploration and development company, in a total amount to date of C\$10.4 million. The subscription agreements concluded between EBRD and Lydian International stipulate that the Bank's funds may only be used for the purposes of mineral exploration and project preparation activities, and not for the purposes of bringing the Amulsar gold mine into production. Each of the present Complaints allege the failure of the Bank to ensure that the potential environmental and social impacts of the proposed mining operations have been properly assessed and to ensure compliance with related requirements on public consultation. Copies of both Complaints are attached.

III STEPS TAKEN IN DETERMINING ELIGIBILITY

4. The Eligibility Assessors have examined each Complaint to determine whether either satisfies the applicable eligibility criteria set out in the Project Complaint Mechanism Rules of Procedure (PCM RPs) for both a Problem-solving Initiative and a Compliance Review. They reviewed the Responses received from Bank Management and the Client (Lydian International), as well as various Project documents produced

¹ Complaint No. 2014/02: *DIF Lydian (Amulsar Gold Mine)*, available at http://www.ebrd.com/downloads/integrity/amulsar_complaint.pdf

² Complaint No. 2014/03: *DIF Lydian (Amulsar Gold Mine)*, available at http://www.ebrd.com/downloads/integrity/amulsar2_complaint.pdf

by the Bank, including key documents detailing the contractual arrangements between EBRD and Lydian International. In addition, on 18 September 2014 the Eligibility Assessors held meetings with EBRD Environmental and Sustainability Department staff and the Bank Operations Lead. A site visit was not considered necessary for the purposes of this Eligibility Assessment.

IV SUMMARY OF PARTIES' POSITIONS

Position of the Complaints

5. In the Lydian No. 1 Complaint, the Complainants begin by alleging that gold mining operations at Amulsar will result in violation of a range of provisions of Armenian law. Those cited include Article 32 of the Constitution of the Republic of Armenia (RA), the RA Water Code, the RA Law on Environmental Impact Expertise, the RA Law on Lake Sevan, RA Government Decision N234 on uranium mining, the RA Mining Code, the RA Law on Flora, the RA Law on Fauna, and RA Government Decision N1064-N on designation of the town of Jermuk as a tourist centre. In addition, the Complaint points out that EBRD must '[c]omply with the provisions of Aarhus Convention and to recognise public as a direct stakeholder, which should take part in decision-making process'.³
6. The Lydian No. 1 Complaint further alleges that the mining operations in question will lead to breach of a wide range of the Performance Requirements set out under EBRD's 2008 Environmental and Social Policy (ESP),⁴ including:
PR 3 – Resource Efficiency, Pollution Prevention and Control;
PR 4 – Health and Safety;
PR 5 – Land Acquisition, Involuntary Resettlement and Economic Displacement;
PR 6 – Biodiversity Conservation and Sustainable Management of Living Natural Resources;
PR 7 – Indigenous Peoples;
PR 8 – Cultural Heritage; and
PR 10 – Information Disclosure and Stakeholder Engagement.
However, the text of the Complaint fails to elaborate in detail on the manner in which all of these Performance Requirements have been, or are likely to be, violated.
7. Instead, the Lydian No. 1 Complaint appears to focus on a single essential ground of alleged non-compliance, *i.e.* that of the (in)adequacy of the environmental and social appraisal carried out in accordance with PR 1 of the 2008 ESP. Specifically, the Complaint alleges that the '[e]nvironmental impact assessment (EIA) report of *Amulsar open-pit mining project*' (emphasis added) doesn't take adequate account of:

³ Complaint No. 2014/02, at 2-4.

⁴ *Ibid.*, at 2.

- risks to water and soil;
- legal restrictions relating to the protection of Lake Sevan
- mitigation measures required to reduce radon concentration levels;
- risks of radioactive contamination from uranium deposits in the area;
- adequate information on risks to protected and / or endangered species of flora and fauna;
- risks to the town of Jermuk as a tourism centre, health centre and source for bottled mineral water; and
- risks presented by the tailings dump to be constructed in the vicinity of Gnedevaz Village.

8. The Lydian No. 1 Complaint also includes a vague reference to alleged intimidation of opponents of the Project⁵ and other charges which are not relevant to the PCM concerning inappropriate diplomatic lobbying and the use of funds on advertising promoting the Amulsar Project.⁶ However, it is quite clear that the Complainants are primarily concerned that ‘EBRD hasn’t conducted proper risk assessment’ and, accordingly, that ‘EBRD provided funding to Amulsar Project based on unreliable information about risks and economic benefits’.⁷ Closely related to the alleged inadequacy of environmental appraisal, the Complaint calls upon EBRD to ensure ‘complete compliance of any implemented project to national legislation’.⁸

9. It is equally clear that, in raising their concerns about the “Project”, the Complainants have in mind the gold mining operations that may take place in the future at the Amulsar site, rather than the exploration and project preparation activities which characterise the present EBRD Project. For example, the Lydian No. 1 Complaint calls upon EBRD ‘to categorize project as A category’ and, further, to

‘Recognize the whole territory of Armenia as project affected zone because of the project impact on the strategic water resources ensuring the living of all the Armenian population, as well as because of the threats to biodiversity and cultural heritage, the extinction of which will violate Armenian people’s right to development.’⁹

Such concerns go beyond the activities envisaged under the present Project as set out by EBRD, which include ‘drilling and feasibility studies’¹⁰ and funding ‘to support its continued exploration, pre-development and permitting work in relation to the Amulsar mine in Armenia’.¹¹

10. Similarly, the Lydian No. 2 Complaint, submitted by the residents of Gndevaz village in Vayots Dzor, where it is allegedly proposed that a heap leach facility should be

⁵ *Ibid.*, at 4.

⁶ *Ibid.*, at 6.

⁷ *bid.*

⁸ *Ibid.*

⁹ *bid.*

¹⁰ DIF – Lydian (Amulsar Gold Mine), PSD 42182, 27 April 2012.

¹¹ DIF – Lydian (Amulsar Gold Mine), Amended PSD 42182, 13 August 2014.

constructed, alleges that ‘the true risks haven’t been assessed’ and, consequently, that the Client has ‘during the public hearings ... misled the villagers of Gndevaz that the new project meets the international standards’.¹² Therefore, this Complaint would again appear to allege a failure on the part of the Bank to ensure adequate project appraisal in accordance with PR 1 of the 2008 ESP. For example, this Complaint demands that EBRD ‘should investigate’ the Project and should ‘take into account our opinions’.¹³ Clearly, adequate environmental and social appraisal would satisfy both demands.¹⁴

11. Once again, the Lydian No. 2 Complaint focuses on the proposed future gold mining operations, rather than the exploration and project preparation activities to which Bank financing is currently limited. For example, the Complainants express concern about ‘the threats from the opencast development of the gold mine and heap leaching facility’ and confirm that the subject of their Complaint is that of ‘the problem of Amulsar mine’.¹⁵

Position of EBRD Management

12. In response to the Lydian No. 1 Complaint, Bank Management contends that the Complaint ‘is related to future proposed activity of the Client, namely the development and production phase of a new mine, and not the current EBRD project to support the Company’s exploration activities.’¹⁶ Regarding the activities permitted under the current EBRD Project, Bank Management points out that EBRD has undertaken an environmental and social appraisal of each equity participation in Lydian and, further, that ‘EBRD has monitored the company’s compliance with the conditions of the subscription agreement(s) and is satisfied that the company is meeting EBRD’s requirements for all current exploration activities.’¹⁷
13. EBRD Management emphasises the distinction between the current exploration and project preparation activities and the proposed future mining operations by explaining that, ‘[w]ith regard to EBRD’s investment and Lydian’s activities to date the “project affected zone” referred to in the complaint letter is only subject to reversible, limited and localised impacts arising from the exploration activities.’¹⁸ Management further contends that

‘The request by the complainant to extend the “project affected zone” to the entire territory of Armenia for exploration activities would be inappropriate and inconsistent with the policies of the EBRD to adopt this request for such a

¹² Complaint No. 2014/03, at 1.

¹³ *Ibid.*

¹⁴ On the objectives and essential elements of the relevant and applicable EBRD environmental and social appraisal requirements, see PR 1.2-1.5.

¹⁵ Complaint No. 2014/03, at 1.

¹⁶ Management Response, 25 September, at 3.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

project. EBRD Environmental and Social Policy and Performance Requirements relate to environmental and social issues that could be affected by the EBRD financed activity.’¹⁹

Management points out that the Project was Categorised “B” for the purposes of environmental and social appraisal, primarily because the activities being undertaken ‘are related to exploration activities, rather than mine development.’²⁰

14. Management argues that ‘EBRD has not provided funding to the Amulsar mine development project’ and points out that an environmental and social impact assessment process is ongoing in respect of a current proposal for such a mining project:

‘The technical issues from the proposed future mine development and operation will be dealt with, in due course, during the current ongoing environmental and social impact assessment process, and stakeholders will have opportunities to raise concerns and have their questions answered.’²¹

15. Regarding public participation, Bank Management contends that it has been in regular correspondence with various Project stakeholders and, more generally, that it is a requirement of PR 1 and PR 10 of the 2008 ESP ‘that all EBRD clients adhere to the principles of the Aarhus Convention relating to the public participation in decisions on specific activities which may have a significant effect on the environment’.²²

Position of the Client

16. In response to the Lydian No. 1 Complaint, Lydian International points out that the company, along with its subsidiary in Armenia, Geoteam CSJC, is committed to operating in accordance with international best practice. More specifically, it explains that it implements, through a number of its corporate policies, all of the requirements set out under the International Finance Corporation (IFC) Performance Standards and the EBRD Performance Requirements.²³

17. In addition, Lydian International explains that the company commenced community engagement alongside early exploration activities in 2006 and, further, that such community engagement became formalised in 2010 with the development of the company’s Stakeholder Engagement Plan (SEP) and the initiation of monthly Community Liaison Committee (CLC) meetings.²⁴ The Client’s Response also details a long list of community engagement meetings and public events held since 2007.²⁵

¹⁹ *Ibid.*

²⁰ *Ibid.*, at 1.

²¹ *Ibid.*, at 3.

²² *Ibid.*, at 3.

²³ Lydian International Response, 19 June 2014, at 1.

²⁴ *Ibid.*

²⁵ *Ibid.*, at 8-16

18. Lydian International also provides a detailed response to each of the allegations of substantive non-compliance contained in the Lydian No. 1 Complaint, including those concerning the adequacy of environmental appraisal, the risk of lead and cadmium contamination, the risk of water contamination, the risk of elevated radon concentrations, risks to endangered and protected species of flora and fauna, and economic risks to the resort of Jermuk.²⁶

V DETERMINATION OF ELIGIBILITY

Determination of Eligibility for a Problem-solving Initiative

19. Although the Lydian No. 1 Complaint does not provide an explicit indication of which PCM function the Complainants are seeking to avail of, it seems quite clear to the Eligibility Assessors that they are requesting a Compliance Review alone.²⁷ For example, the Complaint expressly alludes to ‘gross violations of rights of citizens to health and healthy environment’ and to ‘violations of the following standards of social and environmental responsibility, declared by EBRD’,²⁸ while taking the view that ‘it’s necessary to conduct an audit and to assess the risks laid down in our complaint whether the EBRD actions are *compliant* to its own standards’.²⁹ Similarly, the Lydian No. 2 Complaint raises the Complainants’ concerns that the [proposed mining] Project *fails to meet* ‘international standards’ and that the Client has ‘misled the villagers of Gndevaz’, while demanding that the Bank ‘should investigate this disastrous and senseless project’.³⁰
20. Even if either Complaint was requesting a Problem-solving Initiative, each would not meet the clear requirement set out in PCM RP 18(b)(i) that it must ‘relate to a Project where ... the Bank has provided ... a clear indication that it is interested in financing the Project’. The gold mining activities with which each Complaint is concerned do not form part of the current, approved Bank Project, *i.e.* EBRD’s equity investment in Lydian International. While gold mining operations have been proposed, the Bank has not yet provided any such indication of interest in respect of financing of the proposed gold mining activities.
21. In addition, though the Lydian No. 1 Complaint would meet the specific requirements set out under PCM RP 18(a) and 18(c) for eligibility for a Problem-solving Initiative, and though the Complainants have taken the trouble to ‘describe the good faith efforts the Complainant has taken to address the issues in the Complaint’,³¹ as required under

²⁶ *Ibid.*, at 2-8.

