

**FINAL**

**TA-9106 AZE: SUPPORTING THE IMPLEMENTATION OF THE  
ROADMAP FOR BENEFICIAL OWNERSHIP DISCLOSURE FOR  
THE EXTRACTIVE INDUSTRIES IN AZERBAIJAN (49451-001)**



**Report I: INCEPTION REPORT**

**Prepared for:**

**THE STATE OIL FUND OF THE REPUBLIC OF AZERBAIJAN  
(IMPLEMENTING AGENCY)**

**Under the Auspices of:**

**THE MINISTRY OF FINANCE OF THE REPUBLIC OF AZERBAIJAN  
(EXECUTING AGENCY)**

**Prepared by:**



**20 August 2018**

## Table of contents

Executive Summary .....	3
Glossary of Terms, Acronyms and Abbreviations .....	5
1. Introduction .....	6
2. Key Findings from the Inception Mission .....	8
3. Objectives .....	9
4. Scope.....	10
5. Methodology .....	11
a. Desktop Research.....	11
b. Review of Azerbaijani Legislation .....	12
c. Stakeholder Engagement.....	13
d. Consultation Exercises.....	15
6. Deliverables and Timetable .....	17
7. Limitations.....	19
Appendix 1: Terms of Reference and Qualifications of Consultants for Supporting the Implementation of the Beneficial Ownership Disclosure Roadmap .....	20
Appendix 2: The Consultant Team .....	28
Appendix 3: Draft Q&A Matrix for Supporting the Implementation of the Beneficial Ownership Disclosure Roadmap for Extractive Industries in Azerbaijan dated 28 June 2018 .....	31
Appendix 4: Monthly Progress Report Template .....	33

## Executive Summary

### Introduction

1. BDO Azerbaijan LLC (BDO), Engaged Consulting Limited, United Kingdom, and Michael Barron Consulting Ltd, United Kingdom, (together hereinafter referred to as the “Consultants”)<sup>1</sup> are pleased to present this Inception Report for the project to support the implementation of Azerbaijan’s Roadmap for Beneficial Ownership Disclosure (RBOD).<sup>2</sup>
2. The Asian Development Bank (ADB) is funding the project following a request from the State Oil Fund of the Republic of Azerbaijan (SOFAZ) as Implementing Agency under the auspices of Azerbaijan’s Ministry of Finance (MOF) as Executing Agency, to support the implementation of further transparency measures in the country’s extractive industries. ADB selected the consortium of consultants headed by BDO Azerbaijan to undertake the RBOD implementation project after a competitive tender process.
3. This report provides details on how the consultants will undertake the project in line with the revised Terms of Reference (TORs), dated 15 May 2018 (as amended on 28 June 2018) (Appendix 1)<sup>3</sup> and meetings held with ADB and SOFAZ in Baku in the week of 25 June 2018. This report sets out the project’s objectives, scope, methodology, team members, timetable, deliverables and notes some limitations on the project.

### Key Findings from the Inception Mission

4. During the Inception Mission the Consultants met with stakeholders representing Government, businesses and civil society, as well as ADB and other development banks.
5. The key themes expressed were strong support for Azerbaijan to continue to implement the RBOD, while recognizing that there will be implementation challenges. There is a need to be realistic about the extent of transparency to be achieved.

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<sup>1</sup> BDO’s Messrs. Sabit Abdullayev and Yunis Salayev perform the national legal counsel/extractive industry transparency specialist and national finance and operations specialist roles, respectively, in association with: (i) Mr. Tim Law of Engaged Consulting Limited, United Kingdom (ECL) and Mr. Michael Barron of Michael Barron Consulting Ltd, United Kingdom (MBC) performing jointly the international senior extractive industry transparency specialist/team leader role; and (ii) Mr. Julian Hicks performing the international legal counsel role subcontracted by MBC.

<sup>2</sup> [https://eiti.org/sites/default/files/documents/beneficial\\_ownership\\_roadmap\\_-\\_azerbaijan.pdf](https://eiti.org/sites/default/files/documents/beneficial_ownership_roadmap_-_azerbaijan.pdf)

<sup>3</sup> Table 1 (Technical Assistance Implementation Schedule and Reporting Requirements) was amended with respect to the expected completion dates for Reports III and VI from 31 October 2018 and 31 May 2019 to 30 September 2018 and 15 April 2019, respectively.

**RBOD Implementation Assignment**

6. The overall objective of this assignment is to support Azerbaijan's Extractive Industry Transparency Commission (EITC) to implement its RBOD as per TORs.
7. The project will focus on the upstream and midstream extractive industries and will cover at a minimum those companies that are involved in the exploration, development, extraction and export of oil, gas and other minerals, as well as companies that invest in, or enter into engineering, procurement and construction (EPC), operation and maintenance (O&M), or other long-term services contracts in relation to, any of those activities.<sup>4</sup>
8. Delivery of the project will be based on desktop research of international good practice, review of relevant Azerbaijani legislation and regulation, stakeholder engagement, including through two consultation/validation exercises: the first on the beneficial ownership definition in the first half of November 2018 and the second on draft legislation in mid-2019.
9. The Consultants will engage with a wide range of stakeholders from government, extractive industry companies, international financial institutions and civil society organizations. They will also engage with governments, policy makers and related bodies in countries that have developed or are implementing similar beneficial ownership regimes.
10. The project will deliver a range of options and guide stakeholders to an agreed position regarding: (i) a beneficial ownership definition that meets international good practice; (ii) agreed mechanisms for data collection and periodic updating, verification, reporting, access and usage; (iii) draft legislation for implementation and enforcement. This will be supported by awareness raising measures to ensure that relevant stakeholders are well informed about the initiative.
11. The project started on 1 June 2018 and is expected to be completed by 31 October 2019. In that period, the Consultants will deliver eight reports as well as this Inception Report. Reports III and VI will be delivered earlier than the originally agreed deadlines as set out in the TORs to maximize the time for consultation.
12. As part of the Inception Mission, the Consultants considered potential limitations on this project. These include limited understanding among some stakeholders of beneficial ownership and its benefits as well as the timeliness of responses to the consultations as well as direct lobbying by concerned stakeholders.

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<sup>4</sup> Depending on the number of companies to be potentially subjected to RBOD registration requirements, a web-based registry solution may be merited.

## Glossary of Terms, Acronyms and Abbreviations

ADB	Asian Development Bank
BO	Beneficial Ownership
EITC	Extractive Industry Transparency Commission
EU	European Union
FATF	Financial Action Task Force
EBRD	European Bank for Reconstruction and Development
EPC	Engineering, Procurement and Construction
IDD	Integrity Due Diligence requirements
IMF	International Monetary Fund
KYC	Know-Your-Client
MSG	Multi-stakeholder Group
O&M	Operation and Maintenance
OECD	Organisation for Economic Co-operation and Development
PEP	Politically Exposed Person
RBOD	Roadmap for Beneficial Ownership Disclosure
SOFAZ	State Oil Fund of the Republic of Azerbaijan
TORs	Terms of Reference
UN	United Nations

