

**MYANMAR EXTRACTIVE INDUSTRIES TRANSPARENCY
INITIATIVE (MEITI)**

SCOPING STUDY

FOR THE FIRST EITI REPORT

For the Period April 2013 - March 2014

November 2015



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LIST OF ABBREVIATIONS

ASM	Artisanal and Small-scale mining
Bbl.	Barrel
CSO	Civil Society Organisation and Central Statistical Office
DGSME	Department of Geological Service and Mineral Exploration
DHPP	Department of Hydropower Planning
EPD	Energy Planning Department - EPD (Ministry of Energy)
GAAP	Generally Accepted Accounting Principles
GOUM	Government of the Union of Myanmar
ICT	Income Corporate Tax
IFRS	International Financial Reporting Standards
INTOSAI	International Organisation of Supreme Audit Institutions
IOC	International Oil Company
IPRC	Improved Petroleum Recovery Contracts
IRD	Internal Revenue Department
IFAC	International Federation of Accountants
JV(A)	Joint Venture (Agreement)
km ²	Square kilometre
MATA	Myanmar Alliance for Transparency and Accountability (MATA)
MEB	Myanmar Economic Bank
MEITI	Myanmar EITI
MEPE	Myanmar Electric Power Enterprise
MIC	Myanmar Investment Commission
MNPED	Ministry of National Planning and Economic Development
MOE	Ministry of Energy
MOGE	Myanmar Oil & Gas Enterprise-MOGE (Ministry of Energy)
MOF	Ministry of Finance
MSG	Multi-Stakeholder Group
MGE	Myanmar Gems Enterprise
MNRMC	Minerals and Natural Resources Management Committee
MPE	Myanmar Petrochemical Enterprise
MPPE	Myanmar Petroleum Products Enterprise
n/a	Not applicable
OAG	Office of the Auditor General
PFM	Public Financial Management
PSC	Production Sharing Contract
SEE	State Economic Enterprise
SME	Small and Medium Enterprise
SOE	State-Owned Enterprise
Tcf	Trillion Cubic Feet
ToR	Terms of Reference
UMEHL	Union of Myanmar Economic Holdings Ltd.
US \$	United States dollars

EXECUTIVE SUMMARY

We have carried out a scoping study in order to set out the EITI reconciliation scope which will be used for the first Myanmar EITI report. This assignment is the first step and pre-condition to the reconciliation process.

Objective of the mission

The objective of the report is to clearly define the scope of the EITI reconciliation exercise, the Reporting Templates, the data collection process and the working schedule, in accordance with the EITI Requirements (Version 2013) and objectives agreed by the EITI Committee.

Scope of our work

In accordance with the Terms of Reference (TOR) of our mission, the reconciliation exercise for the period from 1 April 2013 to 31 March 2014 will cover:

- Oil and gas (including transportation); and
- Mining (including jade and gemstones).

Approach and methodology

We carried out our scoping study in accordance with International Standards for Related Services (ISRS 4400 Engagements to perform agreed upon procedures regarding Financial Information) as well as the Terms of Reference. The Scoping study involves:

- examining MSG's work plans, by studying all the annual reports prepared by the latter and reviewing previous pre-scoping reports and studies published by Myanmar;
- collecting and examining the contextual data and providing a descriptive overview of the extractive sector in Myanmar;
- reviewing the payments and revenues to be included in the EITI report in accordance with EITI Requirement N°4;
- selecting companies and government entities which are required to report a declaration in accordance with EITI Requirement 4.2;
- identifying revenue streams to be included in the Reporting Templates;
- reviewing the currently available information about license holders and allocation in 2013-2014 and assess the completeness and timeliness of the information;
- proposing a definition of beneficial ownership consistent with EITI requirements, and a mechanism for reporting and disclosure;
- advising the MSG on how to review the audit and insurance procedures applied by companies and state-owned enterprises (SOEs) participating in the EITI reporting process in accordance with Requirement 5.2 (b);
- advising the MSG and agreeing on the information that must be communicated by companies and SOEs to ensure the credibility of the data in accordance with Requirement 5.2 (c);
- advising the MSG on how to agree on the disaggregation level to be applied to the data which will be published;
- reviewing major Corporate Social Responsibility (CSR) programmes and social development funds at state/regional level; and
- documenting the results of the initial phase in a scoping report which will be submitted for adoption by the MSG.

Limitations to scoping work

- (i) The conclusions of our work have been based partially on data and information provided by government entities which have not been previously audited or reconciled. Checking the reasonableness and accuracy of this information are part of reconciliation exercise, not part of the scoping study.
- (ii) We did not obtain the statement of revenues collected from the extractive sector from the IRD and Custom Department.
- (iii) We did not obtain the desegregated data (by licensee) on revenue streams collected from small operators from the MoM, except for emporium data for Jade and Gemstone.
- (iv) We did not obtain the comprehensive list of Military Holding companies and their related subsidiaries.
- (v) We did not obtain the list of operators in the Gems and Jade sectors from the MoM.

Materiality approach

We understand that revenues collected from the extractive sector in Myanmar are received by the MoM and the MoE for specific payments (including all proportional levies to the production) and by the MoF from general taxation. We also understand that tax revenues collected by the MoF from private companies and SOEs operating in extractive sector may relate to activities other than extractive operations.

We also understand that IRD and the Customs Department (part of MoF) were not able to provide revenues collected from the extractive sector due to the huge number of licensees and inadequate reporting system by the government as explained in the recommendations section of this report. Therefore, the materiality level for the determination of the EITI scope was assessed on the basis of data provided by the MoM and the MoE only.

The MoM was unable to provide disaggregated data (by licensee) of revenue streams collected from small operators except for revenues collected through emporium for Jade and Gemstone. As a result, we have not been able to adequately assess the materiality for such operators.

According to the national budget, revenues collected by ministries and other departments including the MoF, represents 31.4% of the total State revenues for the fiscal year 2013-2014. Meanwhile revenues collected by SOEs including those operating under the authority of the MoM and the MoE represent 68.4% of the State revenues.

According data provided by the MoE and the MoM, Oil & Gas producers account for over 79% of non-tax revenues collected from the extractive sector.

The mining sector which represents only 21% of the receipts from the extractive sector is dominated by Gemstones and Jade producers which account for 97% of the revenue streams collected by the MoM.

EITI encourages proper record keeping in order to ensure a clear trail of payments and revenues. The low level of formalisation in the Artisanal and Small Mining (ASM) subsector is therefore a huge obstacle for the implementation of EITI. Our review of reporting and revenue management systems of Government Agencies revealed weaknesses which could constitute barriers to the full disclosure of government revenues from ASM operators and consequently the integration of the ASM subsector in the EITI process.

Based on the above we recommend the following approach for EITI scope:

For 2013-2014 EITI Report

- include all the revenues streams identified through the review of legislation without applying a materiality threshold;
- include all the operating companies in producing fields and exploration companies which made payments to MOGE in 2013-2014 without applying a materiality threshold;
- based on an analysis of non-tax revenue streams supplied by the MoM for the Gems & Jade subsector, a materiality threshold of Kyats 10 billion would cover 67% of the total payments to the Gems & Jade subsector;
- based on an analysis of non-tax revenue streams supplied by the MoM for the other minerals subsector, a materiality threshold of Kyats 0.25 billion would cover 50% of the total payments to the other minerals subsector;
- The materiality thresholds proposed above means that extractive companies making 93% of non-tax revenues collected by the MoM and the MoE will be included in the reconciliation scope;
- include all SEEs in the reconciliation scope without applying a materiality threshold;
- include all payments and transfers made by the MoM and the MoE to the MoF regardless whether they are recorded in the budget accounts or in off-budget accounts; and
- include the revenues collected for companies which have made payments below the proposed materiality thresholds through the unilateral disclosure of Government Agencies in accordance with EITI Requirement 4.2.b.

For future EITI Reports

The MSG should consider the extension of EITI reporting for future reports. Possible extension to the scope could include:

- the ASM sub-sector (before the validation) when recommended actions to remove barriers to the full disclosure of government revenues from mining sector are implemented;
- physical reconciliation: reporting and reconciling production volume figures, which would enable the reconciliation of physical volumes with financial data and would provide added depth to the EITI reporting; and
- reconcile other sectors beyond mining and oil & gas such as hydropower and fisheries.

Recommended scope of the 2013-2014 EITI Report

(i) Extractive companies

Hydrocarbon sector

We identified twelve oil and gas companies in production phase and two in exploration phase which made payments in 2013-2014. Based on the materiality approach detailed above, these companies will form part of the reconciliation exercise for the EITI Report 2013-2014.

Company	
SOE	1. MOGE
	2. Petronas Carigali Myanmar Inc
	3. TOTAL
Private companies in production	4. Daewoo International Corporation
	5. PTT Exploration & Production
	6. Goldpetrol Co Ltd
	7. MPRL E&P Pte Ltd

Company	
Partners in the producing fields	8. Nippon Oil
	9. ONGC Videsh Ltd
	10. Gail JJ India Ltd
	11. Korea Gas Corporation
Companies in exploration phase	12. UNOCAL
	13. Chinnery Assets Ltd
	14. SNOG Pte Ltd

Transport of Oil and Gas

We recommend to include all revenues collected from Andaman Transportation Limited (ATL), Moattama Gas Transportation Company (MGTC), Taninthayi Pipeline Company (TPC) and the South East Asia Crude Oil Pipeline Co, Ltd (SEACOP) through the unilateral disclosure of the MOGE and IRD.

Mining sector

For the Gems & Jade subsector, the report identified 30 companies whose tax payments to the government in 2013-2014 were over the proposed materiality threshold of Kyats 10 billion (US\$ 2.3 million), detailed as follows:

Great Genesis Gems Co., Ltd.	WINN LEI YADANA
MYANMAR IMPERIAL JADE	Myanmar Si Thu
Richest Gems Co., Ltd	111
LINN LETT WIN YADANAR GEMS	Sein Lone Taung Tan
EVER WINNER GEMS	SHINING STAR LIGHT GEMS
AUNG HEIN MIN GEMS	Khin Zaw Aung and Brothers
Wai Aung Ka Bar	Xie Family
Ya Zar Htar Ni	Aye Yar Kyauk Sein
SHWE YWET HLWAR GEMS	WAI FAMILY GEMS
Kyauk Sein Na Gar	AYEYAR YANDANAR GEMS
YADANAR YAUNG CHI GEMS	A Myo Thar Kyi Pwar Toe Tat Yay
Jade Mountain Gems	SHWE WAH MYAY (MANDALAY)
THI RAW MANI GEMS	Ya Da Nar Taung Tan
Kyaik International	NAY LA PWINT GEMS
MYAT YAMON GEMS	TREASURE WHITE LOTUS GEMS

For the other minerals subsector, the report identified 11 companies whose tax payments to the government in 2013-2014 were over the proposed materiality threshold of Kyats 0.25 billion, detailed as follows:

Companies	Type of Minerals
Eternal (Htar-Wa-Ya)	Gold
Kayah State Mining Production Co. (KMPC)	Mixed
Myanmar Pongpipat Company Limited	Tin
Nobel Gold	Gold (Au) & Associated
Tha Byu Mining Co., Ltd.	Antimoni Ore
Win Myint Mo Industries Co.,Ltd.	Lead and Zinc Concentrates
DELCO (Developers Entrepreneurs Liaison Construction Organizers Limited	Tin, Tengsten, Mixed
GPS Joint Venture Co., Ltd.	Lead Concentrates

Companies	Type of Minerals
Ngwe Yi Pale Mining Co., Ltd	Bauxite ; Coal
Max Myanmar Co., Group.	Coal ; Lime Stone Gypsum ; Lime Stone
Triple A Cement International Co., Ltd	Bauxite Coal Lime Stone

The list above should be completed by the Military Holding companies and their related subsidiaries operating in the mining sector.

(ii) Payment flows

Based on our scoping study for the sectors selected (hydrocarbons, mining, oil transportation and quarries) for the 2013-2014 reconciliation, the payment flows that will be included in the reconciliation scope are detailed in the annex 1 of this report.

(iii) Government entities

Based on the scoping study of extractive companies and payments flow selected for 2013-2014, four (4) Government Entities and six (6) SOEs would be solicited to send their Reporting Templates:

Government Entities
1. Ministry of Energy (MoE)
2. Ministry of Mines (MoM)
3. IRD
4. Customs
5. Ministry of Environmental Conservation and Forestry
SOEs
1. Myanmar Oil and Gas Enterprise (MOGE)
2. N°1 Mining Enterprise (ME1)
3. N°2 Mining Enterprise (ME2)
4. N°3 Mining Enterprise (ME3)
5. Myanmar Gems Enterprise (MGE)
6. Myanmar Pearl Enterprise (MPE)

(iv) Declaration Forms – EITI 2013-2014

The data and information categories to be disclosed in the Reporting Templates and presented in Annex 1 of this report for disclosure in respect of the 2013-2014 fiscal year are summarised in the table below:

Sheet N°	Reporting templates	Reporting entities		
		Extractive companies	SOEs	Government entities
1	Data Sheet	✓	✓	n/a
2	Declaration Forms	✓	✓	✓
3	Payments Flow details	✓	✓	✓
4	Exports / Sales Details	✓	✓	Customs (Exports)
5	Production	✓	✓	✓

Sheet N°	Reporting templates	Reporting entities		
		Extractive companies	SOEs	Government entities
6	Transport	✓	✓	n/a
7	Capital structure/Beneficial ownership	✓	✓	n/a
8	Public Participation	n/a	✓	✓
9	Social Payments Details	✓	✓	n/a
	Quasi fiscal expenditures	n/a	✓	n/a
	Register of license	n/a	n/a	✓
	Licenses/Permits allocation	n/a	n/a	✓
11	Transactions/Infrastructure provisions and barter arrangements	✓	✓	✓
12	Loans /Loan guarantee granted to Entities operating in extractive sector	n/a	✓	MoM/MoF

(v) Reliability and Credibility of Data

In order to comply with EITI Requirement 5 which seeks to guarantee the credibility of the data submitted by reporting entities, we make the following proposals:

For companies

The recommended process for companies submitting their EITI templates is as follows:

- the completed template is signed by the Chief Financial Officer or Chief Executive Officer;
- the template is stamped using the company stamp;
- the audited financial accounts are included with the template submission; and
- the company's external auditors provide a signed declaration that the audit report was prepared on the accrual-basis and is consistent with the declarations made on the cash basis in the company's template as required by EITI standards and that the audited report was prepared in accordance with international auditing standards.

For Government Entities

The recommended process for government agencies submitting their EITI templates is as follows:

- the completed template is signed by the head of the agency;
- the template is stamped using the organisation's official stamp;
- the Auditor General provides a signed declaration which confirms that the Government Agency's template conforms to the data included in its Annual Report, and that this report itself has been audited, while following international auditing standards.

(vi) Level of disaggregation

With regards to the level of disaggregation to be applied to the data, we recommend that the EITI data is presented by mining company, by Government Entity and payment flow.



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1. INTRODUCTION

1.1 Extractive Industries Transparency Initiative (EITI)¹

The Extractive Industries Transparency Initiative (EITI) is a global Standard to promote open and accountable management of natural resources. It seeks to strengthen government and company systems, inform public debates and enhance trust. In each implementing country it is supported by a coalition of governments, companies and civil society organisations working together.

The Extractive Industries Transparency Initiative (EITI) was first announced at the World Summit on Sustainable Development in Johannesburg in 2002 (the Earth Summit 2002) and was officially launched in London in 2003. EITI is currently being implemented in 48 countries in Africa, Asia, Europe and America.

The EITI Standard contains the set out of the requirements that countries need to meet in order to be recognised, as first as an EITI Candidate and ultimately as an EITI Compliant country. The Standard is overseen by the international EITI Board, with which comprises members from governments, companies and civil society organisations.

1.2 EITI in Myanmar²

Myanmar joined EITI on instructions from its President at the end of 2012. Myanmar submitted its application to become an 'EITI Candidate' country to the EITI Board in May 2014. At its 27th meeting in Mexico in early July 2014, the EITI Board approved Myanmar's candidacy application, and granted Myanmar until January 2016 to produce its first EITI Report. Myanmar has until January 2017 to meet all 7 EITI Requirements and attain 'EITI Compliant' status.

On 8 February 2014, a multi-stakeholder group (MSG) was formed to oversee EITI implementation in Myanmar. The MSG comprises 21 representatives of government, civil society organisations and the private sector. Three sub-committees have also been set up to take forward the work on reporting, outreach and communications, and work plan and governance. Further details on the MSG membership are available in the government notification letter setting up the MSG³.

¹ Source: <https://eiti.org/eiti>

² Source : <http://myanmareiti.org/what-eiti>

³ https://eiti.org/files/Annex_07052014_op.pdf

2. OBJECTIVES, APPROACH AND METHODOLOGY

2.1 Objectives

The objective of the report is to clearly define the scope of the EITI reporting process, the Reporting Templates, the data collection process and the publication schedule of the EITI report, in accordance with the EITI Requirements (Version 2013) and the objectives agreed by the MSG and its expectations.

The EITI scope approved by the MSG provided the basis for the design of Reporting Templates to be used by reporting entities for communicating payments and receipts relating to the extractive sector for the period April 2013 to March 2014.

The determination of the reconciliation scope consists in particular of:

- identifying significant revenue streams from mining, oil transportation and hydrocarbon sectors;
- identifying extractive companies which are required to prepare and submit a Reporting Template;
- identifying Government Entities which are required to prepare and submit a Reporting Template;
- preparing a Reporting Template to be completed by the reporting entities; and
- ensuring that data submitted by reporting entities are credible.

2.2 Approach

2.2.1 Opening meeting

Our fieldwork started on 22 June 2015 with a meeting with the EITI Technical Secretariat and the Technical Sub Committee during which we were able to:

- follow up on documents requested before the commencement of the fieldwork;
- define a work plan for the scoping study and reconciliation exercise;
- discuss the EITI framework and review the objectives; and
- schedule all interviews to be carried out with key government entities and companies representatives.

2.2.2 Meetings with stakeholders

We conducted interviews with key Government officials between 23 June and 3 July 2015.

During these meetings, we were able to obtain an understanding of the regulatory and fiscal framework for the extractive sector, the revenue collection process and key events that may have occurred during the period April 2013 to March 2014, including important exploration activities carried out during the year.

Accordingly, the Government Entities contacted were:

Government entities	
Ministry of Finance (Deputy Minister)	Internal Revenue Department - IRD (Ministry of Finance)
Ministry of Energy	Budget Department (Ministry of Finance)
Ministry of Mines	Treasury Department (Ministry of Finance)
Energy Planning Department - EPD (Ministry of Energy)	Customs Department
Myanmar Oil & Gas Enterprise-MOGE (Ministry of Energy)	The Office of the Auditor-General
Central Statistical Organization (CSO)	

Private Sector	
Total	Petronas
Myanmar Federation of Mining Association	
CSO	
Myanmar Alliance for Transparency and Accountability (MATA)	

2.2.3 Closing meeting

We finished our fieldwork by holding a meeting with the Technical Sub-Committee on 3 July 2015. During this meeting, we presented our preliminary findings and details of the missing information required to complete the work.

The missing information that was received after the closing meeting had been taken into account in the preparation of this report.