²⁷ Pursuant to PCM RP 20(a).

²⁸ Complaint No. 2014/02, at 2.

²⁹ *Ibid.*, at 6 (emphasis added).

³⁰ Complaint No. 2014/03, at 1 (emphasis added).

³¹ Complaint No. 2014/02, at 4-5.

PCM RPs 18(d) and 22, it would appear to not meet the critical factor identified in PCM RP 21(a) as relevant in determining eligibility for Problem-solving. PCM RP 21(a) requires the Eligibility Assessors to consider ‘whether a Problem-solving Initiative may assist in resolving the dispute, or is likely to have a positive result’.³² However, in setting out the Complainants’ implacable opposition to the proposed mining Project, the Complaint itself strongly suggests that dialogue is unlikely to resolve the differences arising between the Parties. It states that the Complainants ‘think that negotiations about improving project design or risk minimization or promotion of social programs in the frames of Amulsar project have no sense’.³³

Therefore, the Eligibility Assessors find both Complaints ineligible for a Problem-solving Initiative.

Determination of Eligibility for a Compliance Review

PCM RP 19

22. In setting out the essential criteria for eligibility for a Compliance Review, PCM RP 19 provides that ‘the Complaint must:

- a. relate to a Project that has either been approved for financing by the Board or by the Bank committee which has been delegated authority to give final approval to the Bank financing of such Project; and
- b. describe the harm caused, or likely to be caused, by the Project.’

23. It is quite clear that both Complaints set out the harm caused, or likely to be caused, pursuant to PCM RP 19(b).³⁴ However, it is important to note that all the harm described therein relates to the potential impacts of the proposed gold mining activities, rather than the current exploration and project preparation activities to which EBRD funding is restricted.³⁵

24. In addition, for the purposes of the 2008 ESP,
‘the term “project” refers to the *business activity for which EBRD financing is sought* by the client *regardless of the type of EBRD operation*. EBRD operations (that is to say, the act of providing financing) comprise a range of different types of financing for proposed projects, such as project

³² The PCM RPs elsewhere define a “problem-solving Initiative as

‘The process carried out to assist in the resolution of the issues underlying an eligible Complaint, including mediation, conciliation, dialogue facilitation, or independent fact-finding.’

³³ Complaint No. 2014/02, at 5.

³⁴ See Complaint No. 2014/02, at 2-4, regarding, *inter alia*, violations of constitutional and legislative provisions of national law, risks to water and soil, possible radon concentration and uranium contamination, risks to species of flora and fauna, risks to the resort of Jermuk, and risks presented by the tailings waste facility. See also Complaint No. 2014/03, at 1, regarding risks presented by the tailings waste facility, including risks of cyanide contamination and risks to the safety of workers and the local population.

³⁵ See below.

finance/limited recourse finance, corporate finance, working capital, quasi-equity, *equity*, or grants.’³⁶ (Emphasis added).

Therefore, it follows that the business activities of a company in which the Bank has taken an equity stake can comprise a “Project” for the purposes of PCM RP 19(a). It is less clear, however, that either Complaint relates to activities that form part of a Project that has been approved for financing, pursuant to PCM RP 19(a).

25. As noted above, both Complaints are chiefly concerned with the potential environmental and social impacts of the proposed opencast gold mine at Amulsar. Therefore, key questions for the purposes of determining eligibility concern whether opencast gold mining at Amulsar has been approved by the Bank or, alternatively, whether the potential impacts of gold mining activities should have been considered within the environmental and social appraisal conducted in respect of the exploration and project preparation activities that have been approved.
26. Regarding the former question, it is important to note that EBRD is reviewing the draft Environmental and Social Impact Assessment (ESIA) required under the investment in Lydian for any proposed Category “A” Project.³⁷ Therefore, it appears that the proposed gold mining Project at Amulsar could not be regarded, *per se*, as a Project that has been approved for financing for the purposes of PCM RP 19(a), but rather that the EBRD is reviewing the documentation in its role as a shareholder of Lydian.
27. In addition, Paragraph 17 of the 2008 ESP explains that a “project” refers to *the business activity for which EBRD financing is sought by the client*’ and the consecutive subscription agreements and ancillary contractual arrangements concluded between Lydian International and EBRD make it quite clear that EBRD funds may only be used for exploration and project preparation activities, rather than for gold mining activities *per se*. For example, a 2012 letter from Lydian International to EBRD concerning new equity investment worth CAD\$3,634,514 made by EBRD under the 2009 subscription agreement includes a formal and solemn commitment by the Client to restrict the use of new EBRD funds to exploration activities:
- ‘The Company agrees to use all funds received by it from EBRD pursuant to its exercise of the EBRD Pre-Emptive Rights as contemplated hereby solely for the Armenian Project *and exclusively for the purposes of exploration work and studies and not for any preliminary works related to the development of the Amulsar mine into full production*’³⁸ (emphasis added).
- Similarly, the new subscription agreement concluded between Lydian International and EBRD in 2014 includes clear and imperative restrictions on the use of EBRD funds, providing that

³⁶ 2008 ESP, at 5, para. 17.

³⁷ Under PR 1.9 of the 2008 ESP.

³⁸ Pre-Emptive Rights Letter, dated 19 March 2012, para. 12.

‘EBRD shall be satisfied that the proceeds of the EBRD Subscription shall be used to fund *the costs of technical studies, project related operating expenses and “Feasibility Study” completion* in respect of the Amulsar Project through Geoteam CJSC or such other of the Company’s Subsidiaries specifically engaged in the Amulsar Project and EBRD shall have received such evidence as to the proposed utilisation of the proceeds of the EBRD Subscription as EBRD requests’³⁹ (emphasis added).

This position is confirmed by the Project Summary Documents developed for each EBRD investment in Lydian International, which only refer to ‘drilling and feasibility studies’⁴⁰ and to the provision of funding ‘to support its [Lydian’s] continued exploration, pre-development and permitting work in relation to the Amulsar mine in Armenia’.⁴¹ Therefore, the business activity for which funds were sought by the Client, and thus the Project approved by the Bank, is restricted to exploration and project preparation work. This strongly suggests that both present Complaints are “premature”, in that they relate to activities which are not included within the scope of the current EBRD Project. Alternatively, they may be regarded as “premature” due to the fact that they relate to a proposed Project which has not yet been approved for financing, and consequently that they would fail the requirement of PCM RP 19(a), an imperative requirement for a finding of eligibility for a Compliance Review.

28. The argument may be made, however, that environmental and social appraisal for any Project involving mineral exploration and project preparation activities for an opencast gold mining project should include consideration of the potential impacts of the actual mining activities envisaged. At first glance, this position would appear to be supported by the 2008 ESP. For example, PR 1.6 provides that

‘Environmental and social impacts and issues will be appraised in the context of the project’s area of influence. This area of influence may include ...
(v) Areas and communities potentially impacted by: cumulative impacts from further planned development of the project ... and other project-related developments that can realistically be expected at the time due diligence is undertaken.’

In addition, Paragraph 3 of the 2008 ESP set out the Bank’s commitment ‘to promoting European Union (EU) environmental standards’ including, for example, those enshrined in the EU EIA Directive,⁴² which has included a mandatory requirement for cumulative environmental impact assessment since 1997. This

³⁹ Subscription Agreement between Lydian International Ltd. And EBRD, 21 March 2014, Article 4.01(n). See also, Article 5.01.

⁴⁰ DIF – Lydian (Amulsar Gold Mine), PSD 42182, 27 April 2012.

⁴¹ DIF – Lydian (Amulsar Gold Mine), Amended PSD 42182, 13 August 2014.

⁴² Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (as amended). Consolidated version available at http://ec.europa.eu/environment/eia/pdf/EIA_Directive_informal.pdf

commitment to the standards inherent to the EU EIA Directive is restated throughout the 2008 ESP.⁴³

29. However, although it might first appear that future gold mining activities would qualify for the purposes of PR 1.6(v) as ‘further planned development of the project’ or as ‘other project-related developments that can realistically be expected’, there are compelling practical reasons why this interpretation would be incorrect in the present case. Chief among these is the fact that meaningful project appraisal of a Category A Project with potentially significant adverse impacts, such as an opencast mining operation, will necessarily involve a full, in-depth environmental and social impact assessment (ESIA),⁴⁴ which could not be carried out in advance of completion of relevant exploration and project preparation activities. An adequate ESIA could only be carried out once there exists a considerable degree of understanding of the location of the minerals, and thus of the mining operations and facilities, of the mining and related techniques to be employed, and of the mitigation measures required. The exploration and project preparation activities are intended to develop such understanding. An ESIA carried out in respect of the exploration and project preparation activities, which purported to also consider the potential environmental and social impacts of any subsequent mining operations, would be based on incomplete and speculative information and would, by definition, be inadequate.
30. It should also be noted that the requirement for cumulative assessment is necessarily bounded by limitations of “proportionality” and “reasonableness”.⁴⁵ Due to the practical impossibility of such a task, it would seem to impose a disproportionate burden on the Client, and ultimately the Bank, to ensure comprehensive consideration of all the potential impacts associated with a fully operational gold mine at the, much earlier, exploration and project preparation stage. Also, it would seem to be quite unreasonable to allow these Complaints to proceed to Compliance Review while the rigorous environmental and social impact assessment (ESIA) process, which the proposed gold mining operation must undergo as a Category “A” Project, is continuing. Of course, such a finding of disproportionality and/or unreasonableness as regards the requirements of cumulative assessment arises from the quite particular facts of the present case and in many cases project appraisal should consider all

⁴³ For example, in PR 1.9, regarding the format of EIA/SIA reports to be made available by EBRD in respect of Category “A” Projects, and in PR 6.2, regarding the aims of the Bank’s policy on biodiversity conservation and sustainable management of living natural resources.

⁴⁴ According to the 2008 ESP, para. 9, such a Project

‘will require a comprehensive environmental and/or social impact assessment, to identify and assess the potential future environmental and social impacts associated with the proposed project, identify potential improvement opportunities, and recommend any measures needed to avoid, or where avoidance is not possible, minimise and mitigate adverse impacts.’

⁴⁵ Regarding the PCM’s application of the general requirements of reasonableness and proportionality, see further Eligibility Assessment Report for Complaint No. 2011/06: *Ombla HPP*, at 23-24, available at <http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html> and Compliance Review Report for Complaint No. 2011/06: *Ombla HPP*, at para. 30, available at http://www.ebrd.com/downloads/integrity/Ombla_CRR.pdf

activities which could be counted as ‘further planned development of the project’ or as ‘other project-related developments that can realistically be expected’.

31. In addition, a very strict interpretation of the requirement under PR 1.6(v) to consider such cumulative impacts at the, much earlier, exploration and project preparation stage would inevitably militate against approval of Projects such as the present ongoing support to Lydian International’s project preparation activities, which is intended to ensure the best possible environmental and social outcomes in relation to possible gold mining activities. In this regard, it is interesting to note that, in setting out the Bank’s commitment to ensuring the environmental sustainability and regulatory compliance of the Projects it finances, Paragraph 3 of the 2008 ESP states that:

‘The Bank’s role is: (i) to review the client’s assessment; (ii) *to assist clients in developing appropriate and efficient measures to avoid or, where this is not possible, minimize, mitigate or offset, or compensate for adverse social and environmental impacts* consistent with the PRs; (iii) *to help identify opportunities for additional environmental or social benefits*; and (iv) to monitor the projects’ compliance with its environmental and social covenants as long as the Bank maintains a financial interest in the project.’ (Emphasis added).⁴⁶

Project preparation work undertaken under the auspices of the present Project can do much to assist the Bank in fulfilling this role.