## 1. Introduction

- 1.1. BDO Azerbaijan LLC (BDO), Engaged Consulting Limited, United Kingdom, and Michael Barron Consulting Ltd, United Kingdom, (together hereinafter referred to as the “Consultants”) are pleased to present this Inception Report for the project to support implementation of Azerbaijan’s Roadmap for Beneficial Ownership Disclosure (RBOD). Brief consultant team member profiles are given in Appendix 2.
- 1.2. The Asian Development Bank (ADB) is funding the project following a request from the State Oil Fund of the Republic of Azerbaijan (SOFAZ) to support the implementation of further transparency measures in the country’s extractive industries. ADB selected the consortium of consultants headed by BDO Azerbaijan to undertake the RBOD implementation project after a competitive tender process. This report provides details on how the consultants will undertake the project in line with the revised Terms of References (TORs), dated 15 May 2018 and meetings held with ADB and SOFAZ in Baku, during the Inception Mission in the week of 25 June 2018. This report sets out the project’s objectives, scope, methodology, team members, timetable, deliverables and notes some limitations on the project.
- 1.3. On 5 April 2017, a Presidential Decree established Azerbaijan’s Extractive Industries Transparency Commission (EITC) to drive the implementation of transparent reporting processes for the oil, gas and mining industries in the country. EITC is under the auspices of SOFAZ. Its regulations have been approved on 6 June 2018 by the Resolution of the Cabinet of Ministers no. 252.<sup>5</sup> The EITC Secretariat’s authority includes provision of proposals on improvement of legislation to ensure transparency in the extractive industries. This work includes implementing Azerbaijan’s RBOD. As part of its continued commitment to transparent reporting, SOFAZ now seeks support in implementing that roadmap.
- 1.4. Beneficial ownership disclosure is an important step in building trust and confidence in the integrity of the extractive industries sector for citizens, government, industry players and providers of finance both domestic and international. The demands for increased transparency from international investors and finance providers are growing. At the same time, there is more focus on the beneficial ownership of companies globally as governments seek to clampdown on tax evasion, corruption and money laundering. There is a global trend towards disclosure of the beneficial owners of companies. As Azerbaijan continues to attract investment and

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<sup>5</sup> <http://e-qanun.az/framework/39116>

## FINAL

financing to its oil, gas and mining sectors, it will want to meet the expectations of greater transparency, including the beneficial owners of companies operating in the extractive industries sector. Azerbaijan has been and will be in competition with many other countries to attract such investment and financing, and countries that offer more transparency are likely to be more successful in doing so.

- 1.5. Beneficial ownership refers to natural persons who directly or indirectly ultimately own and derive financial benefit from a company or commercial activity. There is no single global standard of beneficial ownership disclosure. There are various detailed definitions available and this project includes developing an appropriate definition for Azerbaijan.
- 1.6. This allows stakeholders to ascertain who really benefits from revenues generated by extractive industries or controls companies involved in the sector and enhances accountability. Beneficial ownership disclosure prevents the true beneficiaries of extractive industry revenues from hiding behind opaque shell companies or using complex corporate or other legal structures to avoid the reporting of income, to evade tax obligations, to disguise conflicts of interest or engage in money laundering activities, corrupt practices, or financing criminal practices or violent activities, including terrorism. Beneficial ownership disclosure also allows stakeholders to obtain a clear view of who is investing in the extractive sector and any links to politically exposed persons (PEPs).
- 1.7. Beneficial ownership disclosure is still evolving as a concept. Throughout the assignment, the Consultants will monitor developments in internationally accepted good practice. Where relevant these will be reflected in the deliverables. Many countries, including Azerbaijan, have introduced the concept of beneficial ownership into their legislation as part of anti-money laundering laws. However, public disclosure of this information for companies engaged in the extractive industries sector can bring further benefits through enhancing governance and accountability in the sector.
- 1.8. This report reflects the Consultants' views on the delivery of the project in line with the TORs, as informed by the Inception Mission. Having set out some of the findings from initial stakeholder meetings in Baku, it works through the key elements of the project, being the objectives, the scope, and the project methodology to be employed. It also sets out the deliverables and deadlines.

## 2. Key Findings from the Inception Mission

- 2.1. The Consultants carried out an Inception Mission to Baku 25-28 June 2018, during which they met the ADB team, and discussed the scope and delivery of the project, in accordance with the TORs.
- 2.2. During the Inception Mission, meetings took place with a range of stakeholders from government, industry and civil society, to gather initial views on the project. The Consultants met with:
  - SOFAZ
  - EITC Secretariat
  - Ministry of Energy
  - Ministry of Finance
  - Ministry of Economy
  - BP
  - Total
  - Centre for Support of Economic Initiatives
  - Caspian Barrel
  - British Embassy
  - EBRD
  - World Bank
- 2.3. The main themes that emerged from these meetings were:
  - the noticeable broad-based support for Azerbaijan to continue implementing the RBOD in line with international good practices and based on internationally accepted principles, such as the core principles of the Extractive Industry Transparency Initiative (EITI);
  - Azerbaijan's need across the economy to access international finance and investment in support of sustainable economic development being a key driver for greater transparency, including beneficial ownership;
  - the generally shared understanding that beneficial ownership should focus on upstream and midstream activities in the extractive industries, i.e. the exploration, development, extraction, transmission and export of oil, gas and minerals; and
  - the acknowledgement that, despite the broad-based support, there nonetheless may be some challenges to implementing the public disclosure of beneficial ownership for Azerbaijan's extractive industries and, therefore, the need to develop realistic expectations about the achievable level of sector transparency.



### 3. Objectives

- 3.1. Based on the agreed TORs, the overall objective of this assignment is to support Azerbaijan's EITC to implement its RBOD. Taking into account the TORs and the key findings of the Consultant's Inception Mission, the assignment will provide:
- a beneficial ownership definition, including thresholds based on international good practice and supported by consultation with stakeholders;
  - a recommended level of detail of beneficial ownership information for disclosure that is consistent with the Constitution of the Republic of Azerbaijan and any other relevant legislation, including on the protection of personal data and asset disclosure mechanism for PEPs in extractive projects that prevent potential conflict of interest in licensing;
  - a recommended mechanism for data collection and disclosure (beneficial ownership registers and other existing platforms) and for maintaining the accuracy of the data;
  - a recommended process for verification of the accuracy of the data as supplied by companies as well as effective sanctions for non-reporting or inaccurate reporting;
  - draft amendments to existing legislation and regulation to facilitate beneficial ownership disclosure in line with international good practice and supported by relevant stakeholders based on consultative processes; and
  - an awareness raising campaign to enhance understanding of beneficial ownership and the benefits of disclosure amongst stakeholders including government officials, legislators, extractive industries executives, civil society representatives, journalists and academics.
- 3.2. Establishment of a beneficial ownership disclosure regime through implementation of the RBOD will allow Azerbaijan to demonstrate continued leadership in the area of transparency in relation to the extractive sector. Furthermore, it will allow stakeholders to gain access to information on who is investing in the extractive industries and it will enhance governance of the sector in Azerbaijan. Enhanced governance should give all stakeholders, including investors, financiers and citizens, increased confidence in the overall integrity of the extractive sector.

## 4. Scope

- 4.1. Based on the agreed TORs, the Consultants will develop options for the scope of beneficial ownership reporting in Azerbaijan. Taking into account the TORs and the key findings of the Inception Mission, the Consultants will consider a broad range of potential solutions. These will be narrowed down via stakeholder engagement and interactive consultation/validation processes.
- 4.2. These processes will result in an agreed beneficial ownership definition, thresholds, and applicability (i.e. which companies will be subject to beneficial ownership declaration).
- 4.3. Pending the outcome of these processes, examples of companies that are likely to be in scope, include those:
  - applying for licenses to explore, develop or produce oil, gas or minerals;
  - undertaking the exploration for oil, gas or minerals;
  - developing oil, gas or mineral resources;
  - producing oil, gas or minerals;
  - exporting oil, gas or minerals, including companies that operate export pipelines;
  - purchasing state interests/shares in oil, gas and minerals production;
  - contracting with each other to perform any of the foregoing activities; and
  - entering into engineering, procurement and construction (EPC), operation and maintenance (O&M) and other material long-term services contracts in relation to performing any of the foregoing activities.
- 4.4. The assignment's scope will focus on the upstream and midstream sectors and will not include downstream companies, e.g. involved in the distribution and marketing of refined oil, gas or mineral products within Azerbaijan.