2.3 Methodology adopted

2.3.1 Data collection

In addition to interviews with the entities listed above, we obtained data that formed the basis of our scoping study of the mining sector in Myanmar. These documents and their sources are presented as follows:

Documents / Data	Source
Pre Scoping Study on the Implementation of the EITI (Spectrum)	MEITI National Coordination Office
Institutional and Regulatory Assessment of the Extractive Industries in Myanmar (Adam Smith)	MEITI National Coordination Office
Environmental and Land Component - The EITI Option Study (EU)	MEITI National Coordination Office
The EITI in Myanmar - Legal review report (Melinda Tun)	MEITI National Coordination Office
The Political Economy of Myanmar's EITI Process (PYOE PIN Programme)	MEITI National Coordination Office
The Burma Companies Act	MEITI National Coordination Office
Foreign Investment Law	MEITI National Coordination Office
The Law Amending the Oilfields Act, 1918	MEITI National Coordination Office
Myanmar Constitution, 2008	MEITI National Coordination Office
Myanmar Income Tax	MEITI National Coordination Office
The Petroleum Act	MEITI National Coordination Office
The Myanmar Mines Law, 1994	MEITI National Coordination Office
Statistics on the production of mineral and precious stones, export of mineral and precious stones and export/import by commodities	Central Statistical Organisation (CSO)
Selected Monthly Economic Indicators - March 2015	Central Statistical Organisation (CSO)
The Union Budget Law, 2013	Budget Department
The Union Tax Revenues (Aggregated by type of tax)	Budget Department
TOP 1000 tax payers 2013-2014	Ministry of Finance
Revenues received from the extractive companies during the Year 2013-2014 detailed by company and by revenue type	Ministry of Energy - MOGE
List of all extractive companies holding petroleum rights for the Year 2013-2014	Ministry of Energy - MOGE
Total production volume and value of production for the Year Ended 31 March, 2014 detailed by commodity and by company	Ministry of Energy - MOGE
Revenues received from the extractive companies during the Year 2013-2014 detailed by company and by revenue type	Ministry of Mines
List of all extractive companies holding mineral rights for the Year 2013-2014	Ministry of Mines
Total production volume and value of production for the Year 2013-2014 detailed by commodity and by company	Ministry of Mines

Documents / Data	Source
Statistics on reserves in minerals for the Year Ended 31 March, 2013 and 2014	Ministry of Mines
Map of mines fields in Myanmar	Ministry of Mines
Total export volumes and the value of oil/gas and solid minerals exports the Year 2013-2014 detailed by commodity and by company	Customs

2.3.2 Analysis of legal and tax documents

We examined all the documents collected in order to identify:

- taxes and charges payable by extractive companies;
- payments and sub-national transfers between SOEs and sub-national entities;
- nature and basis of the taxes and charges payable by extractive companies;
- mining titles in force and the beneficial holders;
- tax collecting entities;
- bartering arrangements and payments in kind; and
- audit and assurance practices applicable to extractive companies and Government Entities involved in the reporting process.

2.3.3 Compilation of statistics on the extractive industries

In order to identify all payment flows and public and private entities of the extractive sector, we performed the following:

- an analysis of the revenue streams flowing from the extractive sector to government agencies;
- consolidation of revenues received by flow and by entity; and
- calculation of the materiality threshold of each payment flow and each entity with regard to the extractive sector's total revenue.

2.3.4 Definition of the EITI scope

The scoping report sets out the areas to be covered, the payment flows to be reported, the extractive companies and the Government Entities which have been selected to submit a Reporting Template. In order to define the first EITI scope, we performed the following:

- identified the components of the extractive industries;
- calculated the materiality threshold for the reconciliation process;
- selected cash flows based on the provisions of the EITI Requirement 4.1 and the materiality threshold proposed in this study;
- selected companies which should submit a Reporting Template based on the provisions of EITI Requirement 4.2; and
- determined Government Entities which should submit a Reporting Template based on the provisions of EITI Requirement 4.2.

3. CONTEXTUAL INFORMATION ON THE EXTRACTIVE SECTOR

3.1. Extractive sector in Myanmar

Myanmar is richly endowed with mineral resources and is one of the largest producers and exporters of jade. In 2013, Myanmar produced a variety of mineral commodities, including natural gas, petroleum, coal, copper, precious and semi-precious stones, tin, tungsten, and zinc.

According to the Central Statistical Organisation, gas accounted for 29% of exports and gemstones for 10% of exports in FY April 2013 – March 2014 and the extractive sector is the second largest source of foreign direct investment. The Central Statistical Organisation reported total sales of gas amounting to US \$3.3 billion in 2013-14, up from US \$580 million in 2003-04. Official revenues from gem stones sales in 2014 were estimated at US \$3.4 billion (Myanmar Gems Emporium).

The sectors covered by this report are:

- oil and gas exploration, development, processing and export;
- oil and gas transit and transfer pipelines; and
- solid minerals and mining sector.

3.2. Regulatory framework and context of the Oil & Gas sector

3.2.1 General context of the hydrocarbons sector

Myanmar is one of the world's oldest oil producers, having exported its first barrel more than 100 years ago. It is the 10th largest producer of natural gas globally – the bulk of which is exported to China and Thailand.

Myanmar is today primarily a natural gas producer. Myanmar had proven gas reserves of 10 trillion cubic feet in 2012, with an annual production capacity of 416 BcF. Oil reserves in 2013 were estimated at 50 million barrels, with a production capacity of 21,000 bbl/d.⁴

The sector is currently the largest sector for Foreign Direct Investment (FDI) and gas production is the largest income export earner with US \$3.3 bn in 2013-14⁵. Myanmar has estimated proven gas reserves of 10 trillion cubic feet and proven oil reserves of 50 million barrels from onshore and offshore fields, according to the US Energy Information Administration. Myanmar's proven reserves are worth an estimated US\$75 billion at current prices.

According to data from the Ministry of Energy, Myanmar produced only 42% of gasoline and 11% of the diesel consumed in the fiscal year 2013-14. The shortfall was met by importing 97 million gallons of gasoline and 330 million gallons of diesel. The State owned MOGE has exclusive rights to carry out all oil and gas operations with private contractors. Currently, there are 17 onshore blocks and 20 offshore blocks in exploration and production (see Annex 5).

The country produced approximately 21,000 barrels of oil per day in 2014. According to the US Energy Information Administration, Myanmar produced 416 billion cubic feet of gas in 2012.⁶

⁴ <http://www.eia.gov/beta/international/?fips=bm>

⁵ Source: Central Statistical Organisation

⁶ Source : Energy Information Administration

3.2.2 Legal Framework

Upstream activities (exploration and production) in the oil and gas sector are governed by the following legislation:

- Oil-Fields Act [1918];
- Oil-Fields Rules [1936];
- Petroleum Act [1934];
- Petroleum Rules [1936];
- the Oilfields (Labour and Welfare Act) [1951];
- the Petroleum Resources (Development Regulation Act [1957];
- the Myanmar Petroleum concession Rules [1962]; and
- the Law Amending the Petroleum Resources (Development Regulation) Act [1969].

In practice, the oil and gas legislation above is outdated and do not reflect current regulatory and policies of the MOE. These are instead governed by the terms of contracts entered into between the MOGE and private operators, including Production Sharing Contracts (PSCs), Performance Compensation Contracts (PCCs), and Improved Petroleum Recovery contracts (IPRs). As long as there are no conflicts with an existing law, the terms and conditions of such contracts will govern the terms of the transactions.

A new Petroleum Law has been drafted and will replace the out-dated legislation.

The oil and gas sector is also governed by:

- the State-Owned Economic Enterprises Law (under which MOGE is assigned responsibility for the E&P sector under PSCs with private companies);
- the Foreign Investment Law, Foreign Investments Rules, and MIC Notification 1/2013 (under which Permits are granted by the Myanmar Investment Commission (MIC) to approved terms and conditions of draft PSCs); and
- the Environmental Conservation Law 2012.

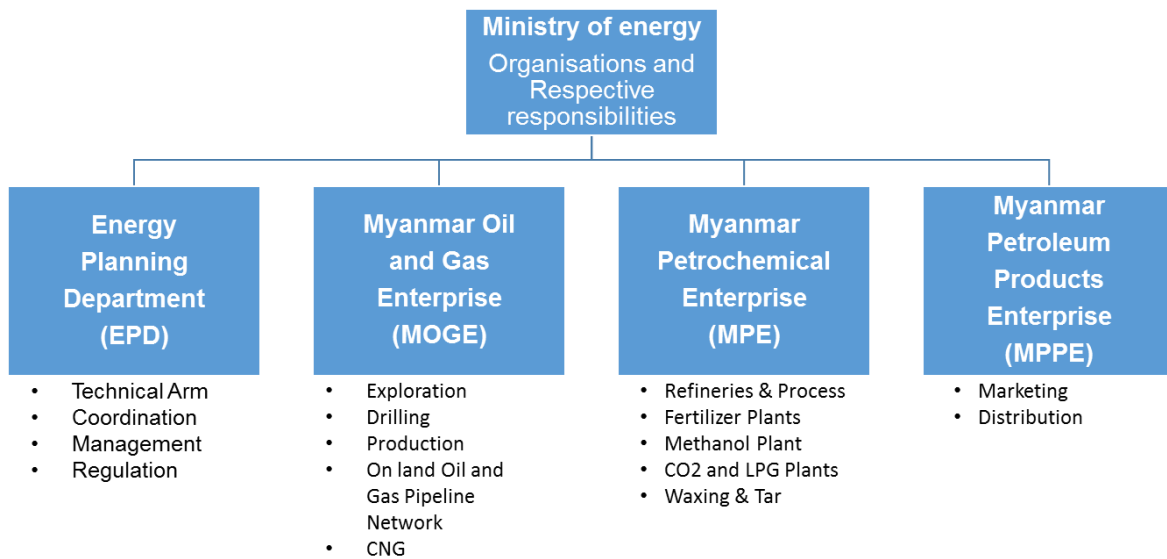
3.2.3 Institutional framework

The Ministry of Energy is the primary government agency responsible for the oil and gas sector. MOE has oversight of three state owned enterprises:

- **Myanmar Oil and Gas Enterprise (MOGE):** responsible for exploration/production and land transmission of oil and gas through a 2,488 km onshore transmission pipeline network and for overseeing Production Sharing contracts (PSCs) entered into private investors. The MOGE is also responsible for issuing tenders to foreign companies;
- **Myanmar Petrochemical Enterprise (MPE):** has the oversight of three refineries, five urea fertilizer plants and a number of other processing plants; and
- **Myanmar Petroleum Products Enterprise (MPPE):** manages retail and wholesale distribution of petroleum products.

In addition to these enterprises, the MOE organisation chart includes the **Energy Development Department (EPD)** which is responsible for energy policy formulation, coordination and the discussion of Energy development Programme. EPD is also responsible with MOGE for tendering oil and gas blocks (onshore, shallow water offshore, deep water offshore) in Myanmar and managing concession contracts, exploration & production and sale of oil and gas.

Figure 1: MOE Organisation Chart



In order to ensure the development of energy and electrical sectors, the National Energy Management Committee was set up in January 2013 by the President's office notification No (12/2013). It is chaired by the Minister of Energy and comprises the MOGE, the Ministry of Energy and ten other government institutions involved in energy development and aims to streamline the country's national energy policy.

3.2.4 Main oil and Gas projects

Yadana project⁷

Total signed the Yadana production sharing contract with the MOGE in July 1992 and operates the field with a 31.2% interest with the State-owned Myanmar Oil and Gas Enterprise (MOGE) holding 15% interest.

The Yadana gas field is located in the Andaman Sea, approximately 60 kilometres offshore the nearest landfall in Myanmar. This major energy resource contains more than 5.3 trillion cubic feet (150 billion cubic metres) of natural gas, with an expected field life of 30 years. Commercial production began in the year 2000 and production averaged more than 21.5 million cubic metres per day in 2007.

The gas is supplied to Thai power plants and is also sold on Myanmar's domestic market. The gas is transported onshore via a 346-kilometre subsea pipeline. A 63-kilometer onshore pipeline then takes it to the Thai border.

The Yadana field has five different contractual arrangements:

- PSC and Petroleum Production JV with the following participants: Total as operator with 31.24%, Unocal with 28.26%, PTT Exploration and Production Plc (PTTEP) with 25.50% and MOGE with 15.00%;
- an Export Gas Sales Agreement (EGSA) with the above PSC and the Thai gas buyer PTTEP (to be used in Thai power plants);
- an Export Gas Transportation Agreement (EGTA) between Moattama Gas Transportation Company (MGTC) and the above PSC with the same shareholders, participants and interest percentages;
- a Production Operating Agreement for the above PSC; and
- a Gas Pipeline Operating Agreement (GPOA) where Total is the operator.

⁷ <http://burma.total.com/myanmar-en/total-in-myanmar-200275.html>



Yetagun project⁸

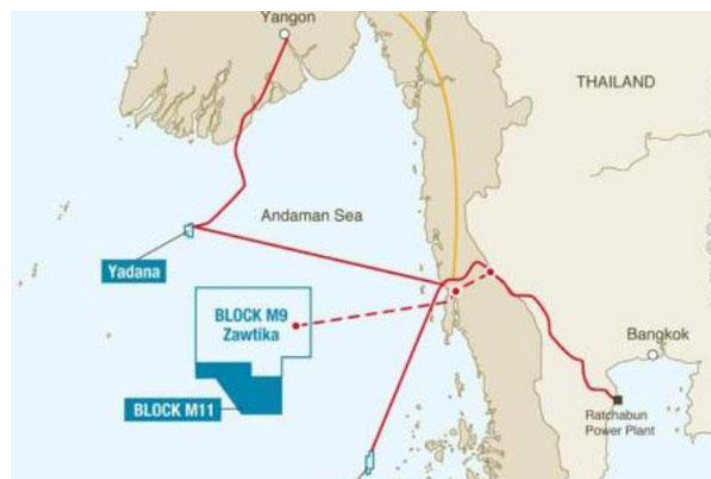
The Yetagun gas field is an offshore gas field in the Andaman Sea, covering an area of approximately 24,130km². Following the Yadana project, the US\$700 million Yetagun ("waterfall") project was the second natural gas offshore project in Myanmar.

The field is estimated to hold three trillion cubic feet of gas and 80 million barrels of condensate in reserves.

Petronas holds a 40.91% interest and operates the field. The other partners working in the field include Myanmar Oil and Gas Enterprise (MOGE, 20.45%), PTTEP International Limited (PTTEPI, 19.32%) and Nippon Oil Exploration (Myanmar, 19.32%).

The Yetagun field was discovered in December 1992. The field development activities started in 1996, construction of the pipeline and associated facilities were carried out in 1998 and 1999 and commercial production started in May 2000. The field is expected to continue production until 2030.

Natural gas produced from the field is supplied to the Petroleum Authority of Thailand (PTT) through the Taninthayi Pipeline operated by Taninthayi Pipeline Company (TPC), whereas the condensate from the field is stored in the Yetagun FSO vessel and sold to both domestic and international customers.



⁸ <http://www.offshore-technology.com/projects/yetagun-gas-and-condensate-field/>

Zawtika project⁹

The Zawtika project includes the development of the Zawtika, Kakonna and Gawthaka fields, located in blocks M9 and M11 of the Gulf of Martaban, offshore of Myanmar. The project is spread across an area of 11,746 square kilometres.

The Petroleum Authority of Thailand Exploration and Production International (PTTEP International) is the operator of the project. PTTEP owns an 80% interest in the project, with Myanmar Oil and Gas Enterprise (MOGE) holding the remaining 20%.

The \$2bn project initially started delivering natural gas for domestic purposes in Myanmar in March 2014 at a rate of approximately 60 million standard cubic feet per day (MMscf/d). In August 2014, it started exporting natural gas to Thailand at a rate of 240MMscf/d.

On 5 January 2012, PTTEP Offshore Investment Limited (PTTEPO) with Myanmar Oil and Gas Enterprise (MOGE) entered into a Shareholder Agreement with Andaman Transportation Limited (ATL) to invest in Zawtika gas transportation project. MOGE's investment is under 'the Agreement Establishing the Rights and Obligations of the Andaman Transportation Limited', which stated that, if MOGE exercised its rights to invest 20% of participating interest under the Production Sharing Contract, MOGE will have rights to invest in the common stock of ATL at the same proportion.¹⁰

Shwe Natural Gas Project¹¹

The Shwe Natural Gas project consists of the Shwe, Shwe Phyu and Mya offshore gas fields, located in blocks A-1 and A-3 of the Bay of Bengal, Myanmar.

The project is being developed by a consortium of six companies and led by POSCO subsidiary Daewoo International, which is also the operator of the project.

The first production gas from the Shwe project was achieved in July 2013 from the Mya field and commercial production started in August the same year.

Production from the Shwe gas field started in January 2014, as a result of which, the production by the end of 2014 was expected to reach 500 million cubic feet of gas a day.

This cycle is expected to last until 2020. The gas will either be sold to China National United Oil Corporation (CNUOC) for 25 to 30 years, or used within Myanmar.

In June 2010, MOGE and CNPC created the joint-venture Southeast Asia Gas Pipeline Co. (SEAGP) to manage the gas pipeline project.

After three years of construction, the Myanmar-China natural gas pipeline began flowing on 29 July 2013, carrying gas from the Shwe field complex in the Rakhine Offshore Area, Bay of Bengal, to Yunnan province, in South West China. The natural gas is being produced from the Shwe and Shwe Phyu fields in Block A-1 and Mya field in Block A-3. In February 2013, MOGE estimated the gas pipeline cost at US\$2.15 billion.

Chauk and Yenangaung Fields¹²

Interraresources holds 60% of the rights and interests of two of the largest onshore oil producing fields in Chauk and Yenangaung under two Improved Petroleum Recovery Contracts (IPRCs).

The IPRCs with Myanmar Oil and Gas Enterprise (MOGE) commenced on 4 October 1996 for a term of 20 years and 6 months. The two fields are jointly managed through Goldpetrol Joint Operating Company Inc. The adjacent Myanmar concessions extend over a total area of approximately 1,800 square kilometres and are located along the Ayeyarwaddy River, approximately 580 kilometres north of Yangon. In 2014, the combined gross production for both fields was 1,192,523 barrels of oil.

⁹ <http://www.offshore-technology.com/projects/zawtika-gulf-martaban-myanmar-burma/>

¹⁰ www.pttep.com

¹¹ <http://www.offshore-technology.com/projects/shwe-natural-gas-project/>

¹² http://www.interraresources.com/operations_myanmar.asp



Mann Field¹³

Mann Field is situated on the Northern plunging end of the 30 mile-long Mann-Minbu structure trend in the oil province of the Central Myanmar basin. Mann field was discovered in April 1970 by Myanmar Oil & Gas Enterprise (MOGE) and this discovery led to the Padaung formation. By 1 April 2014, 667 wells had been drilled in the field and approximately 120 million barrels of oil and 121 Bcf of associated gas had been produced. Estimated ultimate remaining recoverable oil is about 25 MMbbls. The field is currently producing about 1,450 barrels of oil per day from 351 wells.

MPRL E&P, formerly known as Myanmar Petroleum Resources Ltd, is the current holder of a Performance Compensation Contract originally signed between Baker Hughes Singapore and MOGE.

3.2.5 Procedures for the award of Oil and Gas blocks

Before 2011, there was no oil and gas bidding process and the senior authorities allocated certain blocks to certain companies through direct negotiations. However, since 2010, Production-sharing contracts are increasingly awarded through licensing rounds. A bidding process and evaluation procedure has been implemented for the award of licenses.

The first licensing rounds for oil and natural gas fields took place in 2013 as follows:

On 17 January 2013, MOGE announced a round of bidding for 18 onshore blocks: 3 IPRs and 15 PSCs

- Expressions of Interest were due on 16 March 2013;
- 59 bidders were shortlisted for the second round of bidding;
- 26 shortlisted bidders submitted 53 bids for 16 blocks; and
- 11 bidders were awarded 16 onshore blocks on 10 October 2013.