32. It should be stressed, however, that the present two Complaints may only be regarded as “premature” due to the fact that they fail to satisfy the mandatory requirement for eligibility set out under PCM RP 19(a). It follows, therefore it is possible, that similar Complaints could be found to be eligible, for either a Compliance Review or a Problem-solving Initiative, if and when the proposed gold mining Project at Amulsar has undergone the ESIA required under PR1.9 of EBRD’s 2008 ESP and has been approved for funding by the Bank.

PCM RP 20

33. As regards the somewhat less imperative requirements for eligibility set out under PCM RP 20, both Complaints are lacking to a considerable extent. As noted above, neither Complaint provides a clear indication of which PCM function the respective Complainants expect the PCM to use to address the issues raised, pursuant to PCM RP 20(a). Though both Complaints strongly suggest that the Complaints are seeking a Compliance Review.
34. In addition, neither Complaint includes ‘copies of all correspondence, notes, or other material related to communication with the Bank or other Relevant Parties’, as

⁴⁶ See further, the Compliance Review Report for Complaint No. 2010/01: *D1 Motorway Phase I*, para. 51, available at http://www.ebrd.com/downloads/integrity/Compliance_Review_Report_D1_Slovakia_FINAL.pdf

stipulated under PCM RP 20(c), though Lydian Complaint No. 1 does provide some details of the Complainants' communications with EBRD regarding their concerns about the Project's alleged non-compliance.⁴⁷

35. Further, neither Complaint provides clear or accurate 'details of the Relevant EBRD Policy at issue in the Complaint', pursuant to PCM RP 20(d). While Lydian Complaint No. 2 does not attempt to identify any specific EBRD policy, Lydian Complaint No. 1 lists a broad range of Performance Requirements contained in the 2008 ESP⁴⁸ though, as noted above, it fails to elaborate in detail on the manner in which any of these Performance Requirements have been, or are likely to be, violated. In fact, the text of the Complaint appears to focus on a single ground of alleged non-compliance, *i.e.* that of the adequacy of the environmental appraisal carried out in accordance with PR 1 of the 2008 ESP – one of the few Performance Requirement not expressly listed in the Complaint.
36. However, both Complaints do provide 'an indication of the outcome(s) sought as a result of use of the PCM process,' further to PCM RP 20(b). For example, Lydian Complaint No. 1 expects EBRD 'to conduct an audit and to assess the risks laid down in our complaint' in order to ensure 'complete compliance' with both the Bank's own standards and those enshrined in national legislation,⁴⁹ while Lydian Complaint No. 2 expects the EBRD 'to stop financing that criminal project' and 'to take into account our opinions and not to violate our rights'.⁵⁰
37. It should be noted, however, that failure to satisfy the requirements set out under PCM RP 20 would rarely provide grounds for disqualifying an otherwise eligible Complaint. The PCM and its predecessor, the Independent Recourse Mechanism (IRM), have long taken a flexible approach to eligibility and have demonstrated a willingness to 'make sense' of an otherwise eligible Complaint where the Complainants have struggled with the relatively complex technical requirements for Complaint eligibility.⁵¹ At any rate, PCM RP 20 merely provides that 'the Complaint should also include, *if possible*' the details outlined in RP 20(a)-(d), thereby recognising the inherent flexibility of these requirements.

PCM RP 23

38. As regards the criteria to be considered in a determination of eligibility for a Compliance Review set out under PCM RP 23, both Complaints would appear satisfy the requirements set out therein. If it had been established that the activities in question qualified as an approved Project for the purposes of PCM RP 19(a), the

⁴⁷ Complaint No. 2014/02, at 5.

⁴⁸ Complaint No. 2014/02, at 2, referring to PR 3, PR 4, PR 5, PR 6, PR 7, PR 8 and PR 10.

⁴⁹ Complaint No. 2014/02, at 6.

⁵⁰ Complaint No. 2014/03, at 1.

⁵¹ See, for example, the Eligibility Assessment Report (EAR) for Complaint 2005/02, *Sakhalin II*, the newly-established IRM's first EAR, at para. 15, available at <http://www.ebrd.com/downloads/integrity/0501ear.pdf>

actions or inactions to which the Complaints relate would have been deemed ‘the responsibility of the Bank’, as required under PCM RP23(a). As both Complaints focus on the environmental and social appraisal of the Project required under PR 1 of the 2008 ESP, there can be little doubt that this would have amounted to the Bank’s responsibility.⁵²

39. PCM RP 23(b) requires that the alleged ground(s) of non-compliance set out in a Complaint should be ‘more than a minor technical violation of a Relevant EBRD Policy unless such violation is alleged to have caused harm’. The PCM has established on a number of prior occasions that alleged failures to assess and mitigate potentially significant environmental and/or social impacts amount to more than minor technical violations.⁵³ Therefore, current Complaints satisfy requirements of PCM RP 23(b).
40. As both Complaints concern an alleged failure to undertake adequate environmental and social appraisal of potential future mining activities, they do not allege ‘a failure by the Bank to monitor Client commitments pursuant to Relevant EBRD Policy’, as enumerated under PCM RP 23(c). Thus, PCM RP 23(c) appears not to be relevant.⁵⁴

PCM RP 24

41. Finally, there is nothing whatever to suggest that either Complaint involves any of the circumstances set out under PCM RP 24, which would preclude eligibility. PCM RP 24 provides that
- ‘A Complaint will not be eligible for either a Problem-solving Initiative or a Compliance Review if:
- a. it was filed fraudulently or for a frivolous or malicious purpose;
 - b. its primary aim is to seek competitive advantage through the disclosure of information or through delaying the Project;
 - c. it raises allegations of fraud or relates to procurement matters ...;
 - d. it relates to Article 1 of the Agreement Establishing the Bank, the Portfolio Ratio Policy or any other specified policy as may be identified by the Board from time to time;
 - e. it relates to the adequacy or suitability of EBRD policies; or
 - f. it relates to matters in regards to which a Complaint has already been processed by the PCM or its predecessor ...’.
42. There appears to be little doubt that each Complaint involves *bona fide* Complainants raising legitimate concerns regarding the Bank’s compliance with a Relevant EBRD Policy. Though two closely related Complaints have been submitted to the

⁵² See, for example, the Eligibility Assessment Report for Complaint 2012/04: *EPS Kolubara Environmental Improvement Project*, at para. 59, available at http://www.ebrd.com/downloads/integrity/ear_kolubara_final.pdf

⁵³ See EAR for Complaint 2012/04: *EPS Kolubara Environmental Improvement Project*, *ibid.*, at para. 60.

⁵⁴ See further EAR for Complaint 2012/04: *EPS Kolubara Environmental Improvement Project*, *ibid.*, at para. 61.

Compliance Advisor Ombudsman (CAO) of the International Finance Corporation (IFC), one of which has been found eligible for Compliance Assessment⁵⁵ and one of which is currently undergoing Ombudsman Assessment,⁵⁶ this would not impact on the Eligibility Assessors findings. The Eligibility Assessors have primarily considered the eligibility of each Complaint for Compliance Review and so the fact that ‘the subject matter of the Complaint has been dealt with by the accountability mechanism of any co-financing institution’ is largely irrelevant.⁵⁷

Therefore, the Eligibility Assessors find both Complaints ineligible for a Compliance Review.

⁵⁵ Complaint: *Armenia: Lydian Intl3-01/Gndevaz & Jermuk*, available at http://www.cao-ombudsman.org/cases/case_detail.aspx?id=221

⁵⁶ Complaint: *Armenia: Lydian Intl3-02/Gndevaz*, available at http://www.cao-ombudsman.org/cases/case_detail.aspx?id=222

⁵⁷ See further PCM RP 24(f), which makes it quite clear that the handling of a Complaint by the accountability mechanism of a co-financing institution is only relevant to the determination of eligibility for a Problem-solving Initiative. In addition, PCM RP 24(f) expressly provides that

‘In the event that a Complaint is seeking a Compliance Review, a review by another accountability mechanism will not disqualify the Complaint from being processed under these rules.’

VI CONCLUSION

43. The Eligibility Assessors have determined that neither the Lydian No. 1 nor the Lydian No. 2 Complaints are eligible for either a Problem-solving Initiative or a Compliance Review.
44. Neither Complaint expressly requests a Problem-solving Initiative and the activity complained of does not (yet) amount to a Project in respect of which the Bank has indicated an interest in providing funding. In addition, it is anyway very unlikely that a Problem-solving Initiative would assist in resolving the dispute concerned, or otherwise produce a positive result.
45. Though both Complaints appear to satisfy many of the criteria set out in the PCM RPs for a determination of eligibility for a Compliance Review, both are fatally “premature”, as they relate to a potential proposal for gold mining operations at Amulsar, rather than activities carried out or intended under the current Project that have already been approved by the Bank.
46. The only Project approved by the Bank is that concerning EBRD’s equity investment in Lydian International, use of the proceeds of which is restricted to exploration activities and project preparation. The Eligibility Assessors have determined that, in this particular case, it would be unreasonable and disproportionate to require inclusion of the potential environmental and social impacts associated with the proposed gold mining activities within the cumulative impacts to be considered in relation to the existing EBRD investment in Lydian International.
47. The ineligibility of both Complaints for a Compliance Review stems solely from their “prematurity” and so similar Complaints may be found to be eligible at a later date, if and when the proposed gold mining Project at Amulsar has undergone the requisite ESIA and has been approved for funding by the Bank.

Annex 1: Complaint 1

From: Amulsar Jermuk [<mailto:sosamulsar@gmail.com>]
Sent: 29 July 2014 08:45
To: Begoyan Schliesing, Anoush
Subject: Re: Your complaint on Amulsar

Dear Anush Begoyan,
we are sending you the complaint with signatures.

Best regards
SOS Amulsar Initiative

EBRD SECURITY NOTICE

This email has been virus scanned

July 21, 2014

TO: Enery Quinones, the Chief Compliance Officer at the European Bank for Reconstruction and Development

We, the citizens of the Republic of Armenia and representatives of the public - EcoLur Informational NGO represented by Inga Zarafyan, "EcoRight" NGO represented by Arthur Grigoryan, "Save Teghut" civic initiative represented by Anna Shahnazaryan, "Pan-Armenian Environmental Front" civic initiative represented by Levon Galstyan, "Center for Jermuk Development" NGO represented by Vazgen Galstyan, Gndevaz villager Tehmine Yenoqyan, expert in environmental policy Sona Ayvazyan, "Center for Bird Lovers" represented by Silva Adamyan, "Armenian Women for Health and Healthy Environment" NGO represented by Elena Manvelyan - express our concerns with IFC support of Amulsar open-pit mining and heap leach facility construction, that put at risk the health and security of residents of Armenia and Caucasus.

Amulsar project is summarized on EBRD website as following:¹

Country:	Armenia
Project number:	42182
Business sector:	Natural resources
Public/Private:	Private
Environmental category:	B
Status:	Signed
PSD disclosed:	27 Apr 2012

Project description

Amulsar is located in central Armenia, approximately 120 km south of Yerevan. The project covers a region of epithermal-type gold mineralization. The mining right is held by Geoteam CJSC, an Armenian registered closed joint stock company. Geoteam CJSC is owned 100% by Lydian International Ltd. Outstanding shares 6.9 % belong to IFC. The project is strongly supported by US and UK Embassy in Armenia.²

Essence of Grievance

Amulsar gold mining is promoted with gross violations of rights of citizens to health and healthy environment guaranteed by Article 32 of the Armenian Constitution as well as the related national legislation.