## 5. Methodology

5.1. Based on the agreed TORs and taking into account key findings of the Inception Mission, the methodology for this assignment will be based on:

- desktop research of international good practice in beneficial ownership disclosure including definitions and legislation;
- review of relevant existing Azerbaijani legislation, practice and processes;
- engagement with wide range of stakeholders, including government, legislators, companies, civil society and academics, both in Azerbaijan and in countries that have developed or are implementing similar beneficial ownership regimes;
- consultation/validation processes.

### a. Desktop Research

5.2. The desktop research will focus on identifying international good practice in defining beneficial ownership and in legislating for disclosure. As part of this research, the Consultants will consider the experience of a number of countries that are already implementing beneficial ownership disclosure regimes for the extractive industries sector. The Consultants have identified a number of comparator countries and territories for this assignment and sources of beneficial ownership legislation. The comparator countries chosen, satisfy at least two of the following criteria:

- meeting the definition used by the International Monetary Fund (IMF) for a resource rich country, i.e. a country where the extractive sector accounts for either at least 25% of fiscal revenues or at least 25% of total exports<sup>6</sup>;
- implementing a beneficial ownership disclosure regime based on legislation;
- having achieved a level of economic development that is similar to or exceeding that of Azerbaijan.

5.3. The countries and territories used to understand international good practice may include: Australia, Kyrgyz Republic, Mongolia, UK, Ukraine, and Zambia. This may include both EITI implementing

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<sup>6</sup> p2, note 8: <http://www.imf.org/external/np/pp/2007/eng/101907g.pdf>

countries and those outside of EITI. In addition, the Consultants will look at the approach to beneficial ownership from a number of international institutions including the European Union (EU), United Nations (UN), World Bank, Organisation for Economic Co-operation and Development (OECD) and the Financial Action Task Force (FATF).

## **b. Review of Azerbaijani Legislation**

5.4. The review of relevant Azerbaijani legislation and regulation will consider existing provisions that could either facilitate or impede beneficial ownership disclosure. The review will include the following.

- The Constitution of the Republic of Azerbaijan  
The Constitution of the Republic of Azerbaijan and certain other constitutional laws (including the Law on Normative Legal Acts) shall be considered in order to understand the legislative process in Azerbaijan.
- Personal data and privacy laws  
Personal data and privacy laws shall be reviewed to identify whether any disclosure of beneficial ownership might contradict protection requirements of personal data and privacy legislation.
- Laws and regulations governing company registration and maintenance of the state register of commercial legal entities  
Review of legislation on company registration and maintenance of the state register of commercial legal entities. The Consultants current understanding is that these constitute impediments for public disclosure of beneficial ownership.
- Tax laws  
The Tax Code of the Republic of Azerbaijan explicitly considers the information on shareholders of a company and their ownership share to be confidential.
- Financial reporting and anti-money laundering laws  
Review of legislation in this area is important as Azerbaijani anti-money laundering laws contain a definition of the beneficial ownership.
- Government procurement laws  
Review of public procurement legislation is important to determine whether and to what extent the disclosure of beneficial ownership is required in the course of public procurement procedures in Azerbaijan.
- Oil, gas and mineral exploration and exploitation laws

## FINAL

It is important to review specific legislation applicable to the extractives sector in order to consider how requirements on beneficial ownership disclosure can be imbedded in relevant specific laws, i.e. with regard to licensing.

- Commercial secrecy laws  
At present information on shareholders of a company and their ownership share is considered a commercial secret by Azerbaijani laws.

5.5. The Consultants will draft amendments to existing legislation and regulation to facilitate beneficial ownership disclosure in line with international good practice and supported by relevant stakeholders based on consultative processes. For example, the Tax Code and subordinate legislation will be among legal acts to be reviewed to remove obstacles to beneficial ownership disclosure in Azerbaijan.

### c. Stakeholder Engagement

5.6. The Consultants will engage with a wide range of relevant stakeholders to undertake this assignment. The objectives of this engagement are:

- raising awareness of the concept and benefits of beneficial ownership disclosure as well as international good practice in this area;
- identifying factors that will encourage the implementation of beneficial ownership disclosure;
- identifying potential obstacles to beneficial ownership disclosure; and
- obtaining their buy-in to implementing the RBOD.

5.7. The Consultants will engage with the following stakeholders:

- **SOFAZ**, the implementing agency for the RBOD project and which is championing transparency in the extractive sector;
- **EITC and its Secretariat**. This is the key agency driving forward measures to increase transparency and will play an important role in facilitating the RBOD project;
- **Ministry of Energy**, as it sets and implements energy policy in the country. The Deputy Minister is a member of the EITC;
- **Ministry of Taxes**. The ministry is responsible for maintaining the current register of companies and could play an important

## FINAL

role in the implementation of beneficial ownership disclosure. The Deputy Minister is a member of the EITC;

- **Ministry of Economy.** The ministry oversees economic policy and is represented on the EITC;
- **Ministry of Ecology and Natural Resources.** The ministry is responsible for policy relating to mineral extraction and so is an important stakeholder in extractive industry transparency. It is represented on the EITC;
- **Ministry of Finance.** The ministry is the executing agency for this project and is represented on the EITC;
- **State Statistics Committee.** The EITC is working with the Committee to mainstream the reporting of extractive industry data and so it may play a role in implementing beneficial ownership disclosure;
- **SOCAR.** As the state-owned oil and gas company and responsible for the industry in the country, it is a key stakeholder in the project. SOCAR will benefit from beneficial ownership disclosure through greater knowledge of the investors in the sector and its ability to access international finance;
- **All international oil, gas and mining companies engaged in exploration or production in Azerbaijan.** These companies are likely to be in scope for disclosure of their beneficial owners and will also benefit from disclosure due to increased knowledge about who they are doing business with in the sector;
- **All domestic companies engaged in the exploration and extraction of oil, gas and minerals in Azerbaijan.** These companies are also likely to be in scope for disclosure of their beneficial owners and will also benefit from disclosure due to increased knowledge about who they are doing business with in the sector;
- **Major international and domestic EPC, O&M and other long-term services contractors** entering into contracts with foreign and domestic investors and consortiums active in Azerbaijan's extractive industries and any **other companies undertaking activities listed above.** Such companies may also be considered for inclusion in the scope for beneficial ownership disclosure;
- **Civil society organizations.** There are 44 organizations that are engaged with the EITC. They are potential end users of

## FINAL

beneficial ownership disclosure. The Consultants will seek to engage with these organizations;

- **Chambers of Commerce** in Azerbaijan, as they form an important communication channel with companies active in the extractive sector and can play a role in awareness raising;
- **Journalists who specialize in covering the oil, gas and mining sector.** As well as being potential end users of beneficial ownership disclosure, they will also play a role in awareness raising for the project;
- **Academics whose research covers relevant subjects.** They are also potential end users of beneficial ownership disclosure and will also play a role in awareness raising for the project;
- **International financial institutions**, comprising multilateral, regional, bilateral institutions, public and private lenders, guarantors, insurers, etc. who may be a source of funding for major projects in future and may require beneficial ownership disclosure for their own know-your-client (KYC) and integrity due diligence requirements (IDD).