Recent onshore energy block winners		
Company name	Country	Number of blocks
Production Sharing Contract		

¹³ <http://www.mprlexp.com/>

ONGC Videsh	India	2
Recent onshore energy block winners		
Eni	Italy	2
Petroleum exploration	Pakistan	2
Brunei National Petroleum	Brunei	1
Petronas	Malaysia	1
Pacific Hunt energy	Canada	2
CAOG S.a.r.l	Luxembourg	1
JSOC Bashneft	Russia	1
PTTEP South Asia Ltd and Palang	Thailand	1
Sophon Offshore	Thailand	1
Petroleum Recovery Contracts		
MPRL E&P Pte	British Virgin Islands	2

- Since April 2014, no PSC has been signed

On 11 April 2013, the MOGE announced a new round of bidding for shallow water blocks (11 PSCs) and deep water blocks (19 PSCs)

- Expressions of Interest were due on 14 June 2013;
- 61 bidders were shortlisted for the second round of bidding;
30 shortlisted bidders submitted bids on 15 November 2013; and
- 13 bidders were awarded 10 shallow water blocks and 10 deep water blocks in March 2014 as follows:

Shallow water blocks

Number	Block/Area	Company awarded	Country	Acreage (sq km)
1	A-4	BG Asia Pacific and Woodside Energy (Myanmar)	UK and Australia	2,200
2	A-5	Chevron (Unocal Myanmar Offshore Co. Ltd)	United States	10,600
3	A-7	BG Asia Pacific and Woodside Energy (Myanmar)	UK and Australia	8,220
4	M-4	Oil India Ltd, Mercator Petroleum Ltd and Oilmax Energy	India	N/A
5	M-7	ROC Oil and Tap Oil	Australia	13,000
6	M-8	Berlanga Holding	Netherlands	N/A
7	M-15	Transcontinental Group	Australia	N/A
8	M-17	Reliance Industries	India	27,600
9	M-18	Reliance Industries	India	N/A
10	YEB	Oil India Ltd, Mercator Petroleum Ltd and Oilmax Energy	India	N/A

Deep water blocks

Number	Block/Area	Company awarded	Country	Acreage (sq km)
1	AD-2	BG Asia Pacific and Woodside Energy (Myanmar)	UK and Australia	8,098
2	AD-3	Ophir Energy Pic	United Kingdom	10,000
3	AD-5	BG Asia Pacific and Woodside Energy (Myanmar)	UK and Australia	10,560
4	AD-9	Shell Myanmar Energy and MOECO	Netherlands	N/A
			Norway and	
5	AD-10	Statoil and Conoco Phillips	United States	9,000
6	AD-11	Shell Myanmar Energy and MOECO	Netherlands	N/A
7	MD-2	Eni Myanmar	Italy	N/A
8	MD-4	Eni Myanmar	Italy	N/A
9	MD-5	Shell Myanmar Energy and MOECO	Netherlands	N/A
10	YWB	Total E&P	France	N/A

For the bid rounds under the new process, the MOGE set out the following bid assessment criteria:

- Technical capability;
- Financial capability;
- Prior experience in Myanmar;

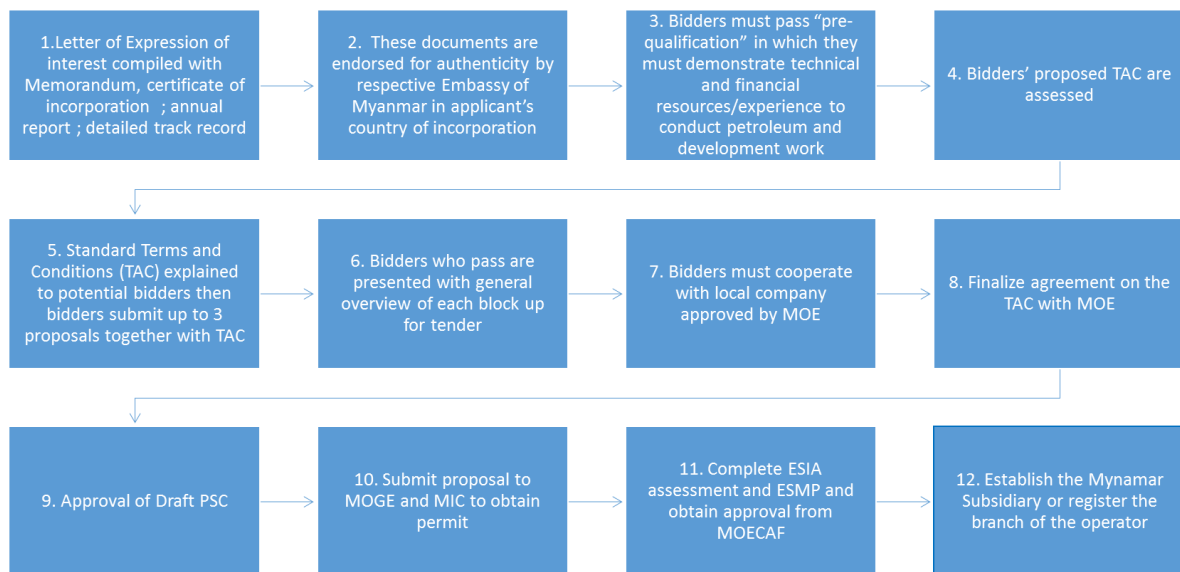
- Financial terms for the block; and
- Experience relevant to the block (e.g. deep-water).

Moreover, for onshore and shallow water blocks, potential bidders must partner with at least one national owned company which is registered with the Energy Planning Department (EPD). Bidders for deep water offshore blocks are not required to partner with a national company.

The current legal framework does not include requirements related to the application process to award oil & gas blocks and GOUM treats at its absolute discretion, the awards of oil & gas contracts and applications.

The figure below outlines the application process used by the GOUM to manage the development for available oil and gas blocks¹⁴.

Figure 2: Contracting and Bidding Process for Oil and Gas Blocks



3.2.6 Production Sharing Contracts (PSCs)

Based on the terms and conditions published on 20 August 2013 on the MOE website¹⁵, PSCs in Myanmar have the following terms:

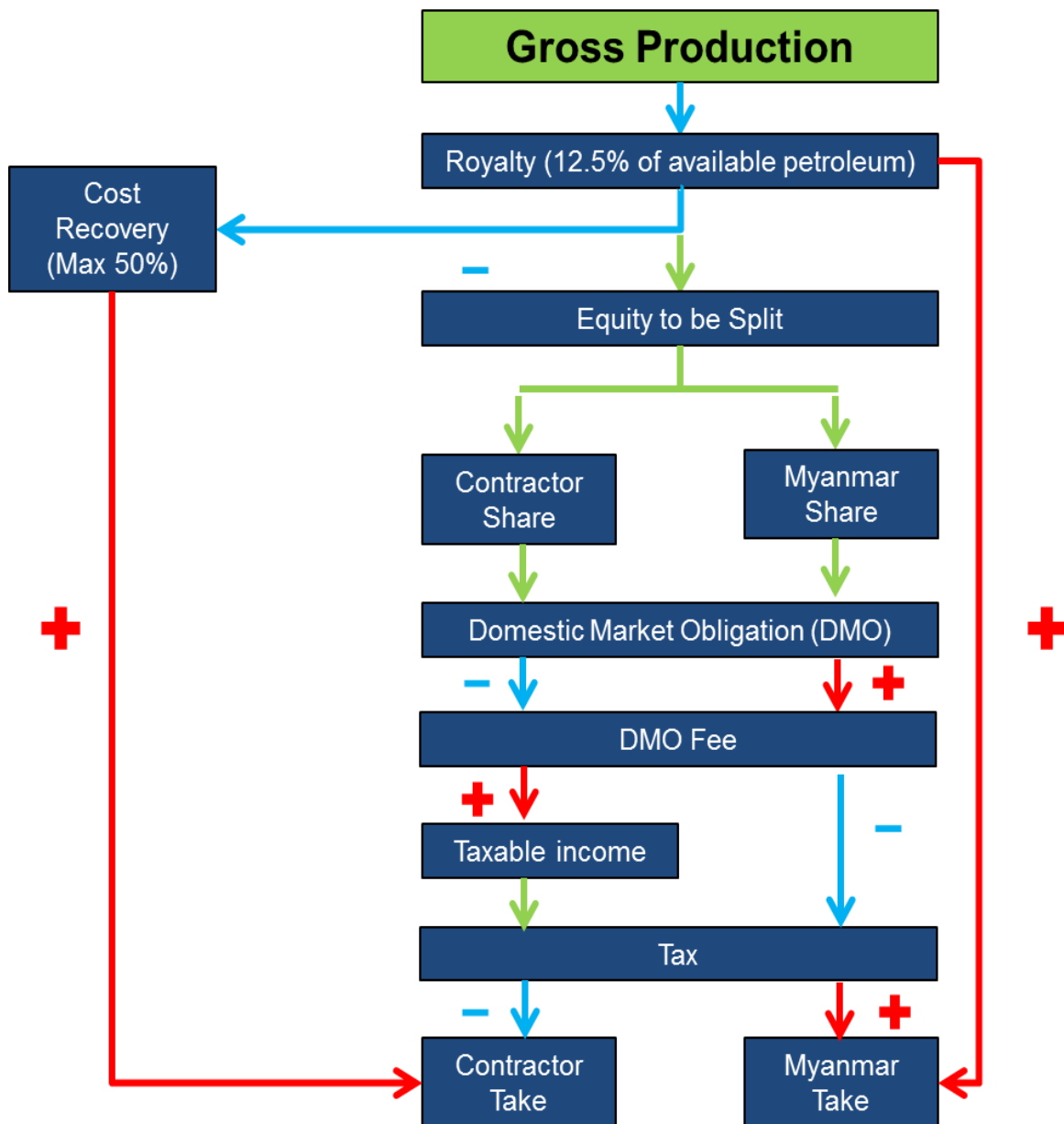
	Onshore PSCs	Shallow water PSCs	Deep water offshore PSCs
Management	MOGE is responsible for management of operations. Contractor is responsible to MOGE for the execution of such operations and the associated costs.	MOGE is responsible for management of operations. Contractor is responsible to MOGE for the execution of such operations and the associated costs.	MOGE is responsible for management of operations. Contractor is responsible to MOGE for the execution of such operations and the associated costs.
Preparatory Period:	Six months (after signing of contract), which may be extended.	Six months, which may be extended.	Six months, which may be extended.
Exploration Period	Initial term 3 years, 1 st extension 2 years, and 2 nd extension 1 year. Seismic and well commitments: negotiable	Initial term 3 years, 1 st extension 2 years, and 2 nd extension 1 year	Initial term 3 years, 1 st extension 2 years, and 2 nd extension 1 year
Production Period	20 years from completion of development or according to sales contract, whichever is longer	20 years from completion of development or according to sales contract, whichever is longer	20 years from completion of development or according to sales contract, whichever is longer

¹⁴ The Oil and Gas Sector in Myanmar PP Presentation. Ministry of Energy, Myanmar Oil and Gas Enterprise.2013

¹⁵ <http://www.energy.gov.mm/>

	Onshore PSCs	Shallow water PSCs	Deep water offshore PSCs
Signature bonus:	Payment within 30 days of approval from MIC on EIA/SIA	Payment within 30 days of entering Exploration Period	Payment within 30 days of signing PSC [amended to 30 days after start of Exploration Period]
Relinquishment:	100% at end of Exploration Period, less Discovery Areas and Development and Production Areas.	100% at end of Exploration Period, less Discovery Areas and Development and Production Areas	100% at end of Exploration Period, less Discovery Areas and Development and Production Areas
Royalty:	12.5% of available petroleum	12.5% of available petroleum	12.5% of available petroleum
Cost recovery	Limited to 50%	Limited to 50% in water depth of 600 feet or less; 60% for water depth exceeding 600 feet	Limited to 60% in water depth of 2,000 feet or less; 70% for water depth exceeding 2,000 feet
Production split:	Progressive per rate of production 60 to 90% for crude oil and natural gases	Progressive per rate of production 60 to 90/85% for crude oil and 65/60% to 90% for natural gases	Progressive per rate of production 60/55% to 85/80% for crude oil and 60/55% to 90/80% for natural gases
Production bonus	Progressive per rate of production. USD 0.5 million to 6.0 million	Progressive per rate of production. USD 1 million to 10.0 million	Progressive per rate of production. USD 1 million to 10.0 million
Domestic requirements :	20% of crude oil and 25% of natural gas from the contractor's share of profit of petroleum to be sold on the domestic market, at 90% of fair market prices	20% of crude oil and 25% of natural gas of contractor's share of profit from petroleum to be sold on the domestic market, at 90% of fair market prices	20% of crude oil and 25% of natural gas of contractor's share of profit from petroleum to be sold in the domestic market, at 90% of fair market prices
Training fund:	USD 25,000 pa during exploration USD 50,000 pa during production	USD 25,000 pa during exploration USD 50,000 pa during production	USD 50,000 pa during exploration USD 100,000 pa during production
State participation	15% with MOGE option to increase to 25%	Up to 20% with MOGE option to increase up to 25%	Up to 20% with MOGE option to increase up to 25%
Other	EITI implementation Contractor must include a company registered in Myanmar	EITI Implementation CSR Obligations. Contractor must include a company registered in Myanmar	EITI Implementation CSR Obligations. Contractor must include a company registered in Myanmar

The PSC calculation in Myanmar can be presented as follows:



3.2.7 Policy on disclosure of contracts and licenses

Contracts disclosures

The Oil and Gas legislation does not include any express restriction on the public disclosure of contracts and licenses by the Government. However, signed contracts are not currently published due to the confidentiality provisions in Oil and Gas contracts.

The existing Oil and Gas contracts are predominantly PSCs entered into MOGE and private operators. PSCs are all based on a model contract that MOE has used for several years. This model contract contains a confidentiality provision which prevents the public disclosure of information relating to Oil and Gas operations by both MOGE and the operators as follows:

“Contractor undertakes to maintain in strictest secrecy and confidence all data and information purchased or acquired from MOGE as well as during the course of operations... until such time as MOGE agrees in writing to release Contractor from its undertakings and obligations... MOGE may use at its own discretion all the data and information obtained but shall undertake to maintain such

data and information in strictest secrecy and confidence during the term of this Contract.” (Clause 27.5 of the model PSC).

In practice, only a model short-form "terms and conditions for PSCs" (which sets out the key financial and production sharing regime) is publicly disclosed by MOE but does not include the full terms of the contracts.

A copy of the PSC between MOGE and Total for the Yadana project dated 9 July 1992 is available publicly on the MOE website but no other long-form PSCs are publicly available.

Under this contract, information regarding the exploration period, the work programme and expenditure, production period, royalty, production split, data fee, production bonus for both crude oil and gas, domestic requirements, cost recovery provision, training and research and development funds, state participation, income tax and tax holiday period, profit sharing and arbitration, and governing law are described. However, the contract does not include the amount of signature bonuses paid by Total.

While contract transparency is encouraged but not required by the EITI 2013 Standard, it remains a topic for the MSG discussion.

Consultations held with private operators for the scoping study indicate that the operators would be fairly cautious in their approach to contract disclosure. Given that the short-form "terms and conditions for PSCs" which contains most of the commercial terms of the contract is publicly released by MOE, it is arguable that full disclosure of PSCs would not be commercially adverse to the operators.

Disclosure of Oil & Gas contracts would be relevant for EITI if it involves payments or benefits to the Government or involve state participation. The Government may encounter this issue in seeking waivers of the confidentiality provisions in the O&G contracts and would need to consult with the operators to clarify their disclosure obligations with respect to such information.

Since the Government has started the implementation of the EITI process, an important follow-up step would be to agree the contract waivers to address the confidentiality restrictions in the O&G contracts and to seek participation of the O&G companies in the MSG.

Contract allocation and transfer disclosure

The Oil and Gas Legislation does not restrict the disclosure of the award or transfer of Oil and Gas Blocks or the bid criteria used in the Oil and Gas block auctions. However, the confidentiality provision in the PSC contracts (as mentioned in above) would restrict the disclosure of the transfer of Oil and Gas concessions under PSCs by MOGE.

In practice, MOE has publicly announced the award of Oil and Gas blocks to operators, although the technical and financial criteria used to award the blocks have not been disclosed in full.

In the recent round of bidding, the initial request for expressions of interest and list of qualified applicants were publicly released by MOE. However, full details of the bid criteria including the criteria for assessing the bids were not publicly released.

3.2.8 State participation in the Oil & Gas sector:

The Constitution of the Republic of the Union of Myanmar 2008, stipulates that the state is the ultimate owner of all natural resources including Oil & Gas. The State intervention in the Oil & Gas sector is made through the State Enterprise MOGE and the production Sharing contract signed with contracts.

State Owned Enterprises (SOEs)- MOGE

In 1989, Myanmar enacted its State-Owned Economic Enterprise Law, identifying key areas of economic activities where the State would exercise control via SOEs. Although this law remains in effect, the Foreign Investment Law largely determines, in practical terms, how GOUM exercises its involvement in the extractive industries sector. For example, in contrast to the State Owned Economic Enterprises Law, GOUM no longer exercises its right to monopolise the extraction of resource.

SOEs hold considerable influence over the management of public funds. According to the Budget data, MOGE accounted for 15.8% of all public revenues and 10% of public expenditure in Myanmar's 2013-14 fiscal year.

The principal vehicles by which MOGE collects these revenues appear to be their production sharing contracts, which entitle them to the government share of profit petroleum (40 to 60 percent for oil and gas, according to details released by the government), production bonuses and other fees for training and development purposes (aiming at helping increase MOGE's capacity). Beyond their revenue collection and marketing responsibilities, MOGE play major roles in the allocation of licenses; the monitoring of implementation of the country's legal regime; and efforts to develop commercial capacity.

Production sharing contracts

The standard PSCs used by EPD contain state buy-in provisions depending on the block location.

(a) For onshore blocks

Clause 19.1 of the standard PSC reserves a 15% undivided interest in the total rights and obligations for MOGE, with the option for MOGE to increase its share up to 25% undivided interest in the project.

For the assignment of the undivided interest in the total of the rights and obligations arising, MOGE shall reimburse the Contractor an amount equal to the same percentage of the sum of Operating Costs which the Contractor has incurred and on behalf of its activities as well as the same percentage of the Signature Bonus paid to MOGE referred to in Section 11.1 of the PSC.

The reimbursement of the above-referred amounts can be made by:

- transfer by MOGE within three (3) months after the date of its acceptance of the Contractor's offer, to the Contractor's account, in the currency in which the relevant costs have been financed; or
- in-kind payment or "Payment out of Production" of fifty percent (50%) of MOGE'S production entitlement under the Contract valued in the manner as described in Section 12 of the PSC, as from the beginning of Commercial Production.

(b) For offshore blocks

MOGE has buy-in rights into the project up to 20% upon a commercial discovery (increasing to 25% if the reserves are greater than 5 TCF).

Figure 3: State participation in Oil & Gas producing fields

	Project		Opera tor	Interest distribution (in %)							
				MOGE							
Offshore projects	Yadana	TOTAL	31.2	MOGE	15.0	UNOCAL	28.3	PTTEP	25.5		
	Yetagun	Petronas Carigali Myanmar Inc	40.9	MOGE	20.5	Nippon Oil	19.3	PTTEP	19.3		
	Shwe	Daewoo International Corporation	51.0	MOGE	15.0	ONGC Videsh Ltd	17.0	Gail JJ India Ltd	8.5	Korea Gas Corporation	8.5
	Zawtika	PTTEP	80.0	MOGE	20.0						
Onshore projects	Chauk Oil Field	Goldpetrol Co Ltd	45.0	MOGE	55.0						
	YNG Oil Field	Goldpetrol Co Ltd	45.0	MOGE	55.0						
	Mann Oil Field	MOGE	65.0	MPRL E&P Pte Ltd	35.0						

Source: Ministry of Energy

We understand that MOGE does not hold any interests in the capital of Oil and Gas operators.

3.2.9 Reforms in the Oil & Gas sector:

New political reforms introduced in 2011 have seen sanctions lifted by the European Union and the United States, allowing international players to re-enter the market.

The oil and gas industry in Myanmar is governed by a complex mixture of regulations from the colonial era, parliamentary laws passed immediately after independence, revolutionary council laws from 1962 to 1988, decrees passed by the military regime from 1988 to 2011, and finally laws introduced by the newly elected government in 2011.

Since 2011, legislation reforms included amendments to the Oil Fields Act 1918 and Petroleum Act 1934. Laws relating to foreign investment, namely the Myanmar Foreign Investment Law (2012), the Ministry of National Planning and Economic Development No. 11/2013, the Foreign Investment Rules; the Myanmar Investment Commission Notification No. 1/2013 and the State Law and Order Restoration Council Law No. 9/89.

Under these reformed investment laws, foreigners can invest in the oil and gas sector through a joint venture with a Myanmar partner, which can either be an individual or a corporation, in an 80:20 shareholding ratio. In practice, however, this stipulation is not systematically applied due to a continued lack of local expertise in highly technical areas of the oil and gas industry, particularly with regards to deep-water offshore activities.

Until 2012, there were no specific laws protecting the environment in Myanmar. The 2008 Constitution includes provisions guaranteeing the conservation of natural resources and the prevention of environmental degradation. Environmental impact assessments were not required for any projects, governmental or private, and there were no laws controlling water or air pollution. The Environmental Conservation Law 2012 was enacted in March 2012. Rules to implement the new law have not been issued but drafts have been released. Myanmar Investment Commission (MIC) Notification 1/2013 requires an environmental impact assessment (EIA) for all oil and gas projects.

3.2.10 Exports

According to the data collected from the Customs Department, the total exports of gas in Myanmar for the year 2013-2014 amounted to US\$ 3,711.5 million. However, the Monthly Economic Indicators (March 2015) collected from CSO mention that the total exports of gas in Myanmar for the year 2013-2014 amounted to US\$ 3,299.2 million. The difference between the two sources of information is outlined in the table below:

	Customs data	CSO data	In US\$ million Difference
Exports of Gas for the year 2013-2014	3,711.5	3,299.2	412.3

The reasons of such differences should be addressed by the MSG to obtain better understanding and also to improve the quality of information published about the Myanmar oil and gas sector.

3.3. Legal framework and context of the mining sector

3.3.1 General context of the mining sector

Myanmar's mining sector is not as developed as its oil and gas sector as the level of foreign investment is much lower. However, the country has extensive mineral resources and these are attracting considerable interests from international mining companies.