Additionally there are violations of the following standards of social and environmental responsibility, declared by EBRD:

Assessment and Management of Environmental and Social Impacts and Issues
PR 3 - Resource Efficiency, Pollution Prevention and Control
PR 4 - Health and Safety
PR 5 - Land Acquisition, Involuntary Resettlement and Economic Displacement
PR 6 - Biodiversity Conservation and Sustainable Management of Living Natural Resources
PR 7 - Indigenous Peoples
PR 8 - Cultural Heritage
PR 10 - Information Disclosure and Stakeholder Engagement.
Substantiation of the mentioned statement is presented below:

¹ See <http://www.ebrd.com/english/pages/project/psd/2012/42182.shtml>

² <http://www.lydianinternational.co.uk/share-performance.htm>

Violations of Legislation

Water and soil: Amulsar deposit contains about 0.9 g/t gold, as well as admixtures, including highly toxic lead, cadmium, etc.³ Total concentration of toxic metals exceeds the concentration of gold and silver. Concentration of admixtures is detected in the ore sample analysis carried out by Radman Association upon the order of Lydian International Ltd. If 2.5 million ounces of gold is mined, 56 million tons of dumps with admixtures will be formed. Admixtures will contaminate the main water resources in Armenia - water basins of Vorotan and Arpa Rivers, Kechout and Vorotan reservoirs as well as Lake Sevan, grossly violating the **Water Code of Armenia**.⁴ Land areas - pastures, meadows and protected territories - surrounding Amulsar and the mentioned water resources will be exposed to pollution with toxic substances, too. Nevertheless, the Lydian International Ltd keeps silence about the presence of toxic admixtures and their impact on health and environment. Environmental impact assessment (EIA) report of Amulsar open-pit mining project submitted for environmental expertise of the Ministry of Nature Protection doesn't mention anything about the risks, which violates the requirements of **RA Law on Environmental Impact Expertise**.⁵ On our part, we regard it as intentional concealment of information from competent bodies, local population and general public.

Lake Sevan: Territory of Amulsar project, including its infrastructures - open-pit mines, roads, heap leach facility, waste and industrial tail disposal facilities, warehouse facilities, including the warehouse for explosives – is mostly are located in then catchment area of Lake Sevan in the immediate impact zone. Lake Sevan is a national and strategic priority in Armenia and Caucasus Region with its freshwater reserves of 37 billion cubic meters. According to **RA Law On Lake Sevan**, Kechout and Spandaryan reservoirs are a part of Lake Sevan catchment basin, as well as Arpa and Vorotan river catchment basins,⁶ meanwhile any activity having adverse impact on Lake Sevan ecosystem is banned in the central zone, in zones of direct and indirect impact.⁷ These restrictions were neglected within the EIA report of Amulsar project and did not consider the likely risks for Lake Sevan ecosystem.

In the meantime, Scientific-Expert Committee on Lake Sevan Preservation, established on the basis of RA Law on Lake Sevan, gave its negative opinion on Amulsar project.⁸ The Scientific-Expert Committee opinion (letter NE/18/2012) states: *“The place for tail accumulation at the height of 2570-2360 meters is located in a distance of several kilometers to the epicenter of a disastrous quake in 735. The project doesn't have any calculations and risk projections for a quake with a magnitude of 10... The territory of the tail accumulation has numerous outlets of ground waters, which will spread toxic substances from the tails to the Vorotan River, then through Vorotan-Arpa tunnel to Lake Sevan... Explosives may activate landslip processes with their unpredictable consequences....”*

Reports of Radman Associates show that radon concentration exceeds 400 Bq, but EIA report of Amulsar project did not say anything what measures shall be undertaken to reduce its levels⁹ that caused serious concerns of the Scientific-Expert Committee.

Uranium: According to studies, reserves of uranium in Amulsar are estimated to be up to 76 tons and those of thorium - 100 tons.¹⁰ Complainants think that Amulsar open-pit mining of gold quartzite may

³ H.Avagyan. “Ways and Prospects of Mining and Metallurgical Industries in the Republic of Armenia”, “Gitutyun” Publishing House, Yerevan, 2011

⁴ RA Water Code, Article 98 on Protection of Interconnected Ecosystems and Landscapes and Article 99 on Primary Requirements towards the Protection of Water Resources

⁵ RA Law on Environmental Impact Expertise, Article 5

⁶ RA Law on Lake Sevan, Article 3

⁷ RA Law on Lake Sevan, Articles 8 and 10

⁸ Authorities of the Scientific-Expert Committee are laid down in RA Law on Lake Sevan, Articles 19, 20 and 21

⁹ See

http://www.geoteam.am/media/documents/Technical%20Reports/Impact%20Assessment%20Reports/Radioactivity_Impact_Assessment_Radman.pdf

¹⁰ G.P.Aloyan, “Resource Potential of Radioactive Raw Materials in Armenia and Its Development Perspectives,” *Mining Journal*, Issue 6, Moscow, 2007

also touch uranium deposits causing radioactive contamination of the area, particularly affecting Jermuk resort, Gndevaz, Saravan and Gorayk villages. In order to avoid these risks, there is a need for mapping the precise borders of uranium reserves. Meanwhile, uranium is a strategic raw material and its exploration is the monopoly of Armenian-Russian Mining Organization under **RA Government Decision N234** dated on 06.03.2008.¹¹ So, Geoteam's statements on uranium cannot be considered reliable, unless the company applies to Armenian-Russian Mining Organization requesting to map borders of Amulsar uranium deposit.

Red-listed species: According to studies of WWF-Armenia in 2013, there are a number of Red Book species detected in Amulsar and its adjacent areas. Those include one species of plants - Potentilla Porphyrantha, two species of lizards, eighteen species of birds and four species of mammals. EIA report of Amulsar project fails to provide adequate information on endangered plants and animals, stating that the project territory contains only one species - the Caucasian brown bear.

Implementation of Amulsar project violates requirements of **RA Mining Code** that bans mining in habitats of red-listed plants and animals, as well as migration corridors for animals.¹² It also violates **RA Law on Flora** which states that *"any activity resulting in the reduction of red-listed plant species and deterioration of their growth places is banned,"*¹³ as well as **RA Law on Fauna** stating that *"any activity resulting in the reduction of red-listed animal species and deterioration of their growth places is banned."*¹⁴

Jermuk Resort: Amulsar project poses essential risks for Jermuk resort located in a distance of 12 km from Amulsar. Jermuk is rich in hot springs and mineral water and famous for health facilities and the production of "Jermuk" bottled mineral water, being exported by Armenia. By **RA Government Decision N1064-N** "On Declaring Jermuk Town as a Tourism Center" dated 18.09.2008, Jermuk was recognized as a tourism center. Under Jermuk Development Plan, the border of tourism zone approaches Amulsar in a distance of 2-4 km. Jermuk residents think that Amulsar project will have its adverse effects on Jermuk brand as a resort and they will get deprived of their income. Despite residents' demands, Jermuk was not included in Amulsar project affected zone,¹⁵ while residents' negative opinion on the project was not included in the list of the documents considered in EIA report.¹⁶

Heap leach Facility: Lydian International Ltd started buying land areas in Gndevaz Village for construction of the tailing dump. But the construction project of the heap leach facility does not mention any 'tailing dump', instead using another term - 'waste landfill.' By us this is regarded as another attempt to conceal information and real risks from the population.

Steps Taken to Solve the Problem

Representatives of the concerned public have applied several times to Lydian International Ltd and its Armenian subsidiary Geoteam CJSC for public consultations.¹⁷ Nevertheless, Geoteam CJSC not only did not take into consideration the concerns related to project risks, but also posed certain threats to its opponents. On 9 June 2012, "Jermuk Will Not Become a Mine" civic initiative organized a hiking to Amulsar with over 100 participants - representatives of the civic society. Geoteam CJSC did not allow entering the territory, but organized a rally of employees with offensive posters addressed to activists.¹⁸ Then, the company terrorized EcoLur NGO, followed by a public statement by the latter.¹⁹

¹¹ RA Government Decision N234 dated on 06.03.2008

¹² RA Mining Code, Article 26

¹³ RA Law on Flora, Article 17

¹⁴ RA Law on Fauna, Article 18

¹⁵ See the claim of Jermuk resident Victoria Grigoryan

¹⁶ See the letter of Jermuk Community Council <http://ecolur.org/hy/news/mining/open-letter-by-jermuk-mayor-var-dan-hovhannisyan-to-geoteam-company/3911/>

¹⁷ See the respective applications dated 08.07.2011, 13.03.2012

¹⁸ <http://ecolur.org/en/news/mining/donvt-disturb-us-to-make-money-photos/3907/>

Several times the public has submitted the EBRD its substantiations on the incompliance of Amulsar project with a) environmental security of the country, b) EBRD standards and principles of environmental and social responsibility, c) the provisions of national and international environmental legislation in the course of annual meetings of EBRD in Astana (2011), London (2012), Istanbul (2013), Warsaw (2014), during the visit of EBRD experts in Armenia in June 2013 and in the correspondence with EBRD managers.

During this period new consequences have emerged, which directly affect on Amulsar project, in general, and require review of relationships with Lydian,

- Governmental program on community optimization, which resulted in Jermuk resort town, which was previously excluded from the project affected zone, to become the administrative center together with Gndevaz, Saravan communities, which are included in the project affected zone.
- In 2013 a new governmental resolution was adopted on specifying the borders of Lake Sevan basin, which directly affects on Amulsar project, the territory of which includes a part of Sevan basin (Vorotan river, Kechout, Kechout and Spandaryan reservoir).
- Under the light of increase in the water outlets from Lake Sevan, the public and MPs raised the issue of increasing water flowing into Lake Sevan not to have any negative balance and not to expose the lake to another disaster because of decrease in lake Sevan level. The public protested and demanded not to allow any decrease in the level, at least due to the water increase in Arpa-Sevan canal and Vorotan Tunnel. The threats to the integrity of Vorotan Tunnel should be considered, which runs through the area of Amulsar project caused by the explosions in Amulsar mine, which have been conducted previously. This problem becomes more acute under the light of the governmental resolution on the increase in water outlets from Lake Sevan by 40%.
- WWF-Armenia office accomplished its studies on the biodiversity in the territories, which can be potentially suitable for establishing Jermuk National Park and detected 22 red-listed animal species and 1 plant species inhabiting in the area of Amulsar project and adjacent zones. In this regard, public casts doubts on the studies on the biodiversity funded by Lydian, as independent studies are already available, which contradict to the studies of the company.
- The EBRD itself reviewed its policy of social and environmental responsibility, which was discussed with NGOs, particularly in the part of performance standards in mining sector.

It's obvious that currently the situation has become more complicated in the viewpoint of making responsible decisions. Nevertheless, the EBRD adopted a contradicting decision: it purchases additional shares of Lydian in the amount of US\$3 million, thus increasing its equity and enabling the company to continue running its policy on Amulsar project. It contradicts to the EBRD policy itself, which, in this case, turns out not to be responsible either in social or environmental aspects.

Taking into consideration the risks of Amulsar project, which, in most cases, are uncontrollable and pose threats to the strategic water resources, include most area of the country as project affected zone and the whole population of Armenia, as well as neighboring countries in trans boundary viewpoint, we think that negotiations about improving project design or risk minimization or promotion of social programs in the frames of Amulsar project have no sense.

As Lydian International Company has declared many times and continues declaring that IFC and EBRD are its main shareholders and refers to their standards for social and environmental policy, it should be acknowledged that EBRD together with IFC bears responsibility or the non-performance of these standards to a complete extent.

¹⁹ <http://ecolur.org/en/news/mining/ecolur-open-letter-to-quotgeoteamquot-cjsc/3924/>

We think that 1) EBRD hasn't conducted proper risk assessment, 2) EBRD provided funding to Amulsar project based on unreliable information about risks and economic benefits, 3) EBRD neglected numerous alarm signals raised by public and independent experts and started lobbying Amulsar project through embassies putting diplomats in ambiguous situation, 4) EBRD encouraged advertising costs for Amulsar project at the expense of EU public money instead of reasonably valuing disputable economic effects and indisputable environmental damage of the project.

Based on the aforementioned, we think it's necessary to conduct an audit and to assess the risks laid down in our complaint whether they EBRD actions are compliant to its own standards, where one of the standards is complete compliance of any implemented project to national legislation.

EBRD must:

- Recognize project risks as uncontrollable and to categorize project as A category, refuse from Amulsar project shares and to assess it in the viewpoint of compliance to the domestic legislation of Armenia and EBRD principles of socio-environmental policy, and not in the viewpoint of invested equity and income,
- Recognize the whole territory of Armenia as project affected zone because of the project impact on the strategic water resources ensuring the living of all the Armenian population, as well as because of the threats to biodiversity and cultural heritage, the extinction of which will violate Armenian people's right to development,
- Comply with the provisions of Aarhus Convention and to recognize public as a direct stakeholder, which should take part in decision-making process.