5.8. This engagement will take place through a combination of one-on-one meetings, workshops for specific groups of stakeholders (e.g. company representatives), provision of written briefings, e-mail and video conferencing. The Consultants have prepared, and plan to periodically update, the draft Q&A Matrix for Supporting the Implementation of the Roadmap for Beneficial Ownership Disclosure for the Extractive Industries in Azerbaijan (see Appendix 3). The Consultants recommend that this is posted on the EITC website to proactively encourage stakeholder engagement.

### d. Consultation Exercises

5.9. As set out in the TORs and confirmed in discussions with SOFAZ during the Inception Mission, the Consultants will undertake two consultation exercises as part of this assignment (see below, Section 6). The first exercise will consult stakeholders on the proposed definition for beneficial ownership. The second exercise will focus on the proposed legislative amendments to implement a beneficial ownership disclosure regime.

5.10. Each of these consultation exercises will consist of:

- provision of written reports in English and Azerbaijani to stakeholders setting out the proposals subject to consultation. The proposals will include a range of options for both beneficial ownership and draft legislation. These consultation documents will be made publicly available;

## FINAL

- requests for written feedback in the form of responses on specific issues, to provide structure to the consultation process;
  - clear timetables for return of feedback including sufficient time for stakeholders to review the proposals and submit feedback;
  - workshops and briefings to explain proposals to stakeholders and collect verbal feedback;
  - pro-active engagement with key stakeholders to solicit a better understanding of their individual and common interests and feedback on the proposals;
  - reaching a durable agreement position on each key decision;
  - reports setting out the results of the feedback including commentary on the feedback received (see below Deliverables and timetable for details on the consultation exercises reports).
- 5.11. For the first consultation (on the definition), the Consultants plan to hold a workshop in the first half of November 2018. All relevant stakeholders will be invited to attend and to provide feedback. A similar event for the second consultation on draft legislative amendments is tentatively scheduled to take place in mid-2019. This consultation is likely to be more technical in nature, and this will be reflected in the stakeholders taking part.
- 5.12. While reaching a durable agreement through successful consultation would be ideal, the Consultants will also suggest options for ultimate decision making (i.e. if no consensus can be reached amongst stakeholders) based on other experiences and within local legal context of Azerbaijan.



## 6. Deliverables and Timetable

- 6.1. As per the TORs, the key deliverables are a series of reports (numbered I-IX) each addressing an aspect of the assignment. While Tim Law and Michael Barron (see Appendix 2) will act as overall team leaders for the assignment, each report will have a lead consultant who will be responsible for coordinating input, overseeing drafting and final production. Each report will be written in English with an Azerbaijani translation to follow as soon after delivery as feasible.
- 6.2. Table 1 below sets out a proposed timetable for delivery of each report. Please note, the Consultants propose advancing the deadline for Report III and Report VI by four and seven weeks respectively from the deadline in the TORs. Some of the preparation work for both these reports will be undertaken alongside earlier activities in the project. Advancing the deadlines also allows more time for the subsequent consultation exercises. The Consultants believe it is prudent to allow more time for both consultations, as many stakeholders will be unfamiliar with the detailed implications of beneficial ownership disclosure.

**Table 1: Summary of timetable**

Project Timetable			
Reports	TOR Date	Proposed Date	Weeks early
<b>Report II: Good Practice Report</b>	Fri 27/7/18	Fri 27/7/18	0
<b>Report III: Draft Definitions</b>	Wed 31/10/18	Sun 30/9/18	4
<b>Report IV: Report on consultation</b>	Fri 30/11/18	Fri 30/11/18	0
<b>Report V: Report on Draft Mechanism</b>	Thu 31/1/19	Thu 31/1/19	0
<b>Report VI: Draft legislation</b>	Fri 31/5/19	Mon 15/4/19	7
<b>Report VII: Report on consultation</b>	Sun 30/6/19	Sun 30/6/19	0
<b>Report VIII: Outcomes of awareness raising</b>	Sat 31/8/19	Sat 31/8/19	0
<b>Report IX: Final Report</b>	Thu 31/10/19	Thu 31/10/19	0

- 6.3. The Consultants will provide ADB with a written monthly progress updates. A template for this report is attached as Appendix 4.
- 6.4. Table 2 below sets out a summary of each of the reports I-IX. The table identifies the lead consultant for each report, provides a summary of its contents and the key activities to be completed.
- 6.5. Once accepted by ADB, ADB will submit each final draft report for review and comments to SOFAZ, where appropriate presenting it with a set of options for SOFAZ to consider as a means of implementing its roadmap and meeting international good practice.

## FINAL

SOFAZ will likely seek feedback from other relevant stakeholders in providing its comments and/or indicating its preference for a particular option. However, the Consultants will set out a recommended course of action in each case and identify next steps.

**Table 2: Summary of deliverables**

Project Deliverables			
Deliverable	Lead consultant	Summary of contents	Activities
<b>Report I: Inception Report</b>	MB	Introduction to the project Project methodology based on Inception Mission Project plan and timetable	Inception mission Initial stakeholder meetings
<b>Report II: Good Practice Report (27/7/18)</b>	MB	BO models in use or being developed at national and supra-national levels Key elements in a BO regime International good practice	Research models for BO disclosure Analyze BO models Produce analysis of international good practice
<b>Report III: Draft Definitions (30/9/18)</b>	JH	Summary of current national legislation A range of options for definitions and scope that reflect the range of international good practice, supported by recommendations Companies and individuals in scope for disclosure	Review Constitution and current legislation Stakeholder engagement and guidance Draft options for BO definition and scope Draft list of types of company and individuals in scope Provide guidance to enable decision process
<b>Report IV: Report on consultation (30/11/18)</b>	MB	Consultation process agenda  Details of participants in the consultation and the key themes Matrix of feedback received Commentary on feedback	Distribution of Report III as consultation document with description of process and timeframe Conduct of stakeholder briefings, workshops and meetings Follow up engagement Collection and analysis of feedback
<b>Report V: Report on Draft Mechanism (31/1/19)</b>	TL	Proposed reporting mechanism A range of options for mechanisms that reflect the range of international best practice, supported by recommendations Proposed verification process  Outcome of engagement with Ministry of Taxes, other public bodies and relevant stakeholders	Draft reporting template Generate a list of options for collection, validation, and reporting of data, as well as options for a penalty regime for non-compliance. Stakeholder engagement on draft mechanism, template and verification Analysis of feedback from stakeholder engagement
<b>Report VI: Draft legislation (15/4/19)</b>	SA	A range of options for proposed legislative amendments and penalties	Produce draft legislative amendments and penalty regime for implementation of BO disclosure
<b>Report VII: Report on consultation (30/6/19)</b>	SA	Consultation process agenda  Details of participants in the consultation and the key themes Matrix of feedback received Commentary on feedback	Distribution of Report 6 as consultation document with description of process and timeframe Conduct of stakeholder briefings, workshops and meetings Follow up engagement Collection and analysis of feedback
<b>Report VIII: Outcomes of awareness raising (31/8/19)</b>	MB	Description of all awareness raising activities undertaken Matrix of feedback received Evaluation of feedback Impact of awareness raising activities	Recording of activities throughout assignment Recording of all feedback received Collection and analysis of feedback Gathering of evidence on impact
<b>Report IX: Final Report (31/10/19)</b>	TL	Summary of Reports II-VIII  Findings from assignment Recommendations	Analysis of all activities, stakeholder engagement and feedback Produce findings and recommendations

## 7. Limitations

7.1. The Consultants have considered what might prove to be the key limitations on this assignment. These are factors that might result in a suboptimal outcome, and reflect the Consultants' domestic and international experience, as well as the outcomes of the Inception Mission.