Mineral deposits cover all sectors, including base metals (gold, copper, silver, lead, zinc, tin, manganese, antimony), industrial minerals (cement, clays, gypsum, fertilizer bases, dolomite, limestone, salt and barite), energy sources (coal and uranium) and gems (jade, rubies, spinel, peridot, sapphire, kyanite).¹⁶

¹⁶ 2012 Minerals Yearbook, Burma, U.S.Geological Survey

Myanmar's mining sector is made up of large scale mining, small scale artisan extraction and a certain amount of informal mining. The mining sector operates both through granting concessions to private investors and through State Owned Mining Enterprises placed under the authority of the Ministry of Mines (MoM).

In the precious gem subsector, around 90% of the world's supply of rubies are sourced from Myanmar and the country is also the world's largest single source of Jade. The Government of Myanmar prohibits the extraction of precious gems by foreign investors. The sub-sector also remains subject to sanctions, thus entirely off limits to foreign investors for the foreseeable future. According to CSO data, the sale of Jade reached US\$3bn in 2014.

Copper makes up the largest export metal in the mining sector, and silver, lead, tin, tungsten and antimony deposits are widespread across the country. Exploration of metallic or industrial minerals can only be undertaken through a JVA with citizens of Myanmar.

3.3.2 Mineral resources

Major minerals produced and exported are cathode copper, refined lead, refined silver, zinc concentrate, refined tin, tin concentrates, tin-wolfram mixed concentrates and coal while gold, iron and steel, limestone and industrial minerals and barites are produced for domestic consumption. Barites powder produced is used by foreign oil companies working in Myanmar and by the State owned Myanmar Oil and Gas Enterprise. Gemstones such as rubies, sapphire, coloured gemstone and jade are also exported.

Rubies, Sapphires

The best rubies and sapphire in the world are produced from Mogok, Upper Myanmar known as the Land of Rubies since the thirteenth century. The ruby mines are situated about 150 miles to the north east of Mandalay in Mandalay division. Sale of precious stones is done through bi-annually held gem emporiums, gem trading centres and gems marts, and by private licence holders. Sales vouchers issued by private licence holders with Myanmar Gems Enterprise logo are treated as export permits.

Jade

Jade is produced from the Kachin State in upper Myanmar. Jade which can compare with Myanmar Jade in hue, tone and texture is still not known.

Cathode Copper

Cathode Copper is produced from S & K Mine, Monywa in Sagaing division, Upper Myanmar. The mine started its commercial production in January 1999 and annual production at present is approximately 27,000 tonnes. The mine is operated by Myanmar Ivanhoe Copper Company Ltd (MICCL) a 50:50 Joint Venture Company between the Ivanhoe Holding Ltd and the No. 1 Mining Enterprise, a state owned enterprise. Cathode Copper produced by MICCL is registered with London Metal Exchange.

Refined Lead/ Refined Silver and Zinc Concentrates

Mining operations in Namtu Bawdwin lead zinc mine started since the fifteenth century. The Mine was operated by the Burma Mines Ltd prior to Myanmar's independence from British Colonial rule and became a joint venture operation in 1951. The mine is at present operating under No.1 Mining Enterprise. Other lead/zinc mines under No. 1 Mining Enterprise are Yadanatheingi and Bawsaing mines all of which are situated in the Shan States. Bawdwin underground mine has its own concentrating plant for upgrading of sulphide ores of lead, where after the concentrates are fed into smelter at Namtu to produce refined lead and refined silver and zinc concentrates. By- products are copper matte, nickel speiss, antimonial lead. There are private owned lead/zinc mines in the same region. Major share of lead/zinc production are exported. Silver and Lead produced by the No.1 Mining Enterprise is also registered with London Metal Exchange.

Refined Tin, Tin Concentrate, Tin Wolfram mixed concentrates

Mawchi mine, situated in Kayah State was well known for its tin tungsten scheelite mixed concentrate in the world market before the world war, but most of the installations were destroyed during the war. Tin and Tungsten mixed concentrates are also produced from various mines in Taninthayi division. Heinda Kanbauk and Kalonta tin mine are major tin producing mines. All tin and tungsten mines have been privatised and at present there is no state operated tin tungsten mine apart from one tin smelter in Thanlyin.

Coal

In the state sector, Kalewa underground coal mine and Namma opencast coal mine are operating under No. 3 Mining Enterprise. In the private sector, Mawdaung opencast mine in Taninthayi division is producing over 500,000 tonnes annually which are exported across the border to Thailand. Private owned coal mines in Shan State are operated by local entrepreneurs for local consumption. 120 MW coal fired power plant is being built at Tigyit in the Shan State and coal production will increase significantly in the near future.

Gold

Kyaukpahto gold mine situated in Kawlin township Sagaing division is operated by No.2 Mining Enterprise, while private gold mines in Mandalay division, Sagaing division and Kachin States operate with production sharing contracts signed between the private mine companies and No.2 Mining Enterprise.

The government is working in joint venture with three foreign companies for exploration of gold and another company is already in the production stage.

Iron and Steel

No.1 Iron and Steel Plant at Pyin Oo Lwin smelts iron ore from Kyatwinye iron mine situated 26 miles to the south east of Pyin Oo Lwin. No.1 iron steel plant produces sponge iron, pig iron and steel, steel grinding balls and steel round bars. The products are consumed locally for construction works.

Limestone

Two types of limestone are produced in Myanmar depending on the physical properties. Limestone which is high in calcium with no outstanding physical appearance is fed as a raw material for cement production while limestone with inclusions giving rise to beautiful texture and colour is used as decoration limestone, known as dimension stones. One of the outstanding decoration quality limestone mines is situated near Loikaw. Limestone production is sufficient for the local cement industry.

3.3.3 Context of the Artisanal Mining sector Ruby Mining in Myanmar

Artisanal Ruby Mining

Artisanal mining, particularly for gold, has long been a traditional livelihood activity for people in areas where gold is present in alluvial systems. The equipment for this is very modest, requiring only a bamboo tripod mounted gravity riffle table, wooden gold pan and basic digging equipment.

In the mid-1990s, Myanmar started to admit private interests and tourists from the outside world. Gemstone and jade mining were slightly liberalized and expanded. The major ruby mining areas of today, as shown on the map below, include the Mogok Stone Tract, and Mong Hsu in Shan State, while jade and the rarer jadeite are primarily mined in Kachin State around Hpakant.

The mines of Mogok, and sub-mines in the surrounding area have produced many of the finest rubies in the world. In addition to rubies, the land yields sapphires, spinel, peridot, aquamarine and a variety of other semi-precious stones.

Some smaller ruby mining areas also became official sources in the 1990s at Nawarat (also called Pyinlon) and Namhsa in Shan State, Sagyin (near Mandalay), Thabeitkyn and Kathe along the

Irrwaddy River west of Mogok, Namya, which is located in Kachin State a few miles from Hpakant near the Chinese border, and others.



Artisanal Gold Mining

Since the mid-1990s the artisanal mining mainly done by locals, has gradually been replaced by mechanized. These include riverbed mining with bucket and suction dredges as well as hydraulic mining of river banks and large open cast and shaft mines. On land, more and more areas are deforested in order to make way for mining and to build the necessary infrastructure. Together with the mining activities, the use of the mining agent mercury has increased. Methods of mining that disturb increasingly large areas of land are spreading, including employment of cyanide leaching, as the most easily accessible alluvial gold is depleted and deposits deeper in the ground and in hard rock are exploited.

Artisanal gold mining could be found all over Myanmar and some 20,000 people or more are involved.

3.3.4 New mining projects

Projects	Status(startup year)	location	Ore reserve
Mwetaung Nickel Deposit	-	Chin State, Tiddin Township Lat 23° 25' N, Long 94° 01' E.	Six ore bodies were found within (10) Km in Mwetaung area. Among these ore bodies the ore body No (4) and No (6) are the most significant ones. In ore body No (4), probable ore reserves is approximately (30) million tons with average nickel content of 1.19 %, where as in ore body No (6) potential ore reserves is (80) million tons with average nickel content of 1 %.

Projects	Status(startup year)	Location	Ore reserve
Tagaung Taung Nickel Deposit	Operating (2011)	Mandalay Division, Thabeikkyin Township, Lat 23°34' 25" N, Long 96° 10' 56" E.	It has been estimated at 40 million tons of lateritic nickel ore with an average content of 2.02 % Ni based on 1.40 % cut-off grade, in Tagaung Taung area. Chromite is also associated with nickel silicate.
Kalewa Coal Mine	Operating	Sagaing Division, Kalewa Township, Thickchawk village west bank of Chindwin river.	New Energy and Industrial Technology Development Institute (NEDO) from Japan carried-out check boring in limited area, approximately 5.5 Km ² (3.6Km x 1.5 Km) during 1999-2000 and estimated the in-situ ore reserves of 15.3 million tons for 9 feet, 6 feet and 4 feet coal seams. Ore reserves will be increased if more borings are carried out in the northern extension area. According to the feasibility study by UNIDO Mission, Mining method proposal was combination of Underground mining Longwall mining system) and open cut mining. Estimated total production envisaged was 140,000 tons per mine annually for 2 mines.
Kathaing Taung Iron Ore deposit	-	Kachin State, Hpakant Township, Lat 25° 32' 05" N, Long. 96° 12' 50" E	Based on 94 diamond drill holes with a total depth of 8625.5 feet and 996 core samples, the average grade is Fe 50.56% and total reserve is estimated to be 223 million tons.
Platinum Group Minerals (PGM) Deposits	-	Kachin State, Monyin Township, Indawgyi, Ngagyan (2.89 sq.miles), Lat 25° 04' N, Long. 96° 07'.	<ul style="list-style-type: none"> • Block I :(1) Area covered -640,000 sq ft • Average grade -0.466 ppm (Pt & Pd) • Tonnage -17.27 million tons (Potential) • (2)Area covered-480,000 • Average grade -0.43 ppm (Pt & Pd) • Tonnage -0.8 million tons (Probable-P2) • Block II : Area covered -1,078,400 sq ft • Average grade -0.522 ppm (Pt & Pd) • Tonnage -1.80 million tons (Potential) • Block III : Area covered -564,000 sq ft • Average grade -0.587 ppm (Pt & Pd) • Tonnage -1.6 million tons (Potential)

3.3.5 Legal framework

The mining sector is governed by:

- Myanmar Mines Law 1994;
- Myanmar Mines Rules 1996; and
- Myanmar Gemstone Law 1995.

The Union of Myanmar Mines Law was promulgated in September 1994 and Rules relating to the law followed in December 1996.

Amendments to the Mining Law and Rule are in Parliament to facilitate environmental conservation, to decentralise the mining sector governance and to promote better investments in the country. According to the MOM website¹⁷, the amendments are now ready for promulgation and shall be put into effect soon.

Currently, there is no formal written mineral policy that would be comparable to the GOUM Energy Policy. However, MOM has a "policy direction"¹⁸. This policy direction sets out the privatisation goals of the government as a whole, which is to encourage private sector investment into the mining sector and avoid reliance on public sector funds. It is the policy of the Ministry of Mines not to make new investment on its own but to encourage foreign and local investors to invest in the mining sector.

Forms of agreement may be generally on production sharing basis or profit sharing basis based on equity contribution by both parties. Production sharing type of investment could either be straight split on total production or after cost recovery. Depending on case by case basis, Ministry of Mines is flexible whether to have majority, minority or equal participation in equity participation joint ventures.

In addition to the Mining Legislation listed above, the following key legislation are relevant to the mining industries in Myanmar:

- Constitution of Myanmar (2008);
- Income tax legislation;
- Foreign investment legislation;
- Companies legislation;
- State-owned Economic Enterprises Law 1989;
- Myanmar Official Secrets Act 1923;
- Environmental Conservation Law [2012]; and
- Contract Act 1872.

Any application for the award of a Mining permit is subject to the signing of a production sharing or profit sharing arrangements with the MoM.

The MoM can enter into agreements with mining operators through joint ventures with state owned enterprises (Mining Enterprise 1, 2 or 3 etc.) on a production sharing basis. However, these joint ventures only happen for the most significant large-scale projects.

3.3.6 Institutional framework

The Ministry of Mines (MoM) is the government agency responsible for implementing the GOUM's mineral policy, for planning, and for enforcing the laws and regulations related to the mining sector.

According to the Myanmar Mines Law, all naturally occurring minerals found either on or under the soil of any land in the continental shelf are deemed to be owned by the State.

The Ministry evaluates and processes all licence applications for the prospecting and production of minerals (value added processing) in accordance with the 1994 Mining Law. It also monitors production operations and promotes investment in the mineral sector. According to the Mining Law, any naturally occurring minerals found on or under the ground and on Myanmar's continental shelf belong to the State of Myanmar.

The ministry has two main departments and six state enterprises:

Department of Geological Survey and Mineral	DGSME is directly responsible for countrywide geological mapping, mineral prospecting and exploration using geological, geochemical, geophysical and
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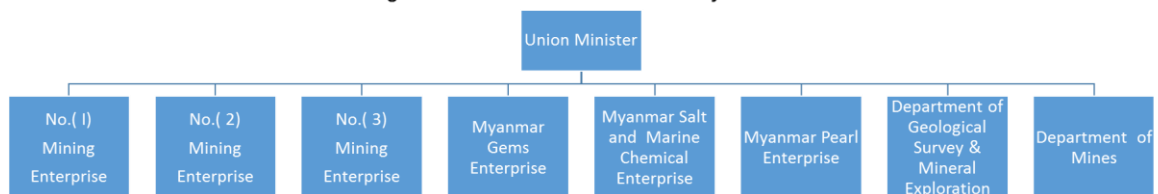
¹⁷ www.mining.gov.mm/

¹⁸ http://www.mining.gov.mm/Minister_Office/3.Minister_Office/details.asp?submenuID=4&sid=59

Exploration (DGSME)	exploratory drilling techniques.
The Department of Mines	The Department of Mines is responsible for administration of mineral policies and planning mineral legislation, mine inspection and safety, minerals conservation and environmental conservation. The Mines Law 1994 specifies oversight responsibility for monitoring of all exploration and mining permits residing in the Ministry of Mines. Under the Myanmar Mines Law, the Director General is the Chief Inspector of Mines and also responsible for scrutinising applications and granting of permits.
The Mining Enterprises¹⁹:	
The state-owned No. 1 Mining Enterprise	SoE 1 is responsible for mining, production and marketing of antimony, lead, zinc, silver, iron, nickel and copper ores.
The state-owned No. 2 Mining Enterprise	SoE 2 is responsible for mining, production and marketing of gold, platinum, tin, tungsten, molybdenum, niobium, columbium, heavy mineral and gold ores.
The state-owned No. 3 Mining Enterprise	SoE 3 is responsible for the production and supply of industrial raw minerals such as bauxite, bentonite, gypsum, limestone, dolomite, clay, manganese and coals.
Myanmar Gem Enterprise (MGE)	MGE is responsible for mining and marketing of various precious gemstones and Jade.
Myanmar Pearl Enterprise (MPE)	The MPE handles breeding and cultivating of mothers of Pearl, and production of Pearl.
Myanmar Salt and Marine Chemical Enterprise (MSMCE)	The MSMCE is responsible for production and marketing of common salt, marine chemical and soda ash.

State Enterprises rely on a production sharing contract (PSC) system with private companies, by which 100% of the investments are borne privately and profits are shared between the two parties²⁰. According to the GOUM officials, all mines are now either JVs or have been privatised and State Enterprises are no longer involved in the mining operations.

Organization of the Chart of the Ministry of Mines



¹⁹ According to the Myanmar Mines Law, 1994

²⁰ The average PSC provides 30% of profits for the government and 70% for the private contractor. Besides the PSC, there is a 3% royalty levy, a 5% commercial tax, and a 2% income tax.

3.3.7 Types of Mining permits

An organisation that wishes to carry out prospecting, exploration, large scale production or small scale production activities in relation to gemstones, metallic minerals, industrial minerals or stones, must apply for a permit.

Different permits are issued by the Ministry of Mines, depending on the type of activities, or on whether or not foreign persons are involved, and each permit will specify the conditions and restrictions that the applicant is required to comply with.

The mining legislation specifies six types of permits that can be issued (prospecting permits, exploration permits, large scale production permits, small scale production permits, subsistence production permits and an integrated permits).

Permit Type	Definition	Validity period
Prospecting permit	This is issued to a person or organisation desirous of carrying out prospecting operations of metallic minerals, industrial minerals or stones. The total area of land for which the permit is attributed must not exceed 4,200 square km ²	Period not exceeding 1 year
Mineral Exploration Permit	This is issued to a person or an organisation desirous of carrying out exploration of metallic minerals, industrial minerals or stones. The total area of land for which the permit is attributed must not exceed 3,150 square km ²	Period not exceeding 3 years.
Large Scale Mineral Production Permit	This is issued to a person or an organisation desirous of carrying out large scale production of metallic minerals, industrial minerals or stones.	Period not exceeding 25 years
Small Scale Mineral Production Permit	This is issued to a person or an organisation desirous of carrying out small scale production operation of metallic minerals, industrial minerals or stones. The total area of land for which the permit is attributed must not exceed 1 km ²	Period not exceeding 5 years (with possible extend for 1 year)
Subsistence Mineral Production Permit	This is issued to a person desirous of carrying out subsistence mineral production operation of metallic minerals, industrial minerals or stones.	Period not exceeding 1 year
Integrated Permit	This is issued to a person or an organisation desirous of obtaining an integrated permit for more than one operations out of the three operations of mineral prospecting, mineral exploration, large scale production or small scale production of metallic mineral, industrial mineral or stones involving foreign or local investment.	

3.3.8 Award procedures for mineral concessions and licenses

The award of mining permits and licenses is governed by the Mines Rules 1996. There is a strict requirement that a person shall not prospect for minerals or carry on mining operations or mineral processing operations without the authority of a mining permit or mineral licence.

The Ministry of Mines is responsible for granting mineral rights. The general procedure required includes 5 stages:

Stages ²¹	Procedure
Field visit	Meeting with the Ministry of Mines, accessing geological data supplied by DGSME, assessing historical records of previous activities in the area, studying mineral maps and gathering local knowledge by the investor.

²¹ Facts of Joint Venture Procedures, Mom, July 2012

Stages ²¹	Procedure
Proposal	<p>Submit a proposal or letter of intention to the Ministry of Mines and copied to DGSE. The proposal should clearly mention the area of interest and include coordinates, types of minerals, proposed activities (prospecting, exploration, feasibility study), amount of capital investment, technical capacity, methods that apply for the specific mining operation, duration and general terms preferred by the company;</p> <p>The following documents are required with the proposal:</p> <ul style="list-style-type: none"> - Company Registration; - Company Profile and other relevant facts about the company; - Recommendation and endorsement of the respective Embassy in Myanmar; - Financial statement; - List of the Board of Directors; - Initial work programme; and - Map of the proposed area with coordinates.
Evaluation	Assessment by the Ministry of Mines and approval of the proposal
Draft agreement	Preparation of a draft Agreement (either the technical terms and conditions of an exploration permit or a PSC) including all relevant information about financial requirements (Signature Bonus, Dead Rent, Performance Bank Guarantee and minimum expenditure).
Approval	<p>Submit the draft Agreement to the “Scrutinising Committee” of the MoM for assessment.</p> <p>After the approval from the Scrutinising Committee, submit the application to the Ministry for approval.</p> <p>Submit the application approved by the MoM to the Attorney General Office and the Office of the Auditor General for legal endorsement.</p> <p>Submit the application for other Ministries’ endorsement (Forestry, Finance Submission to Myanmar Investment Commission for comments).</p>
Final negotiation with relevant MoM Enterprise	Negotiation with the relevant MoM Enterprise the economic, social and other benefits to be realised by both parties.
Issue of mining permit	

It is worth noting that the mining legislation does not include clear provision on the application of the principle of “first come, first served” for granting mining permits. However, the right to the production permit is guaranteed in case of the discovery of a deposit by the holder of prospecting permit.

3.3.9 Register of mining permits

Currently, the mining legislation does not lay down any procedures or provisions to keep, maintain, retain and safeguard mining permits in a public register. Information on permit holders and permit areas are therefore not publicly available.

3.3.10 Policy on disclosure of contracts and licenses

Contracts disclosures

The Mines Rules permit the MOM to enter into agreements for prospecting, exploration or production with mining operators and to establish joint-ventures between mining state-owned enterprises and operators (Rules 83 and 84). The MOM can enter into such contracts on a production-sharing basis or profit-sharing basis.

The mining legislation does not include any express restriction on the public disclosure of contracts and licenses by the Government. However, signed contracts are not currently published and there are likely to be contractual confidentiality provisions which could restrict the disclosure of information for EITI purposes. Depending on the scope of such confidentiality provisions, contract waivers or regulatory instruments may be required to permit mining contracts disclosure.