Please note that we have all the originals of documents mentioned in the grievance, which we may send in a scanned format upon your request. If you have a questions, please contact with Inga Zarafyan

E-mail: ingazarafyan@gmail.com, info@ecolor.org

Tel: +374 91 92 12 64 mob.

1. Tehmine Yenogyan villager of Gndevaz *ell*

2. Inga Zarafyan "Ecolur" Informational *ell*



3. Sona Ayvazyan, Environmental Policy Expert

4. Pan-Armenia Environmental Front (PAEF)

Levon Galstyan *ell*

5. Artaz Grigoryan; Save Tephut Initiative
"Ecozight" NGO

ell

6. Vazgen Galstyan

"Jermuk Development Center" NGO

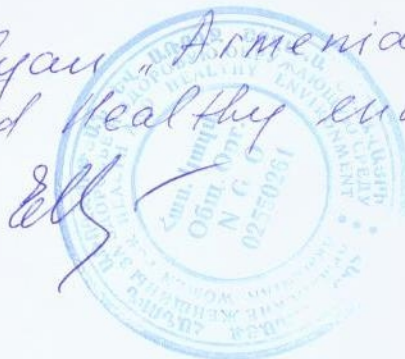


7. Silva Adamyen, Center of Bird Lovers *ell*



8. Anna Shahnazaryan,
Save Tephut Core Initiative
ell

9. Elena Manvelyan "Armenian Women
for Health and Healthy Environment" /AWHHE



Complaint from the residents of the village Gndevaz in Vayots Dzor to the Ombudsman of the European bank of Reconstruction and Development

Considering the threats from the opencast development of the gold mine and heap leaching facility, which must be constructed in our village, the residents of the village Gndevaz in Vayots Dzor make a complaint. We, the residents of the village Gndevaz, once more make a complaint to an international organization about the problem of Amulsar mine. On August 25 during the public hearings Geoteam Company once more misled the villagers of Gndevaz that the new project meets the international standards, while the project completely contradicts to the international standards as the true risks haven't been assessed, particularly:

1. Relocation of a heap leach facility, 2. Storage of cyanides 3. Preparation of cyanide solution and its use, 4. Liquidation of the wastes of cyanide production, 5. Ensuring safety for the workers and population. The project bears high risks for the environment and the local population, but the impact of dust containing heavy metals, contamination of ground and surface water haven't been estimated. We demand from the international organizations that they should investigate this disastrous and senseless project. We, the residents of the village Gndevaz, are categorically against the development of Amulsar mine and the construction of a heap leach facility and sites of heaped leaching. We demand from the EBRD to stop financing that criminal project as it bears scathing risks for the people of the village Gndevaz. And we also demand to take into account our opinions and not to violate our rights.

24.10.2014

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28. Խորհրդային Միություն - հեռու
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30. Կարմիր ծառ - ծառ
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51. Դաշնակցական խորհուրդ Մոսկվա
52. Գաղափարական շարժում Բեռլին
53. Բարեփոխական շարժումներ Մոսկվա
54. Դաշնակցական խորհուրդ Երևան
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Management Response to a PCM Complaint on Lydian International (DTM: 42182) 25 September 2014.

Background

Lydian International Ltd. (“Lydian” or the “Company”), is a publicly-held Jersey-based junior mineral exploration and development company, listed on the main board of the Toronto Stock Exchange. Lydian owns a mining licence and a number of exploration permits via its wholly-owned subsidiaries in Armenia (Geoteam CJSC) and Georgia (Georgia Resource Company LLC). EBRD is among Lydian’s shareholders holding c.8%. The Bank’s equity participation in Lydian International Ltd. in 2009, 2011, 2012 and 2014 should be considered together as the “Project” or the “Transaction” as further summarised below.

- In February 2009, the EBRD committed funds to be invested in Lydian for the first time. The Bank invested C\$1.6m and acquired additional warrants. The funds were initially capable of being used solely to support Lydian’s activities in Kosovo. As per the subscription agreement, EBRD was given a seat at the board.
- In 2011, the Bank invested a further C\$2.13m by exercising its warrants associated with the original project and approved the utilisation of the relevant proceeds in Armenia.
- In 2012, the Bank invested a further C\$3.64m in Lydian.
- In March 2014, EBRD agreed to invest C\$3m. Of the C\$10.4m invested to date, the last three investments over 2011-2014 were to support further exploration and pre-development of the Amulsar project. None of the Bank’s investment will be used for the Amulsar mine development into production.

The Complaint

The complaint letter relates to the proposed future development of the Amulsar gold deposit into a producing mine which is not currently an EBRD project. No complaint has been received regarding the exploration activities undertaken by the Lydian subsidiary (Geoteam) at Amulsar which, the Bank has confirmed, have been undertaken in accordance with EBRD’s Performance Requirements.

Environmental and Social Appraisal

As part of EBRD’s first investment in Lydian International Ltd in 2009 Environmental and Social Due Diligence was undertaken. In accordance with the EBRD’s Environmental and Social Policy 2008 the Project was Categorised B primarily because the investment is at a corporate level of a multi asset company (at the time, including Kosovo and Armenia licenses) and that the activities being undertaken at Drazhnje, Amulsar and elsewhere are related to exploration activities, rather than mine development. Consistent with other projects, exploration activities are generally considered to be Category B projects.

At the outset conditions were included in the subscription agreement that all exploration activities be undertaken in accordance with the management procedures of the company that incorporate EBRD’s Performance Requirements. Should mine development become feasible as a result of exploration activities the company formally committed to EBRD that any such projects would be treated as Category A, and that appropriate studies would be commissioned and disclosed and be subject to stakeholder engagement in accordance with the Designated Performance Requirements and in consultation with EBRD. These conditions have been also included into the later financing agreements.

EBRD has monitored the company's compliance with the conditions of the subscription agreement(s) and is satisfied that the company is meeting EBRD's requirements for all current exploration.

It is our understanding that an ESIA has been prepared in accordance with EBRD's Performance Requirements and is about to be disclosed for public comment, with regard to future mine development. This is in accordance with the commitments in the subscription agreement(s) discussed above and EBRD was provided the opportunity to comment on the terms of reference for the ESIA and the independent review thereof.

Communication with the complainant

A number of issues detailed in the letter of 21st July have been raised before and previous correspondence on the matter should be considered. EBRD's position is consistent with the responses provided previously.

2011:

- written correspondence by CEE Bankwatch (21 October 2011); issues raised: project classification; response sent on 16 November 2011;
- written correspondence by NGO Ecolur (15 December 2011); issues raised: labour rights (dismissal of Geoteam's employees), potential impact of Amulsar gold mine on Jermuk resort; response sent on 20 December 2011;

2012:

- written correspondence by CEE Bankwatch (30 March 2012); issues raised: EIA procedure, public consultation, impact on Jermuk and Lake Sevan, biodiversity, radiological risks; response sent on 4 May 2012;
- written correspondence by NGO Ecolur (12 September 2012); issues raised: impact on Lake Sevan and Jermuk resort, biodiversity, cyanide production, community health; response sent on 8 October 2012;

2013

- written correspondence by CEE Bankwatch (12 March 2013); issues raised: ESIA availability; response sent on 8 April 2013;
- written correspondence by NGO Ecolur (6 July 2013); issues raised: ESIA, impact on Lake Sevan, Jermuk, stakeholder engagement; response sent on 16 August 2013.

Desired Outcomes

The following desired outcomes are requested in the complaint letter with regard to 1) adequacy of risk assessment of future mine, 2) funding to future mine based on perceived unreliable information about risks and economic benefits, 3) communication with civil society, and 4) encouraging advertising spending with EU public money. The Complainants have requested an audit of the risks and EBRD's performance against the requirements, including categorisation, regulatory compliance of the proposed mine, acknowledgement of the whole country as an affected zone, and compliance with the UNECE Aarhus Convention.

Management Responses

EBRD Management's response to each of the above Desired Outcomes is as follows:

1. Our understanding of the complaint is that it is related to future proposed activity of the Client, namely the development and production phase of a new mine, and not the current EBRD project to support the Company's exploration activities. EBRD undertook an Environmental and Social Appraisal of each of the equity participations in Lydian international in accordance with EBRD's

2008 Environmental and Social Policy. EBRD has monitored the company's compliance with the conditions of the subscription agreement(s) and is satisfied that the company is meeting EBRD's requirements for all current exploration activities. The technical issues from the proposed future mine development and operation will be dealt with, in due course, during the current ongoing environmental and social impact assessment process, and stakeholders will have opportunities to raise concerns and have their questions answered.

2. As detailed in the text of this response, EBRD has not provided funding to the Amulsar mine development Project as suggested by the complainant.
3. EBRD has been in regular correspondence with various project stakeholders and has provided written responses to all concerns raised. EBRD therefore does not consider that concerns have been ignored. In answer to the second point of this desired outcome it is important to note that EBRD does not engage in any lobbying activities on behalf of projects as has been stated in the complaint letter.
4. The statement *"EBRD encouraged advertising costs for Amulsar project at the expense of EU public money"* does not seem to relate to any EBRD activities. EBRD is a multilateral financing institution, not an EU institution or instrument.

With regard to the demands in the concluding sections of the complaint, EBRD Management's response is as follows:

- The categorisation of EBRD's investment in Lydian International is consistent with EBRD's 2008 Environmental and Social Policy and there are no plans to alter the categorisation. Should EBRD be asked to participate in any of Lydian's future projects then each will be assessed and categorised on a case by case basis.
- With regard to EBRD's investment and Lydian's activities to date the "project affected zone" referred to in the complaint letter is only subject to reversible, limited and localised impacts arising from the exploration activities. EBRD has confirmed that such impacts have been adequately managed by the Lydian subsidiary Geoteam. The request by the complainant to extend the "project affected zone" to the entire territory of Armenia for exploration activities would be inappropriate and inconsistent with the policies of the EBRD to adopt this request for such a project. EBRD Environmental and Social Policy and Performance Requirements relate to environmental and social issues that could be affected by the EBRD financed activity.
- EBRD can confirm that it is a requirement of the Environmental and Social Policy and Performance Requirements 1 and 10 that all EBRD clients adhere to the principles of the Aarhus Convention relating to the public participation in decisions on specific activities which may have a significant effect on the environment.

INITIAL RESPONSE TO POINTS RAISED IN THE COMPLAINT LETTER TO CAO

Final version for internal review – June 19th, 2014

1. Lydian International Limited (Lydian) and its affiliate Geoteam CSJC in Armenia (Geoteam) operate in accordance with international best practice, in particular we follow and implement thoroughly during our exploration and development activities the International Finance Corporation (IFC) Performance Standards and the European Bank for Reconstruction and Development (EBRD) Performance Requirements. Our commitment to compliance with all these requirements is embedded in a number of corporate policies regarding to governance, environmental, social, health and safety¹.
2. Community engagement started with early exploration in 2006. Engagement with communities was ad hoc in the early years of exploration, and became formalised into monthly Community Liaison Committee (CLC) meetings in 2010/2011. Community members are regularly updated on project development and directly involved in environmental & social programs monitoring. The company developed a Stakeholder Engagement Plan (SEP) in 2010 that summarizes detailed plans and activities with stakeholders. The SEP has been updated twice since 2010 and was most recently disclosed in early June 2014². Lydian is committed to the establishment of sustainable relationships with its stakeholders, in particular with those communities surrounding its projects. The Company seeks relationships which demonstrate mutual respect and understanding, active partnership and long-term commitment.
3. The communities are not just beneficiaries for us; they are partners. We believe in shared values and Geoteam is working with local stakeholders on community development projects using a partnership model. Early Corporate Social Responsibility (CSR) engagement and transparency has created mutual trust and respect that we value.