7.2. The key limitations identified at this stage are:

- limited initial understanding of the concept of beneficial ownership and its benefits amongst stakeholders in Azerbaijan;
- even less initial understanding of the broader benefits of transparency amongst stakeholders not previously exposed to EITI or EITC;
- availability of stakeholders for meetings and delays in responses to queries;
- timeliness and constructiveness of responses to consultation exercises;
- other changes to legislation that the Consultants will review in the course of the project, requiring them to revisit the legislation and ensure proposed amendments remain valid;
- miscommunication between stakeholders when directly communicating with each other, in the absence of the Consultants, during the period of the project; and
- direct lobbying by concerned stakeholders, outside the context of the project consultation/validation processes.

## Appendix 1: Terms of Reference and Qualifications of Consultants for Supporting the Implementation of the Beneficial Ownership Disclosure Roadmap

### A. Background

1. In December 2016, the Government of Azerbaijan (GOA), acting through the Azerbaijan Extractive Industry Transparency Initiative (EITI) Secretariat (AES) established under the auspices of the State Oil Fund of the Republic of Azerbaijan (SOFAZ), agreed and published a Roadmap for Beneficial Ownership Disclosures (RBOD) in the extractive industries in Azerbaijan in line with the 2016 EITI Standard. In January 2017, AES issued a document titled *Funding-required Activities of the RBOD in the Extractive Industries of the Republic of Azerbaijan (2017–2019)* which was approved by the Azerbaijan EITI Multi-Stakeholder Group (MSG) to guide the RBOD implementation.

2. The RBOD implementation aims at fostering further transparency in Azerbaijan's extractive industries and avoiding corruption and tax evasion by unaccountable corporate entities. Based on AES' own estimates, it was assumed that a SOFAZ funded budget of AZN 600,000 to be disbursed in three equal annual tranches of AZN200,000 each be needed to implement the following main activities:

- (i) cooperate, discuss and consult with various government authorities, business community, and civil society on developing general framework for the beneficial ownership framework and pieces of legislation;
- (ii) review international good practice, develop all necessary mechanisms and draft all necessary pieces of legislation;
- (iii) conduct capacity building on PR activities (promotion);
- (iv) establish a public register for beneficial ownership disclosure and complete other legislative and administrative works; and
- (v) conduct monitoring to oversee the implementation of the activities envisaged by the RBOD.

3. In February 2017, the Asian Development Bank (ADB) received a request from AES/SOFAZ to support the RBOD implementation by complementing the above activities (initially to be funded by SOFAZ) in the areas of identifying international good practices and drafting necessary amendments to Azerbaijan's existing legislation to enable RBOD implementation. In response to this request and as a follow-up on ADB's commitment to assist GOA with its efforts to regain compliance with the 2016 EITI Standard, ADB fielded a mission on 13–17 March 2017 to discuss the scope and timing of ADB's support of the RBOD implementation and to prepare Terms of References (TOR) accordingly. Immediately following the 9 March 2017 suspension of Azerbaijan from EITI, however, GOA announced its withdrawal from the EITI on 10 March 2017. Despite this development, the ADB mission went ahead and met with the Chief Executive Officer of SOFAZ, overseeing the AES responsibilities until GOA's withdrawal from EITI, Azerbaijan's Minister of Finance (MOF)/ADB Governor, and several Azerbaijan's other development partners. Both the MOF and Chief Executive Officer SOFAZ confirmed that GOA remains committed towards the revenue transparency reporting activities in relation to Azerbaijan's extractive industries.

4. On 5 April 2017, the President of the Republic of Azerbaijan signed a Decree "On additional measures to increase accountability and transparency in the extractive industries" (hereinafter referred to as "the Decree"). The Decree entails that all information on extractive industries of the country shall be disclosed to its full extent in line with international standards. The Extractive Industries Transparency Commission (hereinafter referred to as "Commission") was established pursuant to the Decree. The Commission's Secretariat (formerly AES) provides technical and organizational support to the Commission and is responsible for the arrangement of its day-to-day activities. The Commission established a

## FINAL

new framework for the implementation of transparent reporting processes, whereby all related parties, including civil society organizations (CSOs), are actively involved. During several meetings with CSOs held to date, the Commission underscored the unconditional involvement of civil society in these processes, including the engagement of independent and specialized audit companies for the collection and inspection of the reports. All issues related to transparency in extractive industries of the country, including the RBOD implementation activities, are discussed with involvement of all stakeholders.

### **B. Objectives**

5. Based on the above background, additional research on international good practice, and the relevant legal and administrative framework of the Republic of Azerbaijan, the consultant team will support the RBOD implementation activities of the Extractive Industries Transparency Commission, including the consultation processes with relevant stakeholders. The following key areas will particularly be supported:

- (i) preparation of drafts amendments to relevant legislation and support of consultations with relevant stakeholders, as needed;
- (ii) drafting of a beneficial ownership definition consistent with the legal system of the Republic of Azerbaijan and support of consultations with relevant stakeholders, as needed;
- (iii) identification of adequate level of detail of beneficial ownership information to be collected and disclosed consistent with the Constitution of the Republic of Azerbaijan and the Law of Personal Data of the Republic of Azerbaijan;
- (iv) identification of appropriate and accessible mechanisms for data collection;
- (v) ensuring of data accuracy provided by companies, including timeliness; and
- (vi) supporting awareness raising measures to ensure that the public, the industry, and CSOs are well informed about the initiative.

### **C. Activities<sup>7</sup>**

6. The consultant team shall:

- (i) conduct research on international good practice;
- (ii) review the Constitution of the Republic of Azerbaijan and other relevant legislation and propose an adequate level of detail to be collected and disclosed;
- (iii) conduct consultations with government agencies, extractive industry companies, their contracting business partners, Commission and CSOs to identify the entities that should be subject to the RBOD implementation;
- (iv) draft the beneficial ownership definition, including, but not limited to:
  - (a) ownership percentage thresholds;
  - (b) direct and indirect ownership;
  - (c) range of extractive industry companies, including suppliers, contractors, and service providers that must be covered by this definition; and
  - (d) references to individuals (as opposed to other legal persons), including politically exposed persons (PEPs), who qualify as ultimate beneficial owners of such legal persons;

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<sup>7</sup> With respect to activities (xi), (xii) and (xiii), the consultant shall consider two alternative options for establishing the legal framework of the RBOD implementation: (a) amend all relevant existing legislation and/or regulation; or (b) enact a new RBOD implementation law that is ringfenced from any existing impeding legislation/regulation.