Given that contracts largely govern mining operations in Myanmar, there are likely to be contractual confidentiality provisions which could restrict the disclosure of information for EITI purposes.

Depending on the scope of such confidentiality provisions, contract waivers or regulatory instruments may be required to permit the disclosure of data for EITI reporting purposes.

If there are contractual barriers to disclosure and waivers are required from individual mining companies, it may be a time consuming process to seek such waivers. While the O&G industry in Myanmar is dominated by well-resourced international companies with the MOGE as a focal government liaison, the mining industry is dominated by smaller companies with limited resources and limited government liaison. In such circumstances, legal or regulatory mechanisms to overcome contractual confidentiality obligations and impose an EITI disclosure obligation on mining companies may be more efficient for EITI implementation.

Contract allocation and transfer disclosure

The Mining Legislation does not restrict the disclosure of the award or transfer of mining permits or the criteria used for the granting of a licence.

In practice, the MOM does not publicly release any information on the award or transfer of mining permits and there may be restrictions on disclosure of such information in mining contracts signed with operators.

3.3.11 State participation in the mining sector

Production sharing contracts

The Myanmar Ministry of Mines (MOM) utilises Production Sharing Contracts (PSCs). Under a PSC agreement the investor is required to come up with 100% of the investment. The government takes a share of the production according to a production sharing ratio agreed between the mining joint venture partners. The Production Sharing Ratio is based on the mineral commodity like Gold, Copper, Lead, Zinc, Tin, Tungsten, Nickel, Manganese, industrial raw, Mineral and coal and the commodity current prices on the London Metal Exchange.

Government equity participation is between 20% and 25% at the initial stage depending on the size of the investment, with the option to purchase further shares up to 50% after recoupment of capital by the investor.

State Owned Enterprises (SOEs)

The State-owned Economic Enterprise Law grants the government discretion to allow investment either as joint-venture between the government and the investor or to allow the investor to pursue the enterprise independently under prescribed conditions.

Where the relevant Ministry considers that the application should be dealt with under the Foreign Investment Law, the company will be required to obtain a Foreign Investment Law permit instead. Factors which suggest the Foreign Investment Law is applicable include: whether the Ministry believes the operation should be a joint venture with a state-owned enterprise and the size of the proposed operation.

Joint venture companies which partner with the state or a state-owned enterprise must obtain a Foreign Investment Law permit along with a Companies Act permit. Foreign Investment Law permits are issued by the Myanmar Investment Commission (MIC). For joint-ventures, MIC has discretion to stipulate minimum equity participation requirements for each partner.

Even though the State-owned Economic Enterprise Law remains in effect, the Foreign Investment Law largely determines, in practical terms, how GOUM exercises its involvement in the extractive industries sector. In contrast to the State Owned Economic Enterprises Law, GOUM no longer exercises its right to monopolise the extraction of resources.

Military Holding Companies

The two large military holdings companies, Union of Myanmar Economic Holdings (UMEHL) and (Myanmar Economic Corporation) MEC hold important positions in Myanmar's economy, including in the energy, mining and gems sectors. These two conglomerates which report to directorates of the Defence Services are set up under laws that provide protections and privileges to state-based companies.

The purpose for setting up both companies was to generate funds for the welfare of both active-duty and retired Defence Services personnel and their families. This has been accomplished through a combination of profit distribution and job provision for family members of military personnel as well as for veterans themselves.

UMEHL

UMEHL was established in 1990 under the Special Companies Act as the economic arm of the Burmese military, during a period of privatisation and transition from a socialist command economy, with an initial capital of \$1.6 billion USD. UMEHL was established to generate profits from light industry and the trade of commercial goods.

In the mid-2000s it expanded into services and trading activities. Its current holdings include stakes in almost all sectors of the Myanmar economy.

UMEHL conglomerate is jointly owned by two military departments: the Directorate of Defence Procurement and Defence Personnel (active and veteran), including high-ranking military officials. UMEHL is exempt from commercial and profit taxes.

UMEHL classifies its holdings into three categories: fully-owned and-operated, affiliate subsidiaries and joint ventures. Fully-owned UMEHL companies have significant roles in extractives industries.

Its subsidiaries include Myanmar Imperial Jade Company and Myanmar Ruby Enterprise, which operates mines at Mogoke, Mongshu, Nayar, Mawchi and Thabeikkyin. Some of these operations are subcontracted to other domestic companies.

Table : UMEH Mining Interests (non-exhaustive)

Region/state	Area	Type
Mandalay	Kyaukpukhet	Limestone
Mandalay	Hsin Mountain	Granite
Mon	Mayangon	Granite
Mon	Kyauk Mae Mountain	Granite
Mon	Tin War Mountain	Granite
Sagaing	Kyay Sin Mountain	Copper
Sagaing	Kyauk An Che	Coal
Sagaing	Letpadaung Mountain	Copper

MEC

The Myanmar Economic Corporation (MEC) was set up in 1997, during the Asian financial crisis. MEC is one of the two major conglomerates and holding companies operated by the Burmese military forces. Founded in 1997 to set up profitable heavy industries that can provide the Burmese military access to supplies of important materials (e.g. cement and rubber).

MEC is operated under the Ministry of Defence's Directorate of Defence Procurement (DPP), with its private shares exclusively owned by active-duty military personnel. The corporation's capital was issued through revenues generated from the public auctioning of state-owned enterprises throughout the 1990s. Through joint ventures with foreign companies and mergers with smaller companies, MEC has positioned itself as one of Burma's largest corporations.

Unlike UMEHL, MEC was more explicitly focused on serving the industrial and technological needs of the armed forces, as well as on larger-scale infrastructure projects. Although less is publicly known about MEC than UMEHL, OAG has the power to request audits from MEC but not from UMEHL.

MEC mining interests include some mines operating in:

Table : MEC Mining Interests (non-exhaustive)

Region/state	Area	Type
Kayin	Than Dai Mountain	Limestone
Mandalay	Yathayt Mountain	Marbre
Shan(East)	Mongku	Coal
Tanintharyi	Maw Taung	Coal
Shan(East)	Maw Taung	Gypsum

3.3.12 Reforms in mining sector

Until now, foreign investment in mining has been minimal. However, the government is keen to entice more foreign investors to support the sector's development as part of a reform drive under way in the mining of metals, ores, industrial minerals and coal. A new mining law aims to boost investment and would replace existing legislation dating back to 1994. A new set of mining regulations will also be prepared to support the amended mining law.

The new mining law is aimed at encouraging more overseas investment in Myanmar, encouraging more local investment and implementing environmental controls on mining companies. For many years, due to sanctions imposed by the US, EU and other Western countries, China has been the primary investor and buyer in the minerals sector. This has left Myanmar little in the way of flexibility, with no room to exert leverage across the sector.

The main areas of debate over the draft legislation are the sharing of mining revenues between the states and the central government and allowing small and medium-sized enterprises to enter into joint ventures with foreign firms. Other key elements of the draft law include extending the duration of licences granted to mining companies, relaxing taxes imposed on investors and setting out the terms under which foreign firms can operate in the sector.

The revisions to the existing law have been passed by the attorney-general but need to be put to a vote in parliament to become law. Once parliament approves the draft law, it will be implemented within 90 days, according to the Union of Myanmar Federation of Chambers of Commerce and Industry.

3.3.13 Exports

According to the data collected from the Customs department, the total exports of Jade in Myanmar for the year 2013-2014 amounted to US\$ 924.2 million. However, the Monthly Economic Indicators (March 2015) collected from CSO mention that the direct exports of Gems and Jade in Myanmar for the year 2013-2014 amounted to US\$ 1,011.6 million. The difference between the two sources of information is outlined in the table below:

	Customs data	CSO data	Difference
Exports of Jade	924.2	1,011.6	- 87.4
Exports of Gems	2.4	not provided	n.a

Moreover, according to the Gems and Jade Emporium data collected, the total sales of Jade and Gems in Myanmar for the year 2013-2014 amounted to USD 3,323.6 million. We have researched other published information about the Gems and Jade figures in Myanmar and noted that the *Myanmar Business Update* issued in June 2015 mentions that according to the Chinese Customs, China imported USD 12.3 billion of Jade and Gems in 2014. Hence, it appears that there is material discrepancies between the various information published and a need for greater detail and consistency of definition and presentation.

3.4. Budget process

In Myanmar, accounting is on a cash basis, following the double entry principle. Most payments are made through Myanmar Economic Bank (MEB) by cheques or bank transfers. Tax revenue is usually paid into MEB by the taxpayer directly, based on an assessment raised by the tax

authorities although some fees and charges are collected in cash and paid in by the relevant Government Agency.

Accounting records are originated by the spending/revenue raising Government Agency. Aggregation and reconciliation for reporting and control purposes are conditioned by the largely manual, paper based processes that are still used in both the originating agencies and in MEB.

The accounting year for the Government runs from April to March. Accounts are prepared in the form of consolidated financial statements and several annexes. Copies of the statements are provided to the Minister of Finance and Revenue, the Cabinet, and the President but are not published or made available to the public.

The financial statements show cash payments and receipts as well as movements in cash balances. There are a large number of off-budget accounts ("Other accounts"), but the movements in these accounts are recorded in an annex to the main financial statement, not the balances.

Cash transactions of SEEs are also included in these financial statements, but each SEE is required, in addition, to produce separate accounts on a "commercial" accounting basis.

"Other Accounts" used are essentially accounts held by ministries and SEEs in the Myanmar Economic Bank (MEB) for management of their own-source revenues. FY2012/13 data from the Budget Department show total Other Account receipts of 2.54 trillion kyat, which is 44% of total budgeted revenue, and expenditures of 2.26 trillion, which represents 28% of total budgeted expenditure. On the external financing side, the picture is also mixed.

Since 2011, the Parliament has set up two specialised committees for the purpose of providing oversight of the Government's public finances. The Public Accounts Committee (PAC) has a bipartisan membership and vets the budget bill and the audit report. The Planning and Finance Committee is responsible for reviewing the national development plan and legislative matters relating to the financial sector. Since 2012/13 these committees have reviewed and rationalised the executive budget proposal significantly and have been instrumental in having the approved Budget Law published in the local press.

In order to coordinate and integrate state and region budgets with the Union budget, the government has also set up the Financial Commission and the National Planning Commission. Since 2011, the new planning and budgeting practices has resulted in a deconcentration of Public Financial Management (PFM) policy functions from the President's Office to the Ministry of Finance and Revenue and the Ministry of National Planning and Economic Development (MNPED) respectively.

3.5. Fiscal devolution

Under the 2008 Constitution, state and region governments are empowered to enact laws and collect taxes in relation to the extractive industries sector, but only for marginally significant types of operation. In each state or region, there is a unicameral Hluttaw (with two elected members per township, and 25% of the parliament sourced from the Defence Services), as well a Chief Minister and a Cabinet. The Chief Minister is selected by the President and confirmed by the Hluttaw. The sub-national Hluttaw is entitled to set its own budgets (under Article 252), based on the envelopes set by the annual Union budget.

Under Article 254, the Region/State is also entitled to collect those taxes and revenues listed in Schedule Five (and deposit them in the Region/State fund), which are:

- Land revenue;
- Excise revenue;
- Water tax and embankment tax based on dams and reservoirs managed by the Region or State and tax on use of electricity generated by such facilities managed by the Region or State;
- Toll fees from using roads and bridges managed by the Region or State;
- Royalty collected on fresh water fisheries;
- Royalty collected on marine fisheries within the permitted range of territorial water;

- Taxes collected on vehicles on road transport and vessels on inland waterway transport, in accord with law, in a Region or a State;
- Proceeds, rent fees and other profits from those properties owned by a Region or a State; and
- Fees, taxes and other revenues collected on services enterprises by a Region or a State.

However, Section 96 of the 2008 Constitution centralises government control of the extractive industries sector, foreclosing any powers at state or regional level to enact laws. At the sub-national level, the only powers granted in terms of legislation is to enact laws regarding salt and timber (under Schedule 2 of the constitution).

As noted above, Schedule Five of the 2008 Constitution entitles state/region governments to collect and keep revenues from land, excise, water resources, vehicles, royalties from fisheries and payments from tolls. The General Administration Department collects most but not all of these taxes. Because of the small size of sub-national budgets, these revenues comprise 58% of the state or region budget on average. 65% of this retained revenue comes from SEEs, of which 99% comes from the Department of Public Works²².

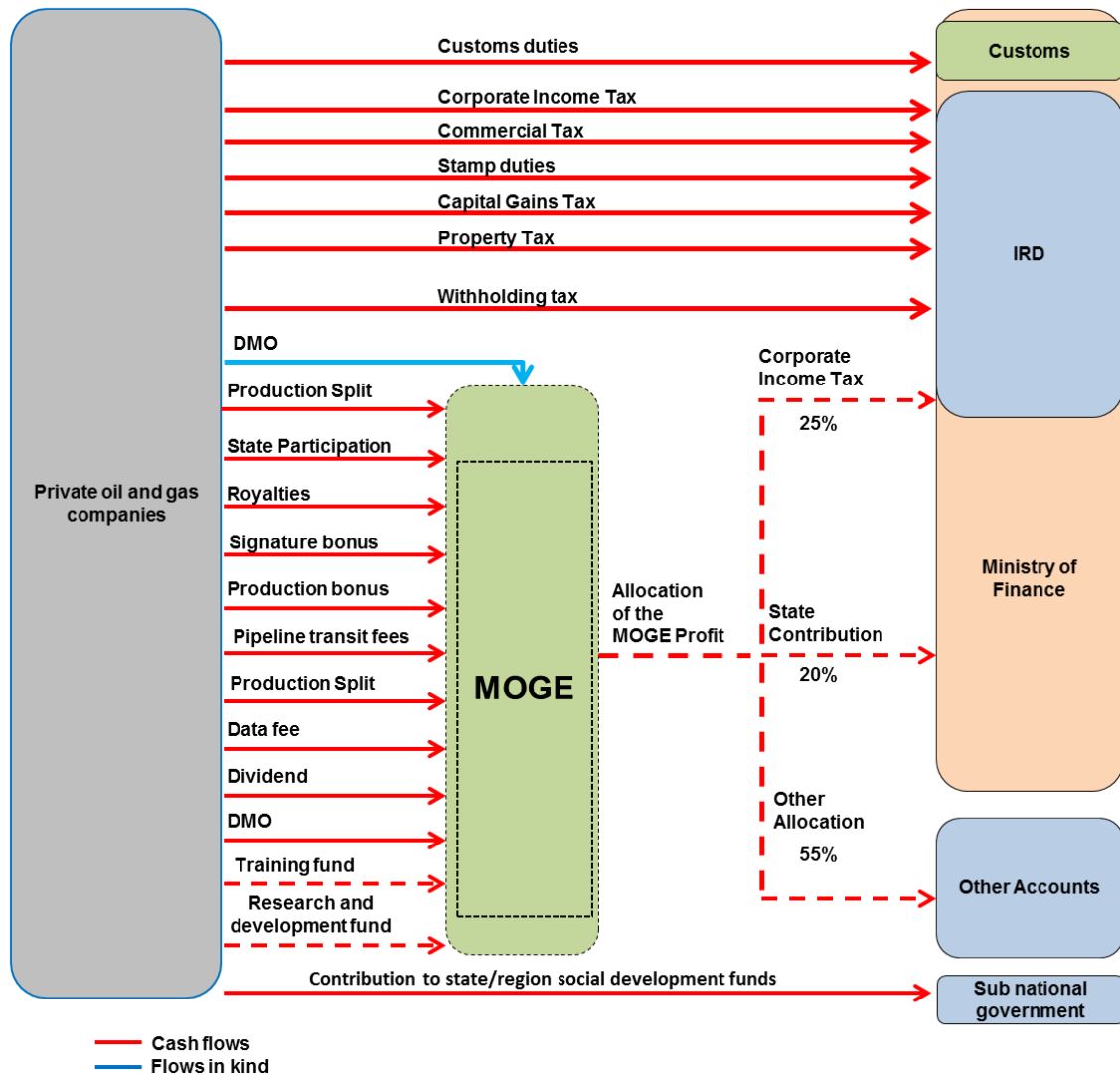
From the perspective of the extractive industries sector and EITI, the most significant payments collected and retained at sub-national level that the MSG may consider to be material for reporting purposes are contributions to state/region social development funds (where they exist).

There are currently no derivation type transfers (whereby the subnational unit may retain a share of what is collected within their boundaries), from Union government to state or region budgets based on extractive industries sector production volumes (either for oil and gas or for minerals).

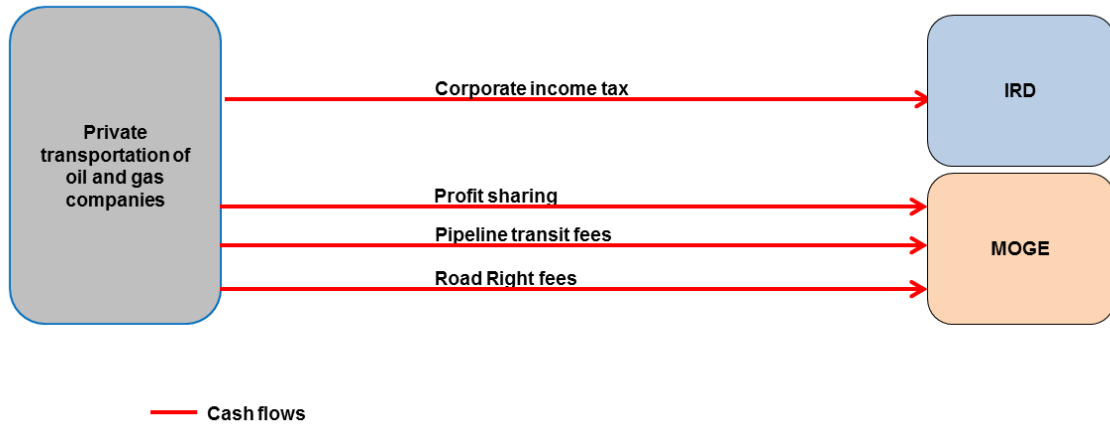
²² State and Region Governments in Myanmar, p46-7.