¹ Lydian Corporate Policies most recent versions dated May 2014 available in English and Armenian on the Geoteam website: <http://www.geoteam.am/en/corporate-governance/policies.html>

² Stakeholder Engagement Plan most recent version dated June 13th, 2014 available in English and Armenian on the Geoteam website: http://www.geoteam.am/images/2014/SEP_2014_ENG.pdf

4. There has been a reduction in out-migration from the communities in the last 3 years during peak periods of exploration activities. Out-migration resumed in 2013 due to delays in project permitting with some villagers returning to the common practice of leaving for Russia in search for work.
5. To date, the Company has already spent over 5 million USD for the environmental studies alone. Golder Associates (GA), Wardell Armstrong International (WAI), Radman Associates (RA) and other international and local independent institutions have been working to carry out environmental studies and research.
6. In 2013, site reclamation and rehabilitation activities commenced in areas defined for exploration. Approximately, 0.5 million USD has already been invested in drill pad and road rehabilitation. Site reclamation and rehabilitation activities are ongoing in 2014.
7. NGO complaint Amulsar deposit contains about 0.9%g/t gold, as well as admixtures, including highly toxic lead and cadmium etc.

The Amulsar gold-silver deposit occurs in volcanic rocks that were deposited approximately 30 million years ago and have undergone geological processes of mountain building, folding, faulting and alteration. As a result of this alteration, two distinct rock types were formed one rock type high in silica and one rock type high in clay. The high silica rock is the host for the ore bearing gold and silver, while the clay rich rock is the barren rock (non ore containing rock). Lead and cadmium occur naturally in the rocks at Amulsar along with numerous other metals. Lydian completed leachate testing of the Amulsar barren rock and processed ore to determine the residual levels of metals left after processing and in the rock that was categorized as barren rock. Data generated from the various technical studies completed for the Amulsar project indicate that leachate post treatment from the barren rock and processed ore will be compliant with Armenian, EU and IFC/World Bank standards across the full suite of heavy metals, including Pb and Cd. Lydian is willing to meet with the NGO specialist to discuss this matter to fully understand their concerns.

8. NGO Complaint: If 2.5 million ounces of gold is mined, 56 million tons of dumps with admixtures will be formed. Admixtures will contaminate the main water resources in

Armenia - water basins of Vorotan and Arpa Rivers, Kechout and Vorotan reservoirs as well as Lake Sevan, grossly violating the Water Code of Armenia.³

Mining of the Amulsar deposit is planned to be accomplished with conventional open pit mining methods and heap leaching technology. Ore will be placed on a heap leach pad and barren rock, which is defined by rock that contains amounts of gold and silver which are too low to process economically, will be deposited in a Barren Rock Storage facility (BRSF). The heap leach pad will be constructed in multiple phases, with an ultimate capacity of approximately 106 Mt. The Barren Rock Storage Facility (BRSF capacity of approximately 114Mt) will be located on the north side of Amulsar Mountain, approximately 1.5 km north of Erato. The rock in the BSRF is volcanic rock from the Amulsar Mountain that contains naturally occurring levels of cadmium and lead. The BRSF has been designed so that water from the BRSF will not flow to the natural environment before being treated. The BRSF will consist of a barren rock stockpile, a holding pond and a water treatment facility (WTF) located down gradient of the BRSF. The BRSF will be prepared with a compacted low-permeability clay liner. An underdrain system will be constructed within the barren rock stockpile footprint beneath the clay liner to drain groundwater and subsurface seepage. Some of the barren rock at Amulsar has the potential to produce Acid Rock Drainage (ARD) if not managed properly. Any potentially acid generating rock will be managed according to the Barren Rock Management Plan, segregated and encapsulated within the BRSF to mitigate any potential for formation of ARD and the migration of lead and cadmium out of the BRSF. During operations the water that comes from the BRSF may be either treated at the WTF or directed to the heap leach recovery plant where it will be used as make-up water in the gold recovery process.

9. NGO Complaint: Territory of Amulsar project, including its infrastructures - open-pit mines, roads, heap leach facility, waste and industrial tail disposal facilities, warehouse facilities, including the warehouse for explosives – mostly is located in then catchment area of Lake Sevan in the immediate impact zone.

In 2011, Geoteam obtained a permit to construct the Heap Leach Facility (HLF) in the Vorotan Valley. At the time, it was not part of the Lake Sevan immediate impact zone

³ RA Water Code, Article 98 on Protection of Interconnected Ecosystems and Landscapes and Article 99 on Primary Requirements towards the Protection of Water Resources

and ore processing was permitted in this area. The Company selected the location of the Heap Leach facility following thorough engineering, geotechnical and environmental studies conducted by independent international and national experts. Nevertheless, following the enlargement of the Lake Sevan Immediate Impact Zone by government decree in 2012, the Company agreed to move the HLF location to a new location located in the Arpa watershed that is neither in the immediate nor in the non-immediate impact zone. This has resulted in extra expenditure and delays to the project. Last year in August 2013, the Government enacted a resolution to protect the Spandaryan-Kechut water tunnel, although it is non-functional and has never opened. Therefore the Company had to look for another site for the HLF. The current location south of the village of Gndevaz has been agreed formally with Government through the Working Group.

It is important to note that the Amulsar Project does not include the development of a tailings facility. The process to be used to process the gold-silver ore (heap leaching) does not generate tailings and as such, no tailings facility is needed.

10. NGO Complaint: Information on toxic admixtures not being explained in EIA, radon concentration exceeds 400 Bq and overall Radon and Thorium concentration.

In 2012, Lydian commissioned Radman Associates to complete a radon measurement survey at 149 dwellings in the villages near the future mine development area (Gorayk, Gndevaz, Saravan and Saralanj) because the public in the vicinity were concerned with the impact of radioactivity arising from the project as radioactive dust or in the form of radon. According to the survey completed by Radman and Associates, there were measured radon concentrations in a number of dwellings in the village of Gorayk that are in excess of 400 Bq m³. Dwellings with radon over this threshold comprise 4% of the total number surveyed (149).

Independently, 2399 soil and 4694 rock samples were analysed for uranium and thorium concentrations (this included samples of ore and barren rock). While the maximum values measured from the site are slightly in excess of the maximum values reported for Armenian soil standards, the mean values are lower. Analysis of the data therefore indicates that only a few of the 2399 samples analysed had marginally elevated uranium and/or thorium concentrations with the majority being reported within natural levels. The results from the dose assessment performed by

Radman concluded that no doses in excess of the current United Kingdom (UK)/European Union (EU) dose constraints are expected as a result of the mining operation.

The UK Ionising Radiations Regulations (1999), require action to protect employees in the workplace if the average radon gas concentrations exceeds 400 Bq m³. Recommendations from the Radman report concluded that given the slightly elevated pre-existing radon levels within nearby communities, radon protection measures should be incorporated into the mine design together with a program of continuous monitoring.

10. NGO Complaint: Implementation of Amulsar project violates requirements of RA Mining Code that bans mining in habitats of red-listed plants and animals, as well as migration corridors for animals as well as the Laws on Flora and Fauna.

*Lydian commissioned Treweek Environmental Consultants (TEC) to provide an overview of the implications of their proposed gold mining project at Amulsar, Armenia for the population of *Potentilla porphyrantha*, which partially overlaps the concession area for the mine. A comprehensive report was prepared in April 2014 by Dr Jo Treweek based on specialist botanical input provided by Dr Peter Carey of Bodsey Ecology Ltd in collaboration with Professor George Fayvush from the Republic of Armenia's National Institute of Botany (IoB) of the National Academy of Sciences.*

**P. porphyrantha* Juz. is listed as Critically Endangered (CE) in the Armenian Red Book based on an area occupied in Armenia of less than 10 km². Preliminary assessment against IUCN criteria suggests it would also be listed by IUCN. Amulsar Mountain supports one of 5 known sub-populations globally and has Tier 1 Critical Habitat for this species based on the criteria included in IFC Performance Standard 6 (IFC PS6).*

*The report outlines proposed avoidance and mitigation measures and considers the implications of residual impacts on the viability of the Amulsar population of *P. porphyrantha*. As the proposed project will remove approximately 21% of the estimated total number of plants at Amulsar, the recommended mitigation measure is translocation of the plants prior to removal of soils, within the areas where the mine will be constructed. Lydian is working with its expert consultants to develop a management regime that would reduce or avoid potential impacts of mining,*

including dust, disturbance and changes in the micro-climate to support populations of P. porphyrantha adjacent to the mine.

The brown bear Ursus arctos is a protected species in Armenia and is included in the national Red Data Book with a status of Vulnerable (Margarian 1987). Ecological surveys carried out as part of the Environmental and Social Impact Assessment (ESIA) for Amulsar has confirmed that a breeding population is present. In spring 2014 two different females with cubs have been observed. In 2013, ecologists estimated that 5 to 6 adult bears might be present, based on scats and other signs. Bears have been observed relatively frequently by workers at the mine camp and are known to hibernate in dens at various caves on the mountain.

Discussions on specific surveys required to assess the bear population at Amulsar have been taking place since early 2013 between Lydian and TEC. Communications with WWF Armenia since 2011 have been transparent on the presence of bear at Amulsar. Initial suggestions concerning next steps include DNA analysis of faecal samples collected during the autumn season or alternatively hair could be used if any is found. This would help establish the likely number of individuals present, their genotype and the extent of isolation of the population. A more comprehensive survey would be needed to establish the precise population of bears on Amulsar. Such a survey should be carried out if the conservation significance of bears on Amulsar is confirmed through DNA testing. Radio-collaring of some bears could be considered to provide information needed to understand barrier and fragmentation effects of the mine and its infrastructure and also to establish the home range size of bears in this area. Regardless of this, fragmentation and isolation of sub-populations is already recognised as a threat for bears in Armenia and any mitigation or offset recommendations would need to focus on provision of safe suitable habitat (protection from hunting) and establishment of safe movement corridors to link populations and allow inter-breeding.

In order to protect the Potentilla porphyrantha and brown bear populations, the Company has established in early 2013 the “Arshak No-Go Zone” on Amulsar where no exploration or mining activities are allowed. It is located on the Southern part of the mountain to remain untouched throughout the construction and operation of the

mine. Additionally the Company has publicly disclosed its intention to develop a Biodiversity Offset project as require by IFC Performance Standards⁴.

11. NGO Complaint: Jermuk residents think that Amulsar project will have its adverse effects on Jermuk brand as a resort and they will get deprived of their income. Despite residents' demands, Jermuk was not included in Amulsar project affected zone⁵, while residents' negative opinion on the project was not included in the list of the documents considered in EIA report⁶.

Preliminary assessment of impacts to Jermuk were made public in 2011 and included all data and studies completed by Wardell Armstrong International (WAI) and Golder Associates at that time on dust, noise, surface and ground water and other concerns raised by the stakeholders. The impacts at that time were assessed to be within acceptable limits and could be managed through effective mitigation measures. These impacts have been re-assessed with the revised project design and will only be completed with the conclusion of the ESIA by end of August 2014, however, impacts are not expected to be significant in Jermuk. We have an active stakeholder engagement program and continue to respond to their concerns at public hearings, community meetings or interviews.

The Amulsar Project will encourage alternative forms of inward investment to support the town of Jermuk and help to create a viable economic basis for the development of other industries, including tourism. USAID supported an extensive assessment of tourism potential in Jermuk, and this study provides a good analysis of the challenges facing Jermuk's tourism industry at present. The study indicated that while significant potential exists, tourism development is currently hampered by economic impacts due to out-migration, lack of employment opportunities and the deterioration of community infrastructure.

⁴ See additional information on <http://bbop.forest-trends.org/index.php> and the standard on Biodiversity Offsets http://www.forest-trends.org/documents/files/doc_3078.pdf

⁵ See the claim of Jermuk resident Victoria Grigoryan

⁶ See the letter of Jermuk Community Council [http://ecolur.org/hy/news/mining/open-letter-by-jermuk-mayor-vardan-hovhannisyan-to-geoteam-company/3911/](http://ecolur.org/hy/news/mining/open-letter-by-jermuk-mayor-varдан-hovhannisyan-to-geoteam-company/3911/)

The Company has commissioned a number of technical and socioeconomic studies during the ESIA process to assess how to contribute to the development of the tourism industry in Jermuk.

12. NGO Complaint: Lydian International Ltd started buying land areas in Gndevaz Village for construction of the tailing dump. But the construction project of the heap leach facility does not mention any 'tailing dump', instead using another term - 'waste landfill.' By us this is regarded as another attempt to conceal information and real risks from the population.