## FINAL

- (v) identify the types of companies and their shareholders and officers, including PEPs, who would be required to submit beneficial ownership information in accordance with the proposed beneficial ownership definition;
- (vi) develop a “National Beneficial Ownership Declaration Form;”
- (vii) coordinate with Ministry of Taxes in charge for the organization, legal establishment and oversight of a Public Beneficial Ownership Register (PBOR), including establishing PBOR’s reporting and auditing responsibility, independence, accountability, etc.;
- (viii) identify an appropriate mechanism for companies and individuals to assure the data in the beneficial ownership declarations prior to data collection;
- (ix) consider the documentary list that should be incorporated into the proposed legislative amendments to verify information submitted to PBOR;
- (x) consultations with government agencies, extractive companies and CSOs about data assurance and integrity mechanisms;
- (xi) identify and prepare necessary amendments to relevant legislation to ensure successful implementation of the RBOD, including, but not limited to:
  - (a) the Law of the Republic of Azerbaijan on Subsoil to introduce a definition of beneficial ownership and specify the process on disclosure of beneficial ownership;
  - (b) the Law of the Republic of Azerbaijan on Registration of Legal Entities to incorporate the beneficial ownership disclosure mechanisms in to the existing register of commercial legal entities kept by the Ministry of Taxes; and
  - (c) the Law of the Republic of Azerbaijan on Commercial Secret to ensure that disclosure of beneficial ownership in the extractive industry is not prohibited and not covered by the definition of “commercial secret;”
- (xii) draft legislation introducing administrative and criminal liability and penalties for submissions of incomplete, inaccurate and/or dated information to the public beneficial ownership register;
- (xiii) support the consultation process with Parliament, relevant government agencies, Commission, and CSOs and incorporate (as needed and acceptable) comments received to the draft legislation;
- (xiv) support awareness raising measures on the beneficial ownership reforms; and
- (xv) conduct any other tasks that may be required to satisfactorily conduct the assignment.

7. An international consulting firm will be engaged using quality- and cost-based selection method with Biodata technical proposal. The firm will support design and implementation, implement evaluation and knowledge management activities, ensure compliance with all policy actions, and undertake program administration, disbursements, and maintenance of all project records. The firm will coordinate its tasks with the ADB project officer, the consulting team and the project government partners.

8. The firm will be responsible for making working arrangements with the EA, and for the coordination with a newly established Commission, extractive industry companies, as well as CSOs, to oversee the implementation of the program.

9. The firm is an internationally reputable firm with at least 10 years of relevant experience with beneficial ownership disclosure systems. Relevant experience in the extractive industries, including in EITI related work, as well as in working in Azerbaijan, other countries in Central and West Asia, or other regions is preferable.

10. It is envisaged that the firm will organize and oversee the project management and consultant team comprising two (2) international and two (2) national specialists. As part of the contract negotiations, a payment modality will be agreed that will distinguish between

## FINAL

output-based and time-based activities. The payment for activities with no or low dependency on GOA counterparts will be output-based while the payment for activities with medium or high dependency will be time-based. The deliverables listed in Table 1 below are classified accordingly. The consultant team will manage day-to-day project implementation, provide technical and managerial oversight, and provide technical guidance. A total of fourteen (14) person-months of international and twenty-two (22) person-months of national consultants is expected to be required, as follows:

### **1. Senior Extractive Industry Transparency Specialist and Team Leader (international; 8 person-months; intermittent)**

11. The international Senior Extractive Industry Transparency Specialist and Team Leader will support the government and other relevant stakeholders regarding the implementation of the RBOD. The expert will be responsible for leading the policy dialogue and supporting the consultations on future adjustments to the RBOD implementation to comprise not only the extractive industries, but also the contracting business partners of extractive industries.

12. The Specialist/Team Leader will monitor and support the implementation of the RBOD and will prepare knowledge products on good practice documentations on the first national extractive industry transparency country system established outside of the Extractive Industry Transparency Initiative (EITI) for use in global knowledge events. He/she will:

- (i) lead the discussions on:
  - a. defining the range of extractive industry companies, including national suppliers that must be covered by this definition; and
  - b. developing of a “RBOD Form” and legal establishment of a Public Beneficial Ownership Register.
- (ii) will identify the scope of companies and their officers who would be required to submit beneficial ownership information;
- (iii) conduct consultations with government agencies, extractive industry companies and their suppliers, and civil society organizations to identify the entities that should be covered and identify an appropriate mechanism for companies to assure the data in the beneficial ownership declarations prior to data collection;
- (iv) consult with government agencies, extractive companies, and CSOs on data assurance and integrity mechanisms;
- (v) support awareness raising measures on the beneficial ownership reforms;
- (vi) monitor and document the developments regarding beneficial ownership global standards (including those specified in accordance with the EITI 2016 Standard), as well as good beneficial ownership practices in other countries in, for example, Europe and Central and West Asia;
- (vii) provide, in the role of team leader, technical oversight and keep direct contact with ADB and the client;
- (viii) be responsible for team supervision and administration of the technical assistance funds, including signing agreements with GOA counterpart agency and contracts with other relevant parties in accordance with approved guidelines, monitoring and reporting on project performance;
- (ix) will assist the ADB project officer in problem solving and coordinating with the client and stakeholders;
- (x) conduct strategic oversight of the program implementation and provide overall technical backstopping to the team;
- (xi) conduct at least three (3) visits to Azerbaijan;

## FINAL

- (xii) be responsible for the reporting on the project and will routinely extract lessons learned from the project;
  - (xiii) ensure that good practices are documented and widely disseminated in coordination with the project officer and the Governance Thematic Group of ADB; and
  - (xiv) conduct any other tasks that may be required for satisfactorily conducting the assignment.
13. The Specialist/Team Leader will have:
- (i) a master degree in Economics, Business Administration, Engineering, Political Science, or related field;
  - (ii) at least eight (8) years of relevant international experience in the extractive industries;
  - (iii) a solid understanding of due diligence and transparency requirements in the extractive industries and long-term experience with managing multidisciplinary teams; and
  - (iv) good team building and intercultural skills.
14. Azeri or Russian language skills are desirable.

### **2. Legal Counsel<sup>8</sup> (international; 6 person-months; intermittent)**

15. The international Legal Counsel will support the client, and other stakeholders regarding the activities related to legal amendments needed to implement the RBOD. He/she will:
- (i) identify main amendments to relevant legislation needed, drawing on international experience and the legal system of the Republic of Azerbaijan;
  - (ii) prepare drafts of the amendments;
  - (iii) support the consultation process of the client with relevant government agencies and the Parliament, i.e., incorporate comments received in the draft legislation;
  - (iv) draft the beneficial ownership definition and will propose an adequate level of detail to be collected and disclosed;
  - (v) support the legal establishment of a Public Beneficial Ownership Register;
  - (vi) identify an appropriate mechanism for companies to assure the data in the beneficial ownership declarations prior to data collection;
  - (vii) consider the documentary list that should be incorporated into the proposed legislative amendments to verify information submitted to the public register;
  - (viii) closely coordinate with GOA, other members of the consultant team, and other relevant stakeholders on all steps;
  - (ix) monitor and document changes on legal standards regarding beneficial ownership and good global legal beneficial ownership practices;
  - (x) lead on knowledge products on legal issues and legal sections of project reports;

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<sup>8</sup> The consultant shall consider two alternative options for establishing the legal framework of the RBOD implementation: (a) amend all relevant existing legislation and /or regulation; or (b) enact a new RBOD implementation law that is ringfenced from any existing impeding legislation/regulation.



## FINAL

- (xi) conduct at least 3 visits to Azerbaijan; and
  - (xii) conduct any other tasks that may be required for satisfactorily conducting the assignment.
16. The international Legal Counsel will have:
- (i) a Law degree and long-term experience with legal drafting;
  - (ii) at least eight (8) years of relevant international experience;
  - (iii) prior relevant experience with EITI or a similar multilateral body, beneficial ownership issues, regulatory impact assessments; and
  - (iv) good team and intercultural skills.
17. Azeri or Russian language skills and relevant experience in the extractive industries are desirable.