3.6. Revenues collection

3.5.1. Oil and Gas payments flow

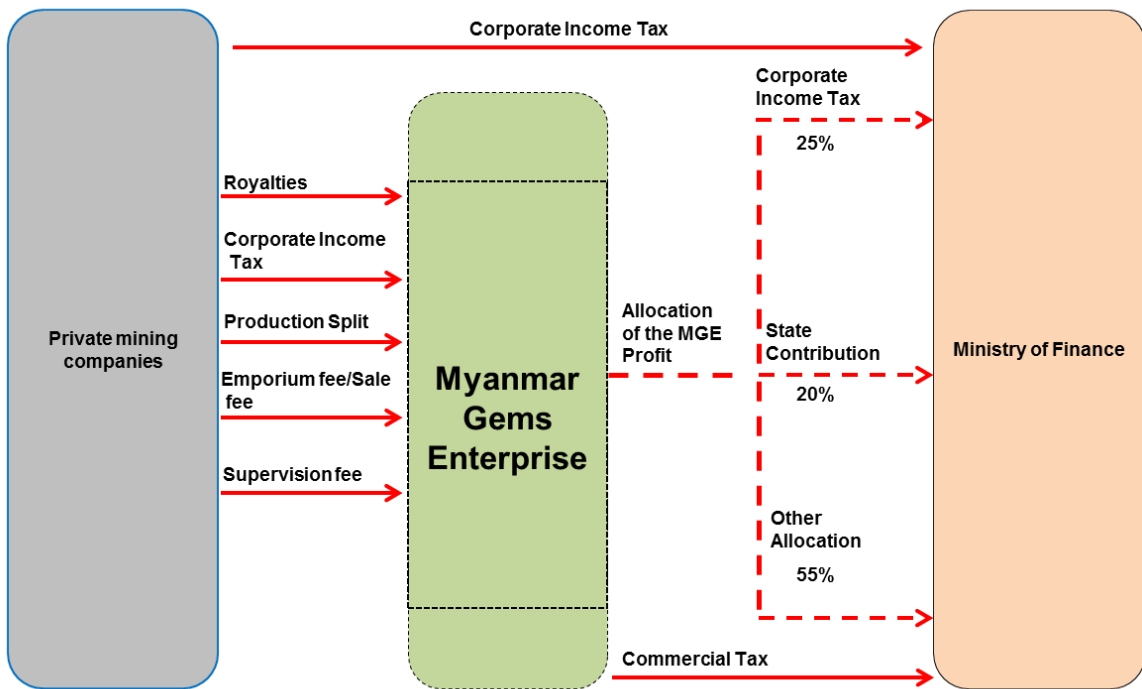


3.5.2. Transportation of Oil and Gas payments flow

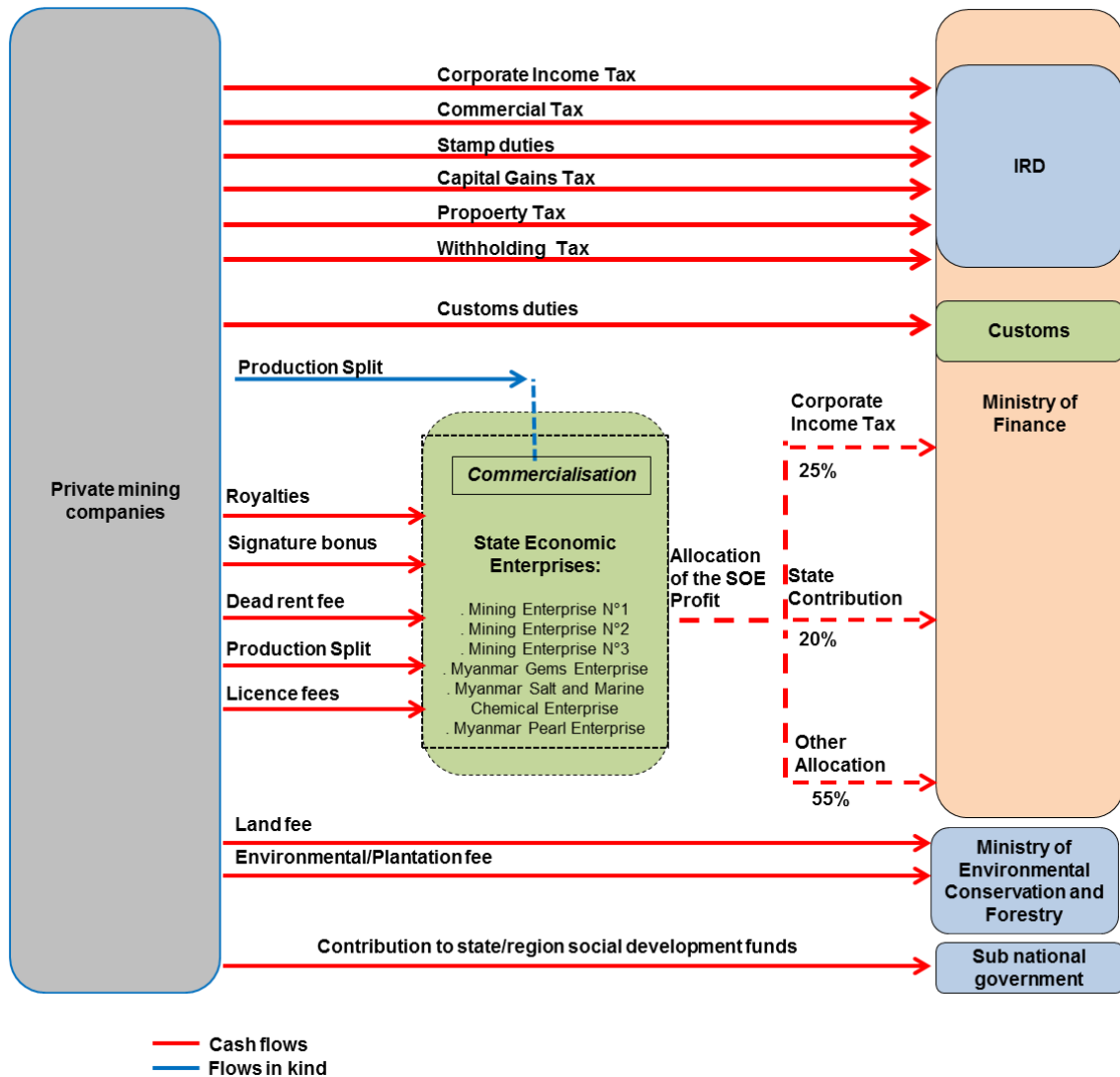


3.5.3. Mining sector payments flow

a. Jade and Gemstones



b. Other minerals



3.7. Beneficial ownership

3.6.1. Legal and regulatory framework governing companies

The legal framework governing companies incorporated in Myanmar is the Companies Act 1914 and subsidiary legislation, Myanmar Companies Rules 1940, Myanmar Companies Regulations 1957) and Special Companies Act (1950) (if joint venture with government enterprise) (together, the “Companies Legislation”).

The Companies Legislation provides guidelines for the formation, administration, and winding up of registered corporate bodies. The Companies Legislation is expected to be reformed in the near future to include further transparency and disclosure provisions in the law.

There are various types of companies which can be formed in Myanmar; namely limited by shares, limited by guarantee and unlimited companies. Furthermore, in Myanmar a company can be classified either as a private company or a public company. A “private company” means a private company limited by shares, a company limited by guarantee or an unlimited company. On the other hand, a “public company” means a company incorporated as such, being a company satisfying §13A of the Companies Act 1914.

3.6.2. Beneficial ownership in Myanmar’s legal and regulatory framework

(i) Disclosure requirements for private companies

The definition of “beneficial ownership” should not necessarily be linked to share ownership. Owning more than a certain percentage of shares certainly gives a meaningful indication of beneficial ownership. However, in identifying the real beneficial owner, the focus should also be on contractual and informal arrangements.

The notion of control or beneficial ownership has not been treated by the Companies Legislation and there is no requirement to disclose information about the ultimate beneficial owners.

(ii) Disclosure requirements for mining companies

There are no obligation or restrictions on the disclosure of beneficial ownership information by the Government, state-owned enterprises and private companies under the Mining Legislation. The MOM and mining companies do not currently disclose such information publicly.

(iii) Disclosure requirements for Oil & Gas companies

On the same terms as per the mining sector, the notions of beneficial ownership and control have not been covered by the oil and gas legislation.

Many of the private operators in the Myanmar oil and gas sector are wholly owned by listed companies which would not be subject to BO disclosure. The other main group of industry players in the Myanmar oil and gas sector are foreign government owned enterprises for which disclosure of ownership details should not present too much difficulty with regards to BO disclosure. A potential group of industry players that this reporting requirement would impact, are private companies registered in Myanmar which have been set up to partner with foreign companies in the bids for onshore and shallow water offshore blocks.

(iv) Disclosure requirements for Government officials

Currently, there are no specific rules for government officials to disclose their interests, incomes or assets in/from the extractive sector.

Only the members of the Anticorruption Commission are required to disclose money, property, assets and liabilities of their respective families including beneficial ownership to the President according to the provisions of the Anticorruption law 2013.

3.6.3. EITI requirements

The 2013 EITI Requirement recommends that beneficial owners of companies which bid for, operate and/or invest in the extractive industries are made public (see below for EITI standard provisions on beneficial ownership). This is a mandatory requirement for government and state owned enterprises, and will become a requirement for private or unlisted public companies, including partners in joint ventures, as from 2016.

The EITI standard provides a basic definition of beneficial ownership and states that the information made available should include the identity of each company's beneficial owner or owners, and their level of ownership. Where information is already publicly available, for example, through stock exchange disclosures, EITI reports should include guidance on how this information can be accessed.

Beneficial Ownership as defined by the EITI Standard

- i) Beneficial owner in respect of a company means the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity (Requirement 3.11(d)).*
- ii) It is recommended that implementing countries maintain a publicly available register of the beneficial owners of the corporate entity(ies) that bid for, operate and invest in extractive assets, including the identity(ies) of their beneficial owner(s) and the level of ownership. Where this information is already publicly available, e.g. through filing to corporate regulators and stock exchanges, the EITI Report should include guidance on how to access this information (Requirement 3.11(a)).*
- iii) Where such registers do not exist or are incomplete, it is recommended that implementing countries request companies participating in the EITI process to provide this information for inclusion in the EITI Report (Requirement 311(b)).*
- iv) It is required that the government and/or state-owned enterprises disclose their level of beneficial ownership in oil, gas and mining companies operating within the country, and any changes in the level of ownership during the accounting period covered by the EITI Report (Requirement 3.6(c)).*

According to Requirement 3.11 of the EITI Standard, extractive companies selected in the reconciliation scope, unless publicly listed or are wholly owned subsidiaries, were required to disclose information about their beneficial owners.

Within these parameters, it is up to the EITI multi-stakeholder group in each country to agree an appropriate definition of the term beneficial owner. The definition should take international norms and relevant national laws into account.

Examples of definitions of beneficial ownership

*The **Financial Action Task Force (FATF)**²³ defines a beneficial owner as the natural person who ultimately owns or controls a legal person or arrangement. 'Legal persons or arrangements' in this regard include companies, as well as partnerships, trusts and other corporate bodies.*

*The proposed **4th EU Money Laundering Directive** applies the following definition:*

"Beneficial owner" means any natural person(s) who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:

(a) in the case of corporate entities:

(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with European Union legislation or subject to equivalent international standards.

A percentage of 25% plus one share shall be evidence of ownership or control through shareholding and applies to every level of direct and indirect ownership;

(ii) if there is any doubt that the person(s) identified in point (i) are the beneficial owner(s), the natural person(s) who exercises control over the management of a legal entity through other means;

Definition of beneficial owner in S. 1483 (Levin/Grassley bill-USA)²⁴

²³ FATF is an [intergovernmental organization](#) founded in 1989 on the initiative of the [G7](#) to develop policies to combat [money laundering](#).

²⁴ <http://www.gpo.gov/fdsys/pkg/BILLS-112s1483is/html/BILLS-112s1483is.htm>

Examples of definitions of beneficial ownership

A beneficial owner is a natural person who, directly or indirectly—

- 1) Exercises substantial control over a corporation or limited liability company, or
- 2) Has a substantial interest in or receives substantial economic benefits from the assets of a corporation or limited liability company

A beneficial owner is always a person. It is not another company. A beneficial owner is never:

- 1) a minor child;
- 2) a person acting as a nominee, intermediary, custodian, or agent on behalf of another person;
- 3) a person acting solely as an employee of a corporation or limited liability company and whose control over or economic benefits from the corporation or limited liability company derives solely from the employment status of the person;
- 4) a person whose only interest in a corporation or limited liability company is through a right of inheritance, unless the person also meets the requirements of the definition above; or
- 5) a creditor of a corporation or limited liability company, unless the creditor also meets the requirements of the definition above.

Beneficial owner definition from the US PATRIOT Act [2001]

The current definition of beneficial owner under the US PATRIOT Act, is “an individual who has a level of control over, or entitlement to, the funds or assets in the account that, as a practical matter, enables the individual, directly or indirectly, to control, manage or direct the account...” – 31 CFR 1010.605(a).

3.6.4. Proposed Definition of Beneficial Ownership

Based on the review of Myanmar’s legal framework which do not include provisions relating to the beneficial ownership definition or disclosure and taking into account EITI Requirement 3.11(d)(i), we propose the following definition of beneficial ownership of extractive companies:

Proposal for a definition of beneficial ownership

“In accordance with EITI Requirement 3.11.d.i, a beneficial owner in respect of an extractive company means the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity.

To satisfy the need for transparency in extractive industries, “ultimate beneficial ownership” of an extractive company is defined as any individual (or single individual) who:

- has control over the extractive company, either directly or indirectly; or
- has a substantial interest in or receives substantial economic benefits from the assets of the extractive company.

The “ultimate beneficial ownership” shall mean a natural person, and not another company or a trust. For companies with complicated ownership structures, involving many different corporate vehicles or private agreements over ownership and/or control, the ultimate beneficial owners are the individuals who are right at the very top of the chain.

“Control” means the power of a person to secure that the affairs of the extractive company are conducted in accordance with the wishes of that person. Such power would be derived from:

- (i) a sufficient percentage of shareholding or voting rights in the extractive company, including through bearer share holdings, other than a company.
- (ii) A percentage of **25%**²⁵ plus one share shall be evidence of ownership or control through shareholding and applies to every level of direct and indirect ownership (Lower threshold could also be considered by the MSG) ; or
- (iii) a control over the management of the extractive company through other means such as :
 - a) having the power to appoint or remove **over half** of members of the governing body of the extractive company; or
 - b) holding rights in relation to the extractive company that, if exercised, would result in the conditions in subparagraphs (i) and (b) being satisfied; or
 - c) whose consent is needed for the appointment of a person to be a member of the governing body of the extractive company.

Publicly listed companies, including wholly-owned subsidiaries, are not required to disclose information on their beneficial owner(s). They have to provide only guidance on how to access this information.

²⁵ Threshold provided by the 4th EU Money Laundering Directive

Proposal for a definition of beneficial ownership

In the case of joint ventures, each entity within the venture should disclose its beneficial owner(s), unless it is publicly listed or is a wholly-owned subsidiary as per above. Each entity is responsible for the accuracy of the information provided.”

We believe that the definition proposed above best suits MEITI, both in the context of its existing legal framework as well as taking into account the EITI requirements.

3.6.5. Beneficial ownership declaration

According to the above proposed definition, the companies to be selected for reporting information on their beneficial ownership would be required to submit a beneficial ownership declaration (See annex 1). Accordingly, the following information should be made available:

- **Name of beneficial owner.** full name(s) of the company’s beneficial owner(s) and information on their identity(ies) including:
- **Name of any politically exposed person,** where any owner is also a ‘politically involved person’, this should be mentioned.
- **Identifying details.** Additional details are required in order to narrow down a beneficial owner to one individual.
- **Contact.** A means of contacting the beneficial owner such as a business address.
- **Means of control.** A description of how the beneficial owner and any politically engaged persons exercise control over the company. If there is a chain of companies between the beneficial owner and the natural resource asset, for example, this would mean the name of every company within the chain. In some cases, there may be an additional link, such as a private agreement between the beneficial owner and the owner of the last company in the chain, in which case this additional link should also be declared. Third parties should then be in a position to verify some, if not all, information declared in the shareholder registers.
- **Signed statement of accuracy:** a senior official from the company should sign a statement to confirm that the information provided is accurate.

3.8. Auditing and accounting

3.7.1 Private companies

Under the Myanmar Companies Act (MCA) companies must keep proper books of accounts at their registered office. Financial statements must be prepared in accordance with Myanmar Accounting Standards (MAS).

Accounting practices in Myanmar have been historically based on British accounting standards and Generally Accepted Accounting Principles (GAAP). For several years, Myanmar adopted International Accounting Standards for reporting purposes, while the Myanmar Accountancy Council (MAC), through the Myanmar Institute of Certified Accountants (MICPA) has adopted the majority of International Accounting Standards that existed in 2003 and 2004. In 2010, MAC withdrew all 30 of International Accounting Standards and replaced them with 29 new Myanmar Accounting Standards and 8 new Myanmar Financial Reporting Standards that were identical to the 2010 International Financial Reporting Standards (IFRS). Such standards were published in the Official Gazette and became effective on 4 January 2011.

Myanmar currently has no stock exchange, only an over the counter market for the sale of shares of a number of publicly accountable companies.

Public companies and financial institutions are required to apply MFRS (Myanmar Financial Reporting Standards, which are a word-for-word equivalent of IFRS). SMEs must apply MFRS for Small and Medium Enterprises (SMEs) (word-for-word equivalent of IFRS for SMEs).

The tax assessment year runs from 1 April to 31 March. This is mandatory even for branches of foreign companies which may have a different financial year-end.

The Myanmar Companies Act requires companies to appoint an auditor and companies are required to submit audited financial statements to the tax authorities annually by 30 June.

Section 145(1) of the Myanmar Companies Act requires an auditor to report to the members of a company on the financial statements examined by the auditor at the annual general meeting. The auditor's report must state, amongst others, whether or not in their opinion the balance sheet and profit and loss account referred to in the auditor's report are drawn up in accordance with law, whether or not the balance sheet gives a true and fair view of the state of affairs of the company. The opinion should also state whether the company's accounting records have been kept by the company as required by law.

3.7.2 Public sector and SEEs

In Myanmar there is a special government body – OAG – the supreme audit institution, which is accountable to the Parliament through the President. This body carries out controls over the execution of the State's budget and payment of taxes and other mandatory payments, including payments from SOEs and partners.

OAG was set up under the 2008 Constitution as an independent agency, for the appointment of the Auditor General. This is made by the President with the approval of the Parliament.

OAG performs audits consistent with International Organisation of Supreme Audit Institutions (INTOSAI) audit standards.

All SEEs are required to submit to OAG bi-annual financial reports that are in accordance with General Accepted Accounting Standards. According to OAG, the annual audit includes all tax and non-tax payments made by all partners to the extractive industries sector project.

OAG has the power to audit joint venture partners as well as MEC but not UMEHL, which has its own auditors. OAG also has the power to audit private companies, but currently lacks the capacity and the resources to do so.

OAG sends bi-annual summary reports both to the Presidency and to the Public Accounts Committee in Parliament. However, there are no penalties for delayed submissions. In some cases, it may take up to a decade to produce an audited report.

The Auditor General is also Chairman of the Myanmar Accountancy Board which deals with accounting standards generally in Myanmar. Accounting standards have been developed for the commercial sector which is also applicable to SEEs in the "commercial" form of their accounts. But, as yet, there are no standards or statements of practice that apply to the Government's financial statements which include SEE activity prepared on a parallel cash basis.

Accounting is maintained on a simple cash based double entry system, however, the current form of the financial statements does not fully reflect the requirements of the IPSAS.

4 Materiality analysis

4.1. Introduction

The EITI Standard defines materiality as follows: “Payments and revenues are considered material if their omission or misstatement could significantly affect the comprehensiveness of the EITI Report.”

Different ways could be used to define materiality for the 2013-2014 Report. The most common way consists of defining materiality in terms of a minimum value of payment to government; the other could be based on the size of the company (for example, a minimum annual size) or the type of permit held (large scale, production).

The purpose of this section is to propose thresholds so that the reconciliation report covers all material payments and revenues from extractive sector in Myanmar. The materiality analysis in this report was based on company data provided by government agencies on the basis of the aggregate of their projects rather than on the projects themselves.

The aggregate tax data used include all relevant benefit streams stated in oil and gas and mining legislations. Common taxation including CIT, CT and Customs duties were not considered for the materiality analyses.

4.2. Analysis of payments to government

4.2.1. Common taxation analysis (tax revenue streams)

The Internal Revenue Department (IRD) within MoF is responsible for the collection of taxes revenue streams. The list of taxes collected by IRD from the extractive sector (Oil & Gas and mining) and identified through the regulation review and the interviews undertaken with the Government Agencies is as follow:

N°	Payment flows
1	Corporate Income Tax (CIT)
2	Commercial Tax
3	Customs Duties
4	Stamp Duties
5	Withholding Tax
6	Capital Gains Tax

We recommend including all the tax revenue streams identified in the scope for the 2013-2014 EITI Report.

The selection of these revenue streams was not based on an assessment of information collected in respect of 2013-2014, as IRD and the Customs Department did not provide any information at the time we conducted the scoping study.

4.2.2. Oil and Gas payments analyses (non-tax revenue streams)

a. Payments flows

The MOGE 2013-2014 income report shows nine types of taxes paid by six companies operating in the oil & gas sector. We note that the two operators in the Yadana and Yetagun fields made a total payment of US 2.47bn which accounts for 99.3% of the total non-tax revenues.

The table below is a summary of the non-taxes revenues collected by MOGE during the fiscal year 2013-2014:

Non-tax payment	Amount	Cumulative	In US\$ million
			%
State participation(State Share)	1,295.2	1,295.2	53%
Corporate Income Tax(*)	458.5	1,753.8	71%
Royalty	286.3	2,040.1	83%
State Contribution by MOGE	218.7	2,258.8	92%
Dividend	197.4	2,456.2	100%
Signature Bonus	4.3	2,460.5	100%
Production Bonus	2.0	2,462.5	100%
Land Fees	1.6	2,464.1	100%
Withholding tax	0.5	2,464.5	100%
Total	2,464.5		

Source: MOGE (*) Paid by MOGE

Moreover, according to interviews held with MoE officials and oil and gas companies during the field work, we identified the following additional non-tax payments:

N°	Payment flows
1	Production Split
2	Training Fund
3	Research and Development Fund
4	Baseline payment (IPR/PCC)
5	Risk compensation (IPR/PCC)
6	Payment out of production (-)
7	Domestic Market Obligation (DMO)
8	Data fee

Allocations to the Training and Research Development funds are not transferred to MOGE. These allocations are held by oil and gas companies and managed by a monitoring committee of which MOGE is a member.

b. Flows scope

We recommend to include all the non-tax revenue streams in the scope of the 2013-2014 EITI report without applying a materiality threshold. We also recommend including allocations to the Training and Research Development funds in the reconciliation scope.