The Amulsar project will not contain a tailings management facility (referred to as tailings dump in the letter). The Waste Landfill that is mentioned is the facility where domestic waste from construction and operations activities will be stored. We will be happy to share the project layout with the complainant in order to explain the respective role and design of the HLF, the waste landfill and BRSF.

The land acquisition and property compensation process of communal and private plots required for the construction of the HLF and other mine facilities will be done in a transparent way. A number of meetings had taken place in 2013 and most recently in April and May 2014 in order to explain the Company's approach and various steps necessary. Additional information and consultation will happen shortly.

13. NGO Complaint: Lydian /Geoteam has not taken into account the concerns related to project risks but also posed certain threats to its opponents.

Please see below two (2) recapitulative tables with the list of stakeholder engagement activities - Note: CLO: Community Liaison Officer.

Table 1: Regular Community Engagement with Host Communities 2010 onwards		
When	Who/Where	What
CLC & other meetings in Gndevaz		
06.05.2014	Gndevaz, Annual meeting: Geoteam General Director, CLO, Social Manager	Geoteam Director presented the project current stage, explained why the delays occurred and the government decree on Sevan resulting in change of mine design, with suggested HLF closer to Gndevaz village. Explained that the new government views the project as one of the most important investments; Geoteam will apply for permits soon. Community members expressed concerns about their orchards that are in the suggested HLF site; about the cyanide, and health and safety of the community.

Table 1: Regular Community Engagement with Host Communities 2010 onwards		
When	Who/Where	What
		Geoteam Director explained the ESIA is underway conducted by international independent experts and that it has all the details and will be available for the communities; explained how HLF works technically.
14.04.2014	Gndevaz, Information meeting, CLO, Social Manager, Land use experts Frederic G., Lela S., village Mayor	Discuss land use issue, approaches (rent, buy) for community and private land parcels; Mayor inquired about air, wind direction, advised that most people would prefer to sell their lands.
19.03.2014	Gndevaz, CLC meeting, CLO	Update on current social programs; upcoming mine conference in Yerevan where reps from all communities will be invited. CLC reps asked about the location of the new mine design & jobs: concerns people will leave without jobs.
28.03.2014	Gndevaz, Information/assessment meeting, CLO, Social manager, Tax revenue expert Fernando M. (IFC)	Initial appraisal meeting with Mayor & village Council members to inquire about the local economic & social situation, local government & how it discloses information. Overall purpose – advice on local government capacity building.
06.02.2014	Gndevaz, CLC meeting, CLO	Update on current status of 2014 social programs (those underway & planned); CLC members inquired about the lands to be used for the new mine design. CLO informed about the upcoming public hearing.
15.01.2014	Gndevaz, Information meeting, CLO, Mayor of Gndevaz	Provide update on current activities; 2014 social programs for each community; respond to questions. Exploration activities are completed; environmental programs are underway; social programs for 2013 are completed.
22.12.2013	Gndevaz, CLC meeting, CLO and Social Manager	Update on 2014 plans: key expectation for 2014 is obtaining government permits on the project. Company's approach for co-financing for social programs from respective local administrations.
14.10.2013	Gndevaz, CLC meeting, CLO and Social Manager	Update on environmental & social programs: geotechnical works are underway, studies for potential new sites for the plant & other infrastructure. Bird watchers' team is doing the field work. Negotiations with government reps are underway.
24.09.2013	Gndevaz, CLC meeting, CLO	Update on negotiations with government reps on the new HLF site.
15.08.2013	Gndevaz, CLC meeting, CLO and Social Manager	Update on environmental & social programs: environmental works are underway; planned social programs are on hold given the delays with permits; Government determined 3 km buffer zone near Arpa-Sevan tunnel; Geoteam had to lay off staff.
16.05.2013	Gndevaz, CLC meeting, CLO	Update on the new mine plant location; Estimated 450 jobs to be created for plant; on land use &/or acquisition, alternate land plots will be offered not to affect livelihoods.
04.04.2013	Gndevaz, Information meeting – H. Aloyan, CLO, Social/Environmental Manager, Social manager	To summarise 2012 & 2013 plans; increased employment; Change in infrastructure location; Grievance mechanism; Social programs; Land lease.
12.03.2013	Gndevaz, Information meeting – Frederick G. (livelihood restoration/land use expert), CLO & Social manager	Update CLC & other community members & Village Mayor on general procedures for land acquisition: land evaluation, approaches.
06.02.2013	Gndevaz, CLC meeting - Lydian Board Director Gordon Wylie, Environmental & Social Manager, CLO & Social Manager	Met with CLC members: Director summarized the key findings of the environmental assessment. Director and Geoteam staff answered questions and provided some basic figures on noise, uranium, etc.

Table 1: Regular Community Engagement with Host Communities 2010 onwards		
When	Who/Where	What
19-23.07. 2012	Gndevaz, Information meeting: CLC & community members	Discuss seasonal herders; update on plans for seasonal herders' survey.
1-3.07.2012	Gndevaz, IFC & Geoteam – IFC annual visit with CLC & Mayor	Discuss community concerns (dust, uranium, radioactivity, wind, etc.); answer question.
Throughout 2010 - 2012 held on monthly basis	Gndevaz, Information meeting with Gndevaz CLC, community members & Mayor	Regular meetings
<i>CLC & other meetings in Saravan</i>		
06.05.2014	Saravan, Annual meeting: Geoteam General Director, CLO, Social Manager, PR manager	Geoteam Director presented the project current stage, explained why the delays occurred and the government decree on Sevan resulting in change of mine design. Explained that the new government views the project as one of the most important investments; Geoteam will apply for permits soon. The community members were concerned about the project delay and employment issues resulting in out-migration. Some community members working in Geoteam raised concerns about the salary. Geoteam Director explained that the Company does not have any profit, yet has been investing in the project for years. After the permits are obtained and constructions start, there will be an evaluation of salaries. He also mentioned that ongoing and future training and education programs Geoteam offers to the communities will help them obtain qualification for better paid jobs.
19.03.2014	Saravan, CLC meeting, CLO	Update on current programs; CLO suggested to include more people in CLC meetings to wider coverage and awareness. Talked about outmigration trends – many will leave if no Geoteam jobs.
28.03.2014	Saravan, Information/assessment meeting, CLO, Social manager, Tax revenue expert Fernando M. (IFC)	Initial appraisal meeting with Mayor & village Council members to inquire about the local economic & social situation, local government & how it discloses information. overall purpose – advice on local government capacity building.
06.02.2014	Saravan, CLC meeting, CLO, Mayor	Update on 2014 social programs; Mayor's position on co-financing for social projects – would address community issues without co-financing; status of health fund initiated by Geoteam.
15.01.2014	Saravan, Information meeting, CLO, Mayor of Saravan	Provide update on current activities; 2014 social programs for each community; respond to questions. Exploration activities are completed; environmental programs are underway; social programs for 2013 are completed.
23.12.2013	Saravan, CLC meeting, CLO and Social Manager	Update on 2014 plans: key expectation for 2014 is obtaining government permits on the project; explained Company expectations on co-financing social programs (10%).
18.11.2013	Saravan, CLC meeting, CLO & Social manager	Update on geotechnical & geological works; environmental studies & social programs.
28.10.2013	Saravan, CLC meeting, CLO & Social manager	Update on geotechnical works, environmental works (bird watchers); the new HLF location, social programs status.
24.09.2013	Saravan, CLC meeting, CLO	Update on negotiations with government reps; Geoteam & government reps are discussing the location of the factory; social programs status.
15.08.2013	Saravan, CLC meeting, CLO	Update on environmental & social programs: planned social programs are on hold given the delays with permits; current social programs status. Government determined 3 km buffer zone near Arpa-Sevan tunnel; Geoteam had to lay off staff;

Table 1: Regular Community Engagement with Host Communities 2010 onwards		
When	Who/Where	What
		a Working Group of 6 established that works jointly with GOA reps.
16.05.2013	Saravan, CLC meeting, CLO	Update on environmental & social programs; change in mine plant location where the plant will be closer to Gndevaz. Exploration works & social programs are underway.
04.04.2013	Saravan, Information meeting – H. Aloyan, Social/Environmental Manager, Social manager, CLO	Sum of 2012 & 2013 plans; increased employment; Infrastructure location; Grievance mechanism; Social programs; Land lease.
12.03.2013	Saravan, Information meeting – Frederick G. (livelihood restoration/land use expert), CLO & Social manager	Met with CLC & other community members & Village Mayor, to clarify procedures for land acquisition: land evaluation, approaches. Community reps suggested that more information be provided on land acquisition (details on procedures, negotiations with land owners, etc.)
06.02.2013	Saravan, CLC meeting, Lydian Board Director W. Gordon, Environmental & Social Manager, CLO & Social Manager	Met with the Mayor: Gordon summarized the key findings of the environmental assessment: noise, dust, water, radiation, etc.
19-23.07. 2012	Saravan, Information meeting: CLC & community members	Discuss seasonal herders; update on plans for seasonal herders' survey.
12.07.2012	Vayk, Information meeting: CLCs, Mayors, community members from Saravan, Gndevaz & Gorayk WAI & Geoteam	Discuss community contribution; social programs; upcoming plans; introduce local assistants (from Saravan & Gorayk).
1-3.07.2012	Saravan, Information meeting, IFC & Geoteam – IFC annual visit with CLC & Mayor	Discuss community concerns (dust, uranium, radioactivity, wind, etc.); answer questions; visit social programs.
Throughout 2010 - 2012, monthly	Saravan, Information meetings with CLC, community members & Mayor	Regular meetings
CLC & other meetings in Gorayk		
06.05.2014	Gorayk, Annual meeting: Geoteam General Director, CLO, Social Manager, PR manager	Geoteam Director presented the project current stage, explained why the delays occurred and the government decree on Sevan resulting in change of mine design, with suggested HLF closer to Gndevaz village. Explained that the new government views the project as one of the most important investments; Geoteam will apply for permits soon. Gorayk residents were generally thankful to the company for the social projects but were looking forward for the job opportunities and the start of the project. They were also interested in continuation of social projects: animal husbandry and green houses.
19.03.2014	Gorayk, CLC meeting – CLO	Update on current social programs; in the upcoming mine conference Gorayk reps will be invited. Land categories that Company will rent will change and affect the village budget. Questions were raised on use of land rent amounts for other communities.
28.03.2014	Gorayk: Information/assessment meeting, CLO, Social manager, Tax revenue expert Fernando M. (IFC)	Initial appraisal meeting with Mayor & village Council members to inquire about the local economic & social situation, local government & it discloses information. overall purpose – advice on local government capacity building.
06.02.2014	Gorayk, CLC meeting – CLO	Geotechnical works stopped since Oct. 19; social programs for 2013 are all