### **3. Legal Counsel and/or Extractive Industry Transparency Specialist<sup>9</sup> (national; 14 person-months; intermittent)**

18. The national Legal Counsel will support the client, and other stakeholders regarding the activities related to all activities needed to implement the RBOD, including the legal drafting. The expert will:
- (i) coordinate the stakeholder consultation process jointly with the client;
  - (ii) support the preparation, implementation, administration, and documentation of consultation events;
  - (iii) closely coordinate with the project officer and the finance and operations specialist to ensure that ADB administrative requirements are met;
  - (iv) support the preparation of legal documents, position papers, and knowledge products, as needed; and
  - (v) conduct any other tasks that may be required for satisfactorily conducting the assignment.
19. The national Legal Counsel will:
- (i) be a national of Azerbaijan;
  - (ii) have a Law degree or other relevant degree and long-term experience with legal drafting and/or support of the EITI process in Azerbaijan;
  - (iii) have at least five (5) years of relevant experience; and
  - (iv) good team and intercultural skills.
20. Relevant experience in the extractive industries and the EITI implementing country processes is preferable.

### **4. Finance and Operations Specialist (national; 8 person-months; intermittent)**

21. The Finance and Operations Specialist will provide finance and accounting functions for the project. The expert will:

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<sup>9</sup> The consultant shall consider two alternative options for establishing the legal framework of the RBOD implementation: (a) amend all relevant existing legislation and/or regulation; or (b) enact a new RBOD implementation law that is ringfenced from any existing impeding legislation/regulation.

## FINAL

- (i) ensure that ADB's financial management policies are properly implemented and that all transactions are properly processed, recorded, and reported on time;
  - (ii) prepare cost estimates for events and obtain approval from project officer;
  - (iii) support conduct and documentation of events; and
  - (iv) conduct any other tasks that may be required for satisfactorily conducting the assignment.
22. The Finance and Operations Specialist will:
- (i) be a national of Azerbaijan;
  - (ii) have demonstrated knowledge, skills and at least ten (10) years of relevant experience in finance administration and reporting, accounting transactions, and budgeting; and
  - (iii) have good team and intercultural skills.
23. Relevant experience with development partner projects and in the extractive industries is preferable.

### D. Implementation Schedule and Reporting Requirements

24. In relation to the RBOD implementation, the TA activities are expected to commence on 7 June 2018 and to be completed by 31 October 2019 (16 months and 2 weeks). The proposed TA implementation schedule is specified in Table 1 below.

**Table 1: Technical Assistance Implementation Schedule and Reporting Requirements**

Milestone	Deliverable(s)	Expected Completion Date	Lumpsum Payment
0. Mobilization	All TA consultants mobilized	2 June 2018 (actual)	5%
1. Consultant Team Mobilization	<b>Report I:</b> Inception Report	13 July 2018 (was 6 July 2019)	10%
2. Research on international good practice for beneficial ownership disclosure (activity (i) as specified in para 6 above)	<b>Report II:</b> Good practice report, including on prevailing beneficial ownership definitions	27 July 2018	
3. Draft beneficial ownership definition drawing on research and review of the Constitution and other relevant legislation and stakeholder consultations (activities (ii), (iii), (iv) and (v) as specified in para 6 above)	<b>Report III:</b> Report on: <ul style="list-style-type: none"> <li>proposed beneficial ownership definition, including ownership percentage thresholds; direct and indirect ownership; range of extractive industry companies, including suppliers, contractors and service providers that must be covered by the definition; and references to individuals who qualify as ultimate beneficial owners of such legal persons;</li> <li>proposed adequate level of detail to be collected and disclosed drawing on review of legislation;</li> <li>types of companies and their shareholders and officers, including</li> </ul>	30 September 2018 (was 31 October 2018)	15%

## FINAL

Milestone	Deliverable(s)	Expected Completion Date	Lumpsum Payment
	politically exposed persons who would be required to submit beneficial ownership information in accordance with the proposed beneficial ownership definition		
4. Consultation on draft beneficial ownership definition	<b>Report IV:</b> Report on agenda, participants, comments matrix, including how the comments have been dealt with	30 November 2018	
5. Draft Mechanisms to Establish Public Beneficial Ownership Register (activities (vi), (vii), (viii), (ix) and (x) as specified in para 6 above)	<b>Report V:</b> Report on: <ul style="list-style-type: none"> <li>• proposed draft beneficial ownership declaration form;</li> <li>• summary of agreements with other relevant government agencies on draft Public Beneficial Ownership Register; and</li> <li>• draft data assurance mechanism for companies and CSOs</li> </ul>	31 January 2019	<b>30%</b>
6. Draft beneficial ownership disclosure legislation (activities (xi) and (xii) as specified in para 6 above)	<b>Report VI:</b> Report on: <ul style="list-style-type: none"> <li>• draft amendments to relevant legislation to ensure successful implementation of the roadmap for beneficial ownership disclosure;</li> <li>• draft legislation introducing administrative and criminal liability and penalties</li> </ul>	15 April 2019 (was 31 May 2019)	<b>15%</b>
7. Consultation process on amendments (activity (xiii) as specified in para 6 above)	<b>Report VII:</b> Detailed report on agenda and participants of events and meetings, and results of consultation process, including comments matrix showing comments provided by various stakeholders on earlier drafts and how they were addressed	30 June 2019	
8. Awareness raising events on beneficial ownership (activity (xiv) as specified in para 6 above)	<b>Report VIII:</b> Detailed report on agenda, and participants of workshops and meetings, and outcomes of workshops, including comments matrix showing feedback received and how it has been addressed	31 August 2019	<b>20%</b>
9. Technical Assistance (TA) Completion	<b>Report IX:</b> Final Report	31 October 2019	<b>5%</b>
			<b>100%</b>

## Appendix 2: The Consultant Team

### A2.1 Tim Law, Engaged Consulting Ltd

*Team Leader and International Extractive Industry Transparency Expert*



Tim provides specialist advice on all aspects of tax and related transparency and governance to large businesses and policy makers. He is a qualified Chartered Accountant and tax professional and has been an expert in tax transparency for 14 years. He managed all aspects of tax and beneficial ownership discussions and reporting for Anglo American globally. As a consultant, he is a regular contributor to the transparency policy debate at a governmental and supra-governmental level.

### A2.2 Michael Barron, Michael Barron Consulting Ltd

*Team Leader and International Extractive Industry Transparency Expert*



Michael specializes in the provision of public policy and government relations services and has particular expertise in extractive industry transparency. He managed the relationship between BG Group (British Gas) and EITI, provided advice on EITI implementation in BG's countries of operation and served on the UK EITI MSG. He has provided consultancy on beneficial ownership disclosure in Ethiopia and Ghana.

### A2.3 Julian Hicks

*International Legal Expert*



Julian is a UK qualified solicitor who worked as an international extractive industries lawyer for over 25 years and also advises major UK listed companies on governance, compliance and ethical issues. Julian spent more than 12 years acting as Royal Dutch Shell's Associate General Counsel with responsibility for its operations in Russia, the CIS and Central Asia and also the middle East, North Africa and South East Asia and has advised on a wide range of ethical issues, including revenue transparency and beneficial ownership issues in a number of jurisdictions.