According to the above, the oil and gas payment flows that we propose to be included in the 2013-2014 reconciliation scopes may be summarised as follows:

N°	Payment flows
1	Signature Bonus
2	Royalties
3	Production Split
4	Production Bonus
5	State Participation
6	State Contribution
7	Baseline payment (IPR/PCC)
8	Risk compensation (IPR/PCC)
9	Payment out of production (-)
10	Dividend

N°	Payment flows
11	Training Fund
12	Research and Development Fund
13	Domestic Market Obligation (DMO)
14	Data fee
15	Land fees/Dead rent fee

4.2.3. Oil and gas transportation payments analysis (non-taxes revenues streams)

According to MoE, there are two categories of taxes and fees payable by the oil and gas transportation companies. These taxes and fees are:

- Profit Sharing Oil & Gas transportation;
- Transit fees Oil & Gas transportation; and
- Road right fee Oil & Gas transportation.

Following Requirement 4.1(f) of the EITI standard, tariff rates and volume of the transported commodities could be reported in the EITI Report.

4.2.4. Mining sector payments analysis (non-tax revenues streams)

a. Payments flows

According to the data provided by the MoM there are 10 categories of fees and charges payable by mining companies to ministry. These fees and charges are set out in the table below:

In billion kyats			
Non-tax payment	Amount	Cumulative	%
Royalty Tax (Gems and Jade)	418.2	418.2	48,89%
Production split (Gems and Jade)	364.3	782.5	91,48%
Emporium Fees (Gems and Jade)	38.6	821.1	95,99%
Production Split	18.1	839.2	98,11%
Supervision Fees	10.3	849.5	99,31%
Dead Rent Fees	2.8	852.3	99,64%
Sale Fees	2.5	854.8	99,93%
Royalty Fees (other minerals)	0.4	855.2	99,98%
Licence Fees	0.1	855.3	99,99%
Stamp Duty Charges	0.0	855.3	100,00%
Total	855.3		

Moreover, according to interviews held during the field work with the MoM and the Myanmar Federation of Mining Association, we identified the following additional non-tax payments:

N°	Payment flows
1	Signature Bonus (paid at the conclusion of contracts)
2	Land fees (Paid to the Ministry of Environmental Conservation and Forestry)
3	Dividend

On the basis of the information supplied by the MoM, we recommend a threshold of Kyats 0.1bn, covering 99.99% of the total contribution from mining licensees to the MoM. Moreover, we recommend including “Signatures bonuses” and “Land fees” which could be material in the context of Myanmar.

Based on the above, the mining sector payment flows that we propose to be included in the 2013-2014 reconciliation scope may be summarised as follows:

N°	Payment flows
1	Royalties
2	Signature Bonus
3	Production Split
4	Dead Rent Fees
5	Land fees
6	Licence Fees
7	Emporium Fees
8	Supervision Fees
9	Sale Fees
10	Dividend

4.2.5. Flows scope

Based on the selection criteria for flows presented in the previous paragraph, the following payment flows were selected in the scope.

a. Common taxation

N°	Payment flows	Definition
Payments to IRD and Custom Department		
1	Corporate Income Tax (CIT)	An enterprise registered under the Myanmar Companies Act, an entity registered under the Myanmar Foreign Investment Law (MFIL) and a registered Myanmar branch of a foreign entity which enjoys incentives under MFIL are subject to income tax at 25%. A registered Myanmar branch of a foreign entity does not enjoy incentives under MFIL, and other non-resident entities, are subject to income tax at the higher rate of 35%.
2	Commercial Tax	A commercial tax is levied on the sales of goods and services and applies to certain transactions as defined in the Commercial Tax Law. Commercial tax is applied to the gross sales of goods and services. For imported goods, commercial tax is calculated via the "cost, insurance and freight" (CIF) value of goods. Commercial tax is levied at 5% on goods other than exempted goods. Commercial tax is not applicable for exports, except in the case of natural gas, crude oil, jade, gemstones and timber.
3	Customs Duties	Goods imported in Myanmar are subject to Customs Duties on importation and are required to be declared to the Myanmar Customs Department accordingly. Currently, the Customs Duties levied on the import of machinery, spare parts, and inputs generally range from 0% to 40% of the value of the goods imported. For exports of goods, export duty is levied on certain commodities.
4	Stamp Duties	Stamp duty applies to a number of transactions. The Myanmar Stamp Act defines the rules to implement Stamp Duties for various types of instruments payable in Kyats and in other currencies.
5	Capital Gains Tax	The sale or transfer of capital assets are levied for income tax purposes on gains calculated based on the difference between gross sales and the purchase cost of assets plus any additions less depreciation. Capital assets for income tax purposes are defined as lands, buildings, vehicles, or any other asset owned by an entity including shares, bonds and intangibles
6	Withholding tax	Withholding tax is a tax where any person or company making certain payments is required to deduct from such payments and remit to the Government Agencies. The payments that attract WHT include management and consultant fees, commissions, rent dividends and payments to non-resident contractors.
7	Other significant payments (> 50,000 USD)	To avoid omissions that may be considered significant, a line entitled "Other significant payments flows" has been included in the reporting template for extractive companies to report any significant payment including any payment flows which is not expected in the reporting template and which is above 50,000 USD.

b. Oil and Gas payments

▪ Payment flows in kind

N°	Payment flows	Definition
Payments to MOGE		
1	State production entitlement	It is the State entitlement on the Profit Oil/Gas of the Oil and Gas produced.
2	MOGE production entitlement	It is the MOGE entitlement on the Profit Oil/Gas and Cost Oil/Gas of the Oil and Gas produced. All three of the Standard PSCs used by the EPD contain state buy-in provisions. For onshore blocks, the standard PSC reserves a 15% undivided interest for MOGE, with the option for the state to increase their share up to a 25% undivided interest in the project. For offshore blocks, MOGE has the right to buy-in to the project up to 20% upon a commercial discovery (increasing to 25% if the reserves are greater than 5 TCF).
3	Royalties	Royalties are charged at percentage (mentioned in the PSC) of the value of production. The same rate applies for both oil and natural gas. Royalties in Myanmar could be paid in kind or in cash.
4	Baseline payment	In-kind payment made by Oil & Gas onshore companies to MOGE. The amount and modalities of this payment are detailed in the PCC (Performance Compensation Contracts) and IPR (Improved Petroleum Recovery Contract)..
5	Risk compensation	In-kind payment made by Oil & Gas onshore companies to MOGE. The amount and modalities of this payment are detailed in the PCC (Performance Compensation) Contracts and IPR (Improved Petroleum Recovery Contract).
6	Payment out of production (-)	The reimbursement of the undivided interest by MOGE in the total of the rights and obligations can be made in kind or "Payment out of Production" of fifty percent (50%) of MOGE'S production entitlement under the Contract valued commencing as from the beginning of Commercial Production.

▪ Payment flows in cash

N°	Payment flows	Definition
Payments to Ministry of Energy/MOGE		
7	Signature Bonus	Bonus paid upon conclusion of a (Production Sharing Contract (PSC)). The amount of the Signature Bonus is specified in the PSC.
8	Royalties	Royalties are charged at percentage (mentioned in the PSC) of the value of production. The same rate applies for both oil and natural gas. Royalties in Myanmar could be paid in kind or in cash.
9	Production Split (State share)	It is the State entitlement on the Profit Oil/Gas of the Oil and Gas produced. Production of petroleum net of cost is shared between the PSC parties, based on a progressive sliding scale linked to average daily production levels from the production area. The rates are distinct for oil and for natural gases.
10	Production Bonus	Bonus paid to MOGE in proportion to the quantities of hydrocarbons produced. The amount of the Production Bonus is specified in the PSC.
11	MOGE share (Profit and Cost)	It is the MOGE entitlement on the Profit Oil/Gas and Cost Oil/Gas of the Oil and Gas produced. All three of the Standard PSCs used by the EPD contain state buy-in provisions. For onshore blocks, the standard PSC reserves a 15% undivided interest for MOGE, with the option for the state to increase their share up to a 25% undivided interest in the project. For offshore blocks, MOGE has the right to buy-in to the project up to 20% upon a commercial discovery (increasing to 25% if the reserves are greater than 5 TCF).
12	Dividend	This is the distribution of profits in proportion to the number of shares held directly in the Extractive Company.
13	Training Fund	A training contribution is payable annually by concession holders. Different annual payments apply during the exploration and production periods. The payments to the training fund are not transferred to MOGE, they are held by the extractive companies and managed by a monitoring committee of which MOGE is a member.
14	Research and Development Fund	Contractors should pay an annual contribution to a Research and Development (R&D) Fund from the start of production. The contribution equals 0.5% of contractor's share of profit production.
15	Domestic Market Obligation (DMO)	The Contractor's obligatory share of the domestic market obligation will be in the proportion that the Contractor's entitlement to crude oil and gas to all crude oil and gas produced in Myanmar, up to 20% of the crude oil allocated to the Contractor.
16	Data fee	Data fee is levied only on offshore blocks. It is payable within 30 days after the PSC signature.
17	Land fees/Dead rent fee	Land fees is payable to the Ministry of Environmental Conservation and Forestry. The amount of the land rent is specified by the PSC.

N°	Payment flows	Definition
18	Other significant payments (> 50,000 USD)	To avoid omissions that may be considered significant, a line entitled "Other significant payments flows" has been included in the reporting template for extractive companies to report any significant payment including any payment flows which is not expected in the reporting template and which is above 50,000 USD.
19	Contribution to the State/region social development fund	It is the amount of the annual contribution made by the Oil & Gas companies to the State/region social development fund.

c. O&G transportation payments

N°	Payment flows	Definition
Payments to MOGE		
1	Profit Sharing Oil & Gas transportation	It is MOGE share on the Oil & Gas transported via the pipeline.
2	Transit fees Oil & Gas transportation	Transit fees are paid by extractives companies to MOGE for the use of the pipelines.
3	Road right fee Oil & Gas transportation	Road right fees are paid by the companies that are operating the pipelines to MOGE.

d. Mining sector payments

▪ Payment flows in kind

N°	Payment flows	Definition
Payments to MoM		
1	Production Split	Production is shared between the parties. The percentage of the SOE and the percentage of each partner are mentioned in the PSC. The Ministry of Mines share can be increased if production increases
2	Royalties	Royalties are paid by a mining licence holder to SOE on the sales value of all products extracted. Royalties for Mining Projects are: <ul style="list-style-type: none"> ▪ -Precious metallic minerals from 5% to 7.5%; ▪ -Iron, copper, zinc, lead, etc. from 3% to 4%; and ▪ -Gold, silver, platinum from 4% to 5%.

▪ Cash payment

N°	Payment flows	Definition
Payments to Ministry of Mines Department of Mines N°1 Mining Enterprise (ME1) N°2 Mining Enterprise (ME2) N°3 Mining Enterprise (ME3)		
1	Royalties	Royalties are paid by a mining licence holder to SOE on the sales value of all products extracted. Royalties for Mining Projects are: <ul style="list-style-type: none"> ▪ -Precious metallic minerals from 5% to 7.5%; ▪ -Iron, copper, zinc, lead, etc. from 3% to 4%; and ▪ -Gold, silver, platinum from 4% to 5%.
2	Signature Bonus	Bonus paid within 30 days after conclusion of mining agreement. The amount of the Signature Bonus is specified in the agreement.
3	Production Split	Production is shared between the parties. The percentage of the SOE and the percentage of each partner are mentioned in the PSC. The Ministry of Mines share can be increased if production increases.
4	Dead Rent Fees	Land rent also called "dead rent" is payable on mineral prospecting and exploration stages. The amount of the land rent is specified by the mining agreement.
5	Licence Fees	Fees payable by an applicant of mining rights to be granted a mining license or permit.
6	Dividend	This is the distribution of profits in proportion to the number of shares held directly in the Extractive Company.
7	Other significant payments (> 50,000 USD)	To avoid omissions that may be considered significant, a line entitled "Other significant payments flows" has been included in the reporting template for extractive companies to report any significant payment including any payment flows which is not expected in the reporting template and which is above 50,000 USD.

N°	Payment flows	Definition
Payments to MGE		
8	Royalties (20%)	Royalties is levied on the Gems & Jade sales production at the rate of 20% These royalties are paid to MGE.
9	Royalties (10%)	Royalties is levied on the Gems & Jade sales in the annual emporium at the rate of 10%. Royalties is split between IRD (7%) and MGE (3%).
10	Sale Split	It is the share of the State on the revenues of Gems & Jade sales made in te annual emporium.
11	Emporium Fees / Sale Fees	These fees are payable by the participants at the Gems and Jade Emporium.
12	Supervision Fees	These fees are payable by the participants at the Gems and Jade Emporium.
N°	Payment flows	Definition
Payments to Forest Department -Ministry of Environmental Conservation and Forestry		
13	Land rental fees	Land rent also called "dead rent" is payable on mineral prospecting and exploration stages. The amount of the land rent is specified by the mining agreement.
14	Environmental / Plantation fees	Environmental / Plantation fees is payable by the mining companies when they obtain the mining license.
Payments to States/Regions		
15	Contribution to the State/region social development fund	It is the amount of the annual contribution made by the companies to the State/region social development fund.

e. Social payments

The private sector's contribution to good governance in the extractive industries sector typically comes through either individual projects (which can be classed, in EITI terms, as "social payments"), as Corporate Social Responsibility (CSR) programmes, or in a more structured form as Community Development Agreements which are incorporated into legal contracts between the operator and the government.

Under the EITI 2013 Standard, all forms of social payment must be recorded in the annual EITI reports, whether these social payments are either mandated by law or included within the contract.

We understand that in Myanmar there are no social payments mandated by law or by contracts signed with the extractive companies. Social expenditures are made in a voluntary way through CSR programmes which are implemented in accordance to the company policy. Here, we shall refer to two major CSR programmes, for the Yadana (Socio-Economic Programme (SEP)) and Shwe Gas pipelines.

MEITI may wish to play a role in ensuring greater transparency and accountability in these programmes by requiring detail reporting on revenue and expenditure for all the major extractive industries sector CSR programmes in Myanmar.

N°	Flux	Definition
1	Mandatory social payments	These flows relate to mandatory social payments made by extractive companies in the development of local communities under agreements and contracts or commitments to communities and local councils. These include: payments made by extractive companies to finance health infrastructure projects, schools, roads, truck farming and those supporting the actions of local communities, compensation other than those granted in return for direct compensations.
2	Voluntary social expenditures	These flows relate to voluntary social payments made by extractive companies in the development of local communities under agreements and contracts or commitments to communities and local councils. These include: payments made by extractive companies to finance health infrastructure projects, schools, roads, truck farming and those supporting the actions of local communities, compensation other than those granted in return for direct compensations.

f. Bartering arrangements

According to Requirement 4.1.d of EITI (2013), payments in kind or barter identified during the period covered by this study should be included in the EITI report.

According to the information collected and interviews held with the government focal points, no barter transactions or infrastructure projects have taken place or were ongoing in 2013-2014.

g. Other significant payments flows

To avoid omissions that may be considered significant, a line entitled "Other significant payments flows" has been included in the reporting template for extractive companies to report any significant payment including any payment flows which is not expected in the reporting template.

h. Production and export

Based on the provisions of Requirement 3.5 of the EITI standard (2013), we propose to include the flows and volumes of production and exports in the 2013-2014 EITI report as follows:

- Production volume and value: following the various exchanges made with the government, it is difficult to reconcile the production data given the possible contradiction of data between administrations and the lack of a credible source of information. Therefore, we recommend a unilateral declaration of production data by extractive companies. The production value will be reported on the basis of the average selling price multiplied by the production of the period.
- Exports volumes and values: the volume and value of exports will be subject to reporting by extractive companies and by the Ministry of Mines and Hydrocarbons General Secretariat for Mining and Oil Sectors respectively. The data collected will be reconciled. The export value will be reported based on the basis of the FOB price.

i. Employment in the extractive sector

Based on the provisions of Requirement 3.4 of the EITI standard, we recommend that the staff employed by extractive companies is disclosed, broken down between local employees and expatriates.

4.3. Recommended list of reporting entities

4.3.1. Approach for the selection of reporting entities for inclusion in 2013-2014 reconciliation scope

According to a list of active licence provided by the MoM and the MoE, there were 263 potential reporting entities involved in the extraction of hydrocarbons or solid minerals in 2013-2014.

We understand that revenues collected from extractive sector in Myanmar are received by the MoM and the MoE for the specific payments (including all proportional levies to the production) and the MoF for the common taxation. We also understand that tax revenues received by the MoF from mining sector may relate to activities other than mining operations since mining companies may operate in several sectors.

We also understand that IRD and Custom Department under the MoF were not able to provide revenues collected from the extractive sector due to the huge number of licensees and the inadequate government reporting system as detail in the recommendation section of this Report. Therefore, the materiality for the determination of the EITI scope was assessed on the basis of data provided by the MoM and the MoE only.

The MoM was not able to provide desegregated data (by licensee) on the revenues streams collected from small operators except for emporium data for Jade and Gemstone. Therefore, we have not been able to adequately assess the materiality for such operators.

The information provided to us during the scoping study and related to the 2013-2014 tax collection was limited to the payments received by the MoM and the MoE from the extractive sector. Nevertheless we set out in the table below the tax collection per Government Agency and SOEs based on the Union Budget Law 2013:

In million Kyats		
Collecting Government Agency	Amount	%
Ministries and department revenues	4,155,202	31.4%
Of which tax on income and property	1,264,933	9.6%
Of which tax on trade	1,091,082	8.3%
Of which tax on State Owned Enterprises	944,897	7.2%
State Owned Enterprises Revenues	9,039,021	68.4%
Of which SOE Energy	4,341,112	32.9%
Of which SOE Electric Power	1,318,591	10.0%
Of which SOE Mines	303,107	2.3%
NPT development committee	20,006	0.2%
Total	13,214,229	100%

Source: Union Budget Law 2013

According to the national budget, revenues collected by the ministries and department revenues including the MoF represents 31.4% of the total State revenues for the fiscal year 2013-2014. Meanwhile revenues collected by the SOEs including those managed under the MoM and the MoE represent 68.4%. Given the significance of the SOEs revenues in the budgetary resources, our selection of material payments and companies was based on the amount of revenue collected by the MoM and the MoE related SEEs.

Tax on income (Company Income tax) and the commercial tax (tax on trade) and the tax on SOE are the main revenues streams collected by “the ministries and department” and represent over 20% of the budgetary resources.

4.3.2. Recommended Reporting Entities for 2013/14 EITI Report

a. Oil & Gas sector

The profile of payments to MOGE in 2013-2014, based on the preliminary information provided by the MoE, is set out in the table below.

In US\$ million

Company	State participation	Corporate Income Tax	Royalty	State Contribution by MOGE	Dividend	Signature Bonus	Production Bonus	Land Fees	Withholding tax	Total	Cumulative	%
Petronas Carigali Myanmar Inc	656.3	222.7	142.9	128.9	122.7	-	-	0.6	-	1,274.2	1,274.2	51.70%
TOTAL	638.9	231.6	137.5	89.8	74.7	-	-	1.0	-	1,173.5	2,447.7	99.32%
Goldpetrol Co Ltd	-	3.8	5.8	-	-	-	-	-	0.3	9.9	2,457.6	99.72%
Chinnery Assets Ltd	-	-	-	-	-	3.5	2.0	-	-	5.5	2,463.2	99.95%
SNOG Pte Ltd	-	-	-	-	-	0.8	-	-	-	0.8	2,463.9	99.98%
Myanmar Petroleum Resources Ltd	-	0.4	-	-	-	-	-	-	0.2	0.6	2,464.5	100%
Total	1,295.2	458.5	286.3	218.7	197.4	4.3	2.0	1.6	0.5	2,464.5		

The data provided by the MoE shows that only six companies have made payments to MOGE in 2013-2014. Given the limited numbers of companies with payments to MOGE, we recommend to include all the operators listed above in the reconciliation scope of the 2013-2014 EITI report.

Since, the O&G contracts include a tax holiday for the common taxes (Corporate Income Tax, Commercial Tax, etc), the payments during the first years could be limited to the bonuses and the state participation. We understand that the state participation can be paid through compensation with the payment “out of production”. Therefore, we recommend to include all operating companies in the production phase.