Table 1: Regular Community Engagement with Host Communities 2010 onwards		
When	Who/Where	What
		completed; co-financing for social projects is approved by the Mayor for 2014. CLC members expressed their needs for children program (dance classes, etc.)
15.01.2014	Gorayk, Information meeting, CLO, Mayor of Gorayk	Provide update on current activities; 2014 social programs for each community; respond to questions. Exploration activities are completed; environmental programs are underway; social programs for 2013 are completed.
23.12.2013	Gorayk, CLC meeting – CLO & Social Manager	Update on end of year activities: social programs; Company's approach on co-financing by local administration (10%) for vested interest and sustainability.
28.11.2013	Gorayk, CLC meeting – CLO & Social Manager	Update on environmental & social programs: the environmental works are close to completion. The Company is designing 2014 social programs based on feedback from community.
18.10.2013	Gorayk, CLC meeting – CLO & Social Manager	Update on environmental & social programs: geotechnical works are suspended since Oct. 19 (end of season); the environmental works are underway partially; the new HLF will be in a slightly different location & more expensive. The Company is waiting for permit on construction of the HLF.
24.09.2013	Gorayk, CLC meeting – CLO	Update on current social programs; few suspended due to delays in permits; The final location of plant is not determined yet; the previous potential/suggested site for the plant was rejected; discussions on this issue are underway with government reps.
15.08.2013	Gorayk, CLC meeting – CLO	Update on environmental & social programs: environmental works are underway; planned social programs are on hold given the delays with permits; Government determined 3 km buffer zone near Arpa-Sevan tunnel; Geoteam laid off staff; a Working Group of 6 established to work jointly with GOA reps.
16.05.2013	Gorayk, CLC meeting – CLO	Update on environmental & social programs; change in mine plant location – the new plant will be closer to Gndevaz; & related infrastructure may be in Gorayk, such as car park, offices. Exploration works & social programs are underway.
04.04.2013	Gorayk, Information meeting, H. Aloyan, Social/Environmental Manager, Social manager, CLO	Summary of 2012 achievements & 2013 plans; employment; change in infrastructure location; Grievance mechanism; Social programs; land lease.
12.03.2013	Gorayk, Information meeting – Frederick G. (livelihood restoration/land use expert), CLO & Social manager	Met with CLC & other community members & Village Mayor, clarified procedures for land acquisition: land evaluation, approaches. Community reps expressed their concern on land acquisition by the mine project, since land is a major factor that keeps people attached to their village.
1-3.08.2012	Gorayk, EBRD annual visit with Gorayk CLC	Discuss Amulsar project, social programs; visit social programs.
19-23.07. 2012	Gorayk, Information meeting: CLC & community members	Discuss seasonal herders; update on plans for seasonal herders' survey.
1-3.07.2012	Gorayk, IFC & Geoteam – IFC annual visit with CLC & Mayor	Discuss community concerns (dust, uranium, radioactivity, wind, etc.); answer questions; visit social programs, talk to Geoteam partner in Gorayk.
Throughout 2010 - 2012, monthly	Gorayk, Information meetings with CLC, community members & Mayor	Regular meetings
<i>CLC & other meetings in Jermuk</i>		
20.03.2014	Jermuk, CLC meeting - CLO	CLC reps asked about social programs: school sanitation will start soon; Jermuk choir package is sent to Social manager for consideration. inquired about the

Table 1: Regular Community Engagement with Host Communities 2010 onwards		
When	Who/Where	What
		location of the new mine design – plant, other infrastructure. Jermuk reps will be invited to the upcoming mine conference in Yerevan.
07.02.2014	Jermuk, CLC meeting – CLO	Geotechnical works are stopped since Oct. 19; the environmental works are underway partially; social programs for 2013 are completed; plans for 2014 social projects. CLC members inquired about jobs.
14.10.2013	Jermuk, CLC meeting – CLO and Social Manager	Update on negotiations with government reps on the new Site (for HLF). License for exploration for Site 28 is obtained for 480 ha; the new site will cost USD 50 million more; waiting for construction permit;
27.09.2013	Jermuk, CLC meeting - CLO	Update on negotiations with government reps on the new Site for HLF and the location for the factory to be finalized in October. Status of social programs.
16.08.2013	Jermuk, CLC meeting – CLO	Update on environmental & social programs: environmental works are underway; planned social programs are on hold given the delays with permits; social programs status.
13.06.2013	Jermuk, Project meeting, IFC, EBRD, regional and local governments of two marzes, Lydian /Geoteam management, consultants	Project update: potential area for the HLF; current studies; Biodiversity issues; ESIA current status
17.05.2013	Jermuk, CLC meeting – CLO	Update on environmental & social programs; change in mine plant location where the new plant will be closer to Gndevaz. Exploration works & social programs are underway.
06.02.2013	Jermuk, CLC meeting, Lydian Board Director W. Gordon, Environmental & Social Manager, CLO & Social Manager	Gordon summarized key findings of the environmental assessment & impact on Jermuk: noise, dust, water, radiation. CLC members suggested a more rigorous communication program with Jermuk. Armen S. elaborated on dust, noise and wind issues, showed diagrams on noise impact; shared examples of similar mines elsewhere via Internet.
06.10. 2012	Mayor of Jermuk Director of WWF-Armenia	Discuss Project progress & areas of cooperation. Project progress & areas of cooperation.
30.08.2012	Mayor of Jermuk	Project progress & areas of cooperation.
10/23.01. 2012	Mayor of Jermuk	Letter communication between Mayor of Jermuk and Lydian.
Throughout 2012, monthly	Jermuk, Information meeting, CLC members	Present studies on dust, wind, blasting, radiation, noise.
23.11. 2011	Jermuk, Mayor of Jermuk	Disclose preliminary impact report prepared by WAI; Meeting with Lydian CEO to discuss the preliminary Project impacts & the areas of cooperation.
October 2011	Mayor of Jermuk	Geoteam and IFC representatives attend presentation of the film “Amulsar Gold Rush” at Ani Plaza, which was organized by Ecolur; interview to local TV channel “Ar”.
December 2010	Mayor of Jermuk	Introduction of Geoteam and Amulsar Project to Jermuk city.

Table2: Environmental and social permitting related consultation 2007-2014		
Past Engagement related to EIA process		
12.11.2013	MNP, Jermuk, with Deputy Prime	Joint trip for an opening ceremony for two social project opening ceremony.

Table2: Environmental and social permitting related consultation 2007-2014

	Minister, Jermuk Mayor & Lydian/Geoteam management	
31.07.2013 – 18.09.2013	MNP, Yerevan: reps from the Ministry of Economy, Energy & Natural Resources, Urban Development, Lydian and Geoteam management.	Series of 8 Working Group meetings held to discuss potential heap leach facility locations
03.07.2013	MNP, Yerevan	Establishment of Working Group with Government of Armenia and Geoteam management representatives
11.07.2013	Gndevaz, Public hearing, Geoteam	Disclosure of C-EIA, the suggested new location of the infrastructure; Gndevaz community approved the C-EIA (gold extraction from the ore of the Amulsar gold-bearing quartzite gold mine through heap leaching method).
09.04.2013	Gndevaz, Opening of Amulsar Information Center, with regional and local government representatives, Lydian and Geoteam management	Materials provided: Frequently Asked Questions booklet; brochures on Heap Leaching, Cyanide, Environmental and Social Management System, social development projects; posters: HLF, operations, ESIA.
July 2012	Gndevaz	Public Hearing of the EIA on Artavazdes & Tigranes Open Pit & Barren Rock Storage Facility (BRSF)
30. 07. 2012	Yerevan, Public hearing, MNP, Geoteam	Respond to the stakeholders' questions (conveyed by MNP); MNP approved the EIA on July 31, 2012.
18.04.2012	Yerevan, Public discussion, MNP, Geoteam	Discuss the EIA; Geoteam recorded issues & questions raised by stakeholders (Sevan preserve committee, NGOs, activists, etc.).
16.04.2012	Gorayk, Public Hearing, Geoteam	Present the EIA on the exploration license "Khachakar".
30.03.2012	Gorayk, Public Hearing, Geoteam	Present findings & conclusions of the independent experts involved in EIA review on Artavazdes & Tigranes Open Pit & Barren Rock Storage Facility
12.03.2012	Saravan, Public Hearing, Geoteam	Present EIA on Artavazdes & Tigranes Open Pit & Barren Rock Storage Facility.
22.02.2012	Yerevan, Public discussion, MNP, Geoteam	Present EIA document for the Artavazdes & Tigranes open pit.
28.11. 2011	Gorayk, Public Hearing, Geoteam	Present program of ore processing operations conceptual design (crushing, conveying, heap leaching & ARD (EIA).
10.10.2011	Yerevan, MNP	Present EIA on the Programme of Ore to MNP: Processing (crushing, conveying, HL & ARD).
April 2011	Gorayk, Public Hearing	Present EIA on the exploration license "Khachakar"
Feb. 2011	Yerevan, MNP	Submission of Amulsar Open Pit Gold Project Scoping Report
24.03.2010	Saravan, Public Hearing, Geoteam	Present the EIA report to stakeholders (exploration activities on Saravan license).
05.11.2009	Yeghegnadzor, Public Hearing, Geoteam	Present the <i>EIA</i> report to stakeholders (Tigranes open pit)
Formal ESIA consultations		
13.06.2013	Jermuk, Project meeting, IFC, EBRD, regional and local governments of two marzes, Lydian /Geoteam management,	Project update: potential area for the HLF; current studies; Biodiversity issues; ESIA current status

Table2: Environmental and social permitting related consultation 2007-2014		
	consultants	
Q4 2011: 28.11.2011	Jermuk, public consultation, Geoteam & WAI	Present an update on the ESIA ; Summarise the results of the baseline studies completed; information available from the Feasibility Study, such as mine design, operating specifics & timelines.
Q4 2011: 28.11.2011	Gorayk public consultation, Geoteam & WAI	Update on ESIA progress and preliminary impacts on noise, uranium, visual impact, dust, etc.
13.05.2011	Public consultation & formal presentations in Gorayk, Gndevaz, Saravan & Jermuk: administrative leaders, 'Ecolur' NGO, WAI & Geoteam	Present the Scoping Study results & the concept of the ESIA , baseline conditions & mine plan.
June & July 2010	Informal scoping meetings in Gndevaz, Gorayk, Ughedzor, Saravan, Jermuk, WAI & Geoteam	Introduce the concept of ESIA & discuss socio-economic issues, environmental & social concerns.
ESIA Stakeholder Consultations and meetings with NGOs		
May 2013	Ecolur, Geoteam, media and interested parties at Ecolur hosted press conference	Biodiversity issues around Amulsar
April 2013	Caucasus Nature Fund and Geoteam	Presentation of project and discussion around opportunities for cooperation
November 2012	Armenian Environment Network, Geoteam	Solid waste management education programmes in Armenia
August 2012	Yeghegnadzor, Governor of Vayots Dzor	Project progress & areas of cooperation.
June 2012	Jermuk Development Centre hosted a forum about Amulsar (held in Yerevan)	Geoteam and IFC participated and responded to questions about the Project
May 2012	Geoteam hosted discussion at Marriot Hotel for civil society representatives	Concerns about the projects were raised and responded to
March 2012	Union of Greens and Geoteam Management	Initial meeting to introduce the project and discuss the potential impacts
November 2011	Young Lawyers of Armenia and Geoteam	Initial meeting to introduce the project and discuss the potential impacts
October 2011	Ecolur hosted film screening in Yerevan, with civil society and Geoteam present	Geoteam Environment Manager responded to questions raised by the film on Amulsar (prepared by Ecolur) and other questions from the audience
September 2011	Diaspora Armenia Tree Project (ATP), Geoteam	Partnership opportunities discussed around tree planting, environmental education and awareness
May 2011	Mayor of Jermuk, Ecolur, Jermuk Development Centre and Geoteam	Geoteam responded to questions raised by these groups

Table2: Environmental and social permitting related consultation 2007-2014		
April 2011	Yerevan, Ministry of Energy & Natural resources	Presentation on heap leach technology.
December 2010, April 2011	Jermuk, NGO Ecolur (for April meeting)	Introduce Project and discuss concerns raised by Ecolur (dust, presence of uranium, etc.).
October 2010	Regional office of Environmental Inspection	Present Geoteam and become registered.

14. NGO Complaint: Geoteam organized a rally of employees with offensive posters addressed to the activists.

Geoteam does not engage their employees in rallies against the public and the rally which is referred to was not organised or coordinated in any way by Geoteam. Any member of the public has an opportunity to file a grievance with the company as stipulated in the Company's grievance mechanism which is available on the Geoteam website.

15. NGO Complaint: Members of the public from Jermuk were not allowed to enter the Amulsar project site.

Visits to the site need to be pre-arranged with company personnel in order to comply with Site Health and Safety policy requirements. Lydian would be pleased to arrange a site visit given advance notification.

16. NGO Complaint: The Company terrorized Ecolur NGO, followed by a public statement by the latter.

We regret that the Company's letter to Ecolur with a demand to refute a potentially defamatory statement was interpreted as "terrorizing". This was one of the very few times when the Company chose to react. We respect Civil Society's right to express their concerns and are always ready for an open and constructive discussion. The Company welcomes any interaction with civil society, in particular environmental NGOs, as long as it is a constructive and professional dialogue.