### A2.4 Yunis Salayev, BDO Azerbaijan

*Azerbaijani Finance Expert*



Yunis is a Fellow Chartered Certified Accountant (FCCA, UK), a Certified Fraud Examiner (CFE, US), Certified Internal Auditor (CIA, US), Certified Information Systems Auditor (CISA, US), a Member of Chartered Institute for Securities and Investment (MCSI, UK), and a licensed statutory auditor in Azerbaijan. He has been in the profession for more than 16 years.

Yunis has been the chairman of Professional Ethics Committee under the Chamber of Auditors of Azerbaijan, a non-executive member of the Board of Directors of Center for Innovations in Education, an educational charity, and a visiting lecturer at the School of Economics and Management of Khazar University in Baku.

**A2.5 Sabit Abdullayev, BDO Azerbaijan**

*Azerbaijani Legal Counsel*



Sabit is a practicing lawyer in Azerbaijan. He is a member of the Azerbaijani Bar Association and is admitted to represent clients in local courts. Sabit has an extensive experience in legislative drafting and has previously participated in various technical assistance projects delivering proposals on reforming Azerbaijani legislation to bring it in compliance with international and EU requirements.

## Appendix 3: Draft Q&A Matrix for Supporting the Implementation of the Beneficial Ownership Disclosure Roadmap for Extractive Industries in Azerbaijan dated 28 June 2018

### TO BE USED IN ANSWER TO QUESTIONS FROM INTERESTED STAKEHOLDERS

To be updated from time to time as required.

Question	Answer
1. What is beneficial ownership?	Beneficial ownership refers to natural persons who ultimately own and derive financial benefit from a company or commercial activity. There is no single global standard of beneficial ownership disclosure. There are various detailed definitions available and this project includes developing an appropriate definition for Azerbaijan.
2. What are the benefits of beneficial ownership disclosure in relation to Azerbaijan's extractive industries?	Beneficial ownership disclosure allows the public to know who owns a company or benefits from a commercial activity. It makes it easier to do business by contributing to increasing trust and confidence in the companies who are investing in or contracting with Azerbaijan's extractive industries. In addition, it allows the government to monitor who is ultimately earning how much in revenues and to ensure that related taxes, duties, etc. are collected in accordance with prevailing laws and regulations. Also, it will help improve transparency and good governance of Azerbaijan's extractive industries.
3. What is the scope of this project?	The project will consider the extractive industries in Azerbaijan only (i.e. commercial activities in relation to the exploration, development and production of oil, gas and mineral resources).
4. What is the timeframe for this project?	The project started on 1 June 2018 and is expected to be completed by 31 October 2019.
5. What will this project deliver?	This project will deliver an agreed definition of beneficial ownership in relation to Azerbaijan's extractive industries, recommended mechanisms for collecting, verifying and disseminating information (including possible web-based solutions depending on the number of companies required to register and the frequency at which they will be required to update their records), and draft legislation to facilitate beneficial ownership disclosure.
6. Why are you using international consultants for this project?	Local consultants, including a member of the Azerbaijani Bar and a partner in a local subsidiary of an international accounting firm (BDO Azerbaijan LLC), are carrying out the project in direct affiliation with international consultants with relevant experience in similar assignments in different jurisdictions. These international consultants will assist BDO and allow Azerbaijan to benefit from their knowledge about international good practice in this area.
7. What types of companies will have to report beneficial ownership information?	While no decision has been made regarding companies that would be subject to beneficial disclosure obligations, companies likely to be included engage in one or more of the following activities: <ul style="list-style-type: none"> <li>• apply for exploration licenses;</li> <li>• conduct exploration;</li> <li>• develop oil, gas or mineral resources;</li> </ul>

## FINAL

	<ul style="list-style-type: none"> <li>• produce oil, gas or minerals;</li> <li>• export oil, gas or minerals;</li> <li>• purchase the state's share of oil, gas and minerals production; and</li> <li>• jointly contract with each other to perform any of the activities stated above or related commercial activities</li> </ul>
8. Who will be able to access the information?	While aiming to improve transparency and reflecting full public disclosure as the main guiding principle, the extent of access to the beneficial ownership information will form part of the mechanisms to be agreed among relevant stakeholders during the project and ultimately to be facilitated through enacted enabling legislation and regulation.
9. How will the information be accessed?	This will also form part of the mechanisms that are to be agreed during the project implementation. The expectation is that it will be available online.
10. What implications will the disclosure of beneficial information have for commercial confidentiality?	The disclosure will not include trade secrets or proprietary information. Steps will also be taken to protect information - such as residential addresses relating to Beneficial Owners - that might prejudice the personal security of them and their families.
11. What activities will the project include?	The project will include desktop research on international good practice, review of Azerbaijani legislation, engagement with stakeholders and two consultation exercises.
12. Who are the Government of Azerbaijan sponsoring agencies?	The implementing agency is SOFAZ and the executing agency is the Ministry of Finance.
13. Why is the Asian Development Bank (ADB) funding this project?	<p>ADB has a longstanding involvement in developmental priorities as agreed between the Government of Azerbaijan and ADB, and in close consultation and coordination with its development partners. To enhance its developmental effectiveness, ADB is keen to help improve transparency and establish good governance practices. This project is part of technical assistance provided by ADB to Azerbaijan.</p> <p>For any queries, please contact Ms. Yagut Ms. Yagut Ilifat Ertenliche, Project Officer, Azerbaijan Resident Mission at <a href="mailto:yertenliche@adb.org">yertenliche@adb.org</a> or +9885588106 or Mr. Roland Pladet, Principal Finance Specialist, Energy Division, Central and West Asia Department, Manila, Philippines at <a href="mailto:rpladet@adb.org">rpladet@adb.org</a> or +6326326178.</p>
14. How can interested stakeholders engage in the consultation process?	<p>The Consultant can be contacted directly at  E-mail: <a href="mailto:beneficial.ownership@bdo.az">beneficial.ownership@bdo.az</a>  Tel: +994 12 4886610  or via EITC to address any specific queries from interested stakeholders. There will also be opportunities to respond to consultations and/or participate in plenary consultative sessions to be organized during project implementation.</p>
15. Are any presentations and/or consultations planned during project implementation?	Yes, the tentative schedule of presentations/consultations can be found at EITC website
16. Are there any good examples of beneficial ownership disclosure registers in other countries with significant extractive industries?	<p>Yes, beneficial ownership registers have been established in:</p> <ul style="list-style-type: none"> <li>• Ukraine: <a href="https://usr.minjust.gov.ua/ua/freesearch">https://usr.minjust.gov.ua/ua/freesearch</a></li> <li>• United Kingdom: <a href="https://www.gov.uk/get-information-about-a-company">https://www.gov.uk/get-information-about-a-company</a></li> <li>• Zambia: <a href="https://eiti.org/document/2015-zambia-eiti-report">https://eiti.org/document/2015-zambia-eiti-report</a></li> </ul>



## Appendix 4: Monthly Progress Report Template

### TA-9106 AZE: SUPPORTING THE IMPLEMENTATION OF THE BENEFICIAL OWNERSHIP DISCLOSURE ROADMAP (49451-001)

#### Monthly Progress Report

<b>Period:</b>		
<b>Deliverable</b>	<b>Progress (%)</b>	<b>Notes</b>
<b>Report I</b>		
<b>Report II</b>		
<b>Report III</b>		
<b>Report IV</b>		
<b>Report V</b>		
<b>Report VI</b>		
<b>Report VII</b>		
<b>Report VIII</b>		
<b>Report IX</b>		
<b>Other comments</b>		