Furthermore, as the Myanmar law stipulates that each partner or participant in a hydrocarbon project is responsible for paying their own taxes, we recommend including all the partners in the producing fields in the reconciliation scope. The table below details the shareholdings of the seven producing fields:

Field	Shareholdings	
	Company	%
Yetagan	Petronas Carigali Myanmar Inc (Operator)	40.9%
	PTT Exploration & Production	19.3%
	MOGE	20.5%
	Nippon Oil	19.3%
Yadana	TOTAL (Operator)	31.2%
	UNOCAL	28.3%
	PTT Exploration & Production	25.5%
	MOGE	15.0%
Shwe	Daewoo International Corporation (Operator)	51.0%
	MOGE	15.0%
	ONGC Videsh Ltd	17.0%
	Gail JJ India Ltd	8.5%
Zawtika	Korea Gas Corporation	8.5%
	PTT Exploration & Production (Operator)	80.0%
	MOGE	20.0%
Chauk Oil Field	Goldpetrol Co Ltd (Operator)	45.0%
	MOGE	55.0%
YNG Oil Field	Goldpetrol Co Ltd (Operator)	45.0%
	MOGE	55.0%
Mann Oil Field	MPRL E&P Pte Ltd	35.0%
	MOGE (Operator)	65.0%

Source: Ministry of Energy

Given the limited number of companies in Oil & Gas sector, we recommend to include all the operators in producing fields and exploration companies that have made payments without applying a materiality threshold.

On this basis, 14 oil and gas companies will be included in the reconciliation scope and will form part of the reconciliation exercise for the EITI Report 2013-2014. These companies are presented as follows:

	Company
SOE	1. MOGE
	2. Petronas Carigali Myanmar Inc
	3. TOTAL
Private companies in production	4. Daewoo International Corporation
	5. PTT Exploration & Production
	6. Goldpetrol Co Ltd
	7. MPRL E&P Pte Ltd
Partners in the producing fields	8. Nippon Oil
	9. ONGC Videsh Ltd
	10. Gail JJ India Ltd
	11. Korea Gas Corporation
	12. UNOCAL
Companies in exploration phase	13. Chinnery Assets Ltd
	14. SNOG Pte Ltd

b.Transportation of Oil & Gas

We recommend to include all revenues collected from Andaman Transportation Limited (ATL), Moattama Gas Transportation Company (MGTC), Taninthayi Pipeline Company (TPC) and the South East Asia Crude Oil Pipeline Co, Ltd (SEACOP). The revenues from the transportation of Oil & Gas will be unilaterally disclosed by the MOGE and IRD.

c. Mining sector

The table below shows the breakdown of the 2013-2014 mining revenues collected by SOEs between the Gems and Jade sector and the other minerals:

In billion kyats		
Sector	Amount	%
Gems and Jade	833.8	97.5%
Other minerals	21.4	2.5%
Total	855.3	100%

Hence we note that the Gems and Jade sector represents 97.5% of 2013-2014 mining revenues collected by SOEs.

The table below shows the 2013-2014 mining revenues collected by the SOEs detailed by company and by tax:

													In billion kyats		
Name Of Company/Taxpayer	Production split (Gems and Jade)	Royalty Tax (Gems and Jade)	Emporium Fee	Supervision Fee	Sale Fee	Licence Fee	Dead Rent Fee	Royalty Fee	Production Split	Stamp Duty Charges	Total	Cumulative	%		
Mahar A Sa Pa Hta Ma	44.5	12.7	1.3	1.3	0.0	-	-	-	-	-	59.7	59.7	7.0%		
MYANMAR IMPERIAL JADE	-	45.1	4.1	-	0.1	-	-	-	-	-	49.2	108.9	5.8%		
Kywal Wa Sone	28.0	7.9	0.8	0.8	0.0	-	-	-	-	-	37.5	146.4	4.4%		
LINN LETT WIN YADANAR GEMS	15.8	9.3	0.9	0.4	0.0	-	-	-	-	-	26.5	172.9	3.1%		
EVER WINNER GEMS	-	22.2	2.0	-	0.0	-	-	-	-	-	24.2	197.1	2.8%		
AUNG HEIN MIN GEMS	0.1	21.7	2.0	0.0	0.2	-	-	-	-	-	24.0	221.1	2.8%		
Wai Aung Ka Bar	17.8	5.0	0.5	0.5	0.0	-	-	-	-	-	23.8	244.9	2.8%		
Ya Zar Htar Ni	17.6	4.9	0.5	0.5	0.0	-	-	-	-	-	23.5	268.4	2.7%		
SHWE YWET HLWAR GEMS	0.1	19.8	1.8	0.0	0.1	-	-	-	-	-	21.8	290.1	2.5%		
Kyauk Sein Na Gar	13.2	3.7	0.4	0.4	0.0	-	-	-	-	-	17.7	307.9	2.1%		
YADANAR YAUNG CHI GEMS	-	15.6	1.4	-	0.2	-	-	-	-	-	17.2	325.0	2.0%		
Kyauk Sein Taung	12.8	3.6	0.4	0.4	0.0	-	-	-	-	-	17.1	342.1	2.0%		
THI RAW MANI GEMS	11.0	4.1	0.4	0.3	0.0	-	-	-	-	-	15.8	357.9	1.8%		
Kyaik International	11.6	3.3	0.3	0.3	0.0	-	-	-	-	-	15.5	373.4	1.8%		
MYAT YAMON GEMS	8.3	5.6	0.5	0.2	0.0	-	-	-	-	-	14.6	388.1	1.7%		

Name Of Company/Taxpayer	Production split (Gems and Jade)	Royalty Tax (Gems and Jade)	Emporium Fee	Supervision Fee	Sale Fee	Licence Fee	Dead Rent Fee	Royalty Fee	Production Split	Stamp Duty Charges	Total	Cumulative	%
WINN LEI YADANA	-	13.1	1.2	-	-	-	-	-	-	-	14.3	402.3	1.7%
Myanmar Si Thu	10.3	2.9	0.3	0.3	0.0	-	-	-	-	-	13.9	416.2	1.6%
111	10.2	2.9	0.3	0.3	0.0	-	-	-	-	-	13.7	429.9	1.6%
Sein Lone Taung Tan	9.8	3.1	0.3	0.3	0.0	-	-	-	-	-	13.5	443.4	1.6%
SHINING STAR LIGHT GEMS	9.0	3.8	0.4	0.3	0.0	-	-	-	-	-	13.5	456.9	1.6%
Khin Zaw Aung and Brothers	10.0	2.8	0.3	0.3	0.0	-	-	-	-	-	13.4	470.3	1.6%
Shal Family	9.2	2.6	0.3	0.3	-	-	-	-	-	-	12.3	482.6	1.4%
Aye Yar Kyauk Sein	9.1	2.6	0.3	0.3	0.0	-	-	-	-	-	12.2	494.8	1.4%
WAI FAMILY GEMS	-	11.1	1.0	-	0.1	-	-	-	-	-	12.2	507.0	1.4%
AYEYAR YANDANAR GEMS	-	11.0	1.0	-	-	-	-	-	-	-	12.0	519.0	1.4%
A Myo Thar Kyi Pwar Toe Tat Yay	8.3	2.3	0.2	0.2	0.0	-	-	-	-	-	11.1	530.1	1.3%
SHWE WAH MYAY (MANDALAY)	0.7	9.4	0.8	0.0	0.0	-	-	-	-	-	11.1	541.1	1.3%
Ya Da Nar Taung Tan	8.0	2.3	0.2	0.2	-	-	-	-	-	-	10.7	551.8	1.3%
NAY LA PWINT GEMS	4.0	6.0	0.5	0.1	-	-	-	-	-	-	10.6	562.5	1.2%
TREASURE WHITE LOTUS GEMS	-	9.3	0.8	-	0.0	-	-	-	-	-	10.2	572.6	1.2%
YADANAR PYI PHYO AUNG GEMS	-	8.8	0.8	-	0.0	-	-	-	-	-	9.6	582.3	1.1%
Khaing Myanmar	1.1	7.3	0.7	0.0	0.1	-	-	-	-	-	9.2	591.5	1.1%
PHO THAR HTOO GEMS	1.4	6.3	0.6	0.0	0.1	-	-	-	-	-	8.4	599.9	1.0%
Myanmar Sein Lai Aung	5.9	1.7	0.2	0.2	-	-	-	-	-	-	7.8	607.7	0.9%
UNITY GEMS	3.3	3.9	0.4	0.1	0.0	-	-	-	-	-	7.7	615.5	0.9%
Shwe Pyae Shan	5.6	1.6	0.2	0.2	-	-	-	-	-	-	7.5	622.9	0.9%
BIG JADE GEMS	-	6.7	0.6	-	-	-	-	-	-	-	7.3	630.3	0.9%
MYINT SONE AYAR GEMS	-	6.7	0.6	-	-	-	-	-	-	-	7.3	637.6	0.9%
Khaing Lone	5.3	1.5	0.2	0.2	0.0	-	-	-	-	-	7.2	644.7	0.8%
TUN TAU SA GEMS	0.0	6.0	0.5	0.0	0.0	-	-	-	-	-	6.6	651.3	0.8%
Nan Oo Ya Da Nar	0.0	5.8	0.5	-	0.0	-	-	-	-	-	6.3	657.6	0.7%
Ngwe Sin	4.7	1.3	0.1	0.1	-	-	-	-	-	-	6.3	663.9	0.7%
YADANAR MOE MYAY GEMS	0.5	4.8	0.4	0.0	0.0	-	-	-	-	-	5.8	669.7	0.7%
YADANAR SAN SHWIN GEMS	-	5.2	0.5	-	0.0	-	-	-	-	-	5.7	675.4	0.7%
Kachin Tine Yin Thar Development	4.2	1.2	0.1	0.1	0.0	-	-	-	-	-	5.7	681.1	0.7%

Name Of Company/Taxpayer	Production split (Gems and Jade)	Royalty Tax (Gems and Jade)	Emporium Fee	Supervision Fee	Sale Fee	Licence Fee	Dead Rent Fee	Royalty Fee	Production Split	Stamp Duty Charges	Total	Cumulative	%
KHUN-PA-OH GEMS & JEWELLERY	4.2	1.2	0.1	0.1	0.0	-	-	-	-	-	5.6	686.7	0.7%
MEGA STAR JEWEL	-	5.0	0.4	-	-	-	-	-	-	-	5.4	692.2	0.6%
San Taw Win	4.0	1.1	0.1	0.1	-	-	-	-	-	-	5.3	697.5	0.6%
Myo N'we	3.9	1.1	0.1	0.1	0.0	-	-	-	-	-	5.2	702.7	0.6%
Myanmar Naing Group	3.8	1.1	0.1	0.1	-	-	-	-	-	-	5.1	707.8	0.6%
Shwe Gaung Gaung	3.7	1.0	0.1	0.1	0.0	-	-	-	-	-	5.0	712.7	0.6%
LONH HAI PRODUCTION & TRADING	-	4.6	0.4	-	-	-	-	-	-	-	5.0	717.7	0.6%
LONG BYIT JEWELLERY	-	4.4	0.4	-	0.2	-	-	-	-	-	5.0	722.7	0.6%
Eternal (Htar-Wa-Ya)	-	-	-	-	-	0.0	0.0	-	4.8	-	4.8	727.5	0.6%
Hlyan Shann	3.4	1.0	0.1	0.1	0.0	-	-	-	-	-	4.5	732.0	0.5%
New Jade International	3.2	0.9	0.1	0.1	0.0	-	-	-	-	-	4.3	736.3	0.5%
BAYANI GEMS	0.0	3.6	0.3	-	0.0	-	-	-	-	-	4.0	740.2	0.5%
YEE LIET FAA GEMS	-	3.4	0.3	-	-	-	-	-	-	-	3.7	744.0	0.4%
SEIN OO YADANAR GEMS	-	3.2	0.3	-	-	-	-	-	-	-	3.5	747.4	0.4%
Htoo	2.6	0.7	0.1	0.1	0.0	-	-	-	-	-	3.5	750.9	0.4%
Thi Ha and Three Brothers	2.5	0.7	0.1	0.1	-	-	-	-	-	-	3.4	754.3	0.4%
Than Lwin Aye Yar	2.3	0.7	0.1	0.1	0.0	-	-	-	-	-	3.1	757.4	0.4%
YADANAR AUNG CHAN GEMS	-	2.8	0.3	-	0.0	-	-	-	-	-	3.1	760.5	0.4%
WANG FU GEMS	-	2.7	0.2	-	0.0	-	-	-	-	-	3.0	763.5	0.4%
Other companies (more than 197)	29.4	40.3	3.6	0.8	1.0	0.1	2.8	0.4	13.3	0.0	91.8	855.3	10.7%
Total	364.3	418.2	38.6	10.3	2.5	0.1	2.8	0.4	18.1	0.0	855.3		

Based on the above, the profile of payments to the MoM is set out in the following table:

Payment threshold	Mining Companies/Taxpayers			
	Number of companies/taxpayers	Revenue collected by MoM (billion Kyats)	Weight / total collected revenue	Cumulative weight
Amount > Kyats 30 billion	3	146.4	17%	17%
Kyats 20 billion <Amount <Kyats 30 billion	6	143.7	17%	34%
Kyats 10 billion <Amount <Kyats 20 billion	21	282.5	33%	67%
Kyats 5 billion <Amount <Kyats 10 billion	20	135.1	16%	83%
Kyats 3 billion <Amount <Kyats 5 billion	14	55.7	7%	89%
Kyats 1 billion <Amount <Kyats 3 billion	31	58.1	7%	96%
Amount <Kyats 1 billion	161	25.9	3%	99%
Small scale mining companies		7.9	1%	100%
Total	256	855.3	100%	

The breakdown of the profile of payments between the Gems Jade sector and the other minerals is as follow:

Gems and Jade:

Payment threshold	Mining Companies			
	Number of companies	Revenue collected by MoM (billion Kyats)	Weight / total collected revenue	Cumulative weight
Amount > Kyats 30 billion	3	146.4	18%	18%
Kyats 20 billion <Amount <Kyats 30 billion	6	143.7	17%	35%
Kyats 10 billion <Amount <Kyats 20 billion	21	282.5	34%	69%
Kyats 5 billion <Amount <Kyats 10 billion	20	135.1	16%	85%
Kyats 3 billion <Amount <Kyats 5 billion	13	50.9	6%	91%
Kyats 1 billion <Amount <Kyats 3 billion	30	57.0	7%	98%
Amount <Kyats 1 billion	84	18.2	2%	100%
Total	177	833.8	100%	

According to the above table, the companies paying taxes of more than **Kyats 10 bn** represent **69%** of the total revenue collected by the MoM from companies operating in the Gems & Jade sector.

The materiality threshold recommended above means that mining companies making **69%** of reported payments to the MoM will be included in the reconciliation i.e. all companies making payments to the MoM in excess of **Kyats 10 bn**.

For companies which have made payments below **Kyats 10 bn**, we recommend the disclosure by Government Agencies of the combined benefit stream from the companies, including those whose production is exported, in accordance with EITI Requirement 4.2.b.

We also recommend to include all payments and transfers made by the MGE to the MoF regardless whether they are recorded in the budget accounts or in off-budget accounts.

According to the above, 30 companies will be selected for the reconciliation exercise. These companies are listed below:

Company Reg	Name Of Company	Company Reg	Name Of Company
978/2005-2006	Mahar A Sa Pa Hta Ma	99/2004-2005	WINN LEI YADANA
919/1996-1997	MYANMAR IMPERIAL JADE	448/1995-1996	Myanmar Si Thu
1047/2007-2008	Kywal Wa Sone	312/2006-2007	111
7/2000-2001	LINN LETT WIN YADANAR GEMS	1273/1996-1997	Sein Lone Taung Tan
952/1995-1996	EVER WINNER GEMS	220/2004-2005	SHINING STAR LIGHT GEMS
617/2004-2005	AUNG HEIN MIN GEMS	1117/2007-2008	Khin Zaw Aung and Brothers
696/2005-2006	Wai Aung Ka Bar	742/1994-1995	Shal Family
1999/2010-2011	Ya Zar Htar Ni	92/2009-2010	Aye Yar Kyauk Sein
519/2003-2004	SHWE YWET HLWAR GEMS	174/2000-2001	WAI FAMILY GEMS
1630/1999-2000	Kyauk Sein Na Gar	1532/1996-1997	AYEYAR YANDANAR GEMS
67/2008-2009	YADANAR YAUNG CHI GEMS	1925/2007-2008	A Myo Thar Kyi Pwar Toe Tat Yay
203/2000-2001	Kyauk Sein Taung	1735/1999-2000	SHWE WAH MYAY (MANDALAY)
363/1995-1996	THI RAW MANI GEMS	787/2000-2001	Ya Da Nar Taung Tan
872/2007-2008	Kyaik International	927/1995-1996	NAY LA PWINT GEMS
1043/1995-1996	MYAT YAMON GEMS	273/2003-2004	TREASURE WHITE LOTUS GEMS

Other minerals:

Payment threshold	Mining Companies			
	Number of companies	Revenue collected by MoM (billion Kyats)	Weight / total collected revenue	Cumulative weight
Amount > Kyats 3 billion	1	4,8	22%	22%
Kyats 1 billion <Amount <Kyats 3 billion	1	1,1	5%	28%
Kyats 0,5 billion <Amount <Kyats 1 billion	4	2,9	13%	41%
Kyats 0,25 million <Amount <Kyats 0,5 billion	5	1,9	9%	50%
Kyats 99 million <Amount <Kyats 0,25 billion	9	1,5	7%	56%
Kyats 50 million <Amount <Kyats 99 million	11	0,7	3%	60%
Kyats 25 million <Amount <Kyats 50 million	12	0,4	2%	62%
Amount <Kyats 25 million	36	0,3	1%	63%
Mining small scale companies		7,9	37%	100%
Total	79	21,4	100%	

According to the above table, the companies paying taxes of more than **Kyats 0.25 bn** represent **50%** of the total revenue collected by the MoM from companies operating in other minerals subsector.

The materiality threshold recommended above means that mining companies making **50%** of reported payments to the MoM will be included in the reconciliation i.e. all companies making payments to the MoM in excess of **Kyats 10 bn**.

For companies which have made payments below **Kyats 0.25 bn**, we recommend the disclosure by Government Agencies of the combined benefit stream from the companies in accordance with EITI Requirement 4.2.b.

We also recommend to include all payments and transfers made by the MGE to the MoF regardless whether they are recorded in the budget accounts or in off-budget accounts.

According to the above, eleven companies will be selected for the reconciliation exercise. These companies are listed below:

Companies	Type of Minerals
Eternal (Htar-Wa-Ya)	Gold
Kayah State Mining Production Co. (KMPC)	Mixed
Myanmar Pongpipat Company Limited	Tin
Nobel Gold	Gold (Au) & Associated
Tha Byu Mining Co., Ltd.	Antimoni Ore
Win Myint Mo Industries Co., Ltd.	Lead and Zinc Concentrates
DELCO (Developers Enterepreneurs Liaison Construction Organizers Limited)	Tin, Tengsten, Mixed
GPS Joint Venture Co., Ltd.	Lead Concentrates
Ngwe Yi Pale Mining Co., Ltd	Bauxite Coal
Max Myanmar Co., Group.	Coal ; Lime Stone Gypsum ; Lime Stone
Triple A Cement International Co., Ltd	Bauxite Coal Lime Stone

4.4. Selection of government entities

Based on the scoping study of extractive companies and payments flows selected for 2013-2014 EITI Report, 5 Government Entities and 6 SOEs will be required to report the total of revenues collected from extractive sector as follows:

Government Entities
1. Ministry of Energy (MoE)
2. Ministry of Mines (MoM)
3. Ministry of Finance (MoF)
4. IRD
5. Customs Department
6. Ministry of Environmental Conservation and Forestry
SOEs
1. Myanmar Oil and Gas Enterprise (MOGE)
2. N°1 Mining Enterprise (ME1)
3. N°2 Mining Enterprise (ME2)
4. N°3 Mining Enterprise (ME3)
5. Myanmar Gems Enterprise (MGE)
6. Myanmar Pearl Enterprise (MPE)

4.5. Fiscal year

The period covered by the First Report for EITI Myanmar is the fiscal year 2013-2014.

Thus, payment flows and contributions made between 1 April 2013 and 31 March 2014 must be reported by companies and Government Entities in the 2013-2014 EITI Repository.

The date to be considered is normally the date mentioned on the flag receipt or the date of the cheque / bank transfer.

4.4 Reliability and certification of data to be reported

In order to comply with Requirement No 5 of the EITI Standard (2013) which seeks to guarantee the credibility of the data submitted by reporting entities, we propose the following approach in the context of the preparation of the 2013-2014 Myanmar EITI report:

For mining companies

The Reporting Templates submitted by extractive companies selected in the reconciliation scope should be:

- signed by a person authorised to represent the extractive company;
- accompanied by detailed receipts of the reported payments;
- accompanied by the audited financial statements of the extractive company for the fiscal year 2013-2014; and
- certified by an external auditor that the reported data are consistent with the entity's accounts and that no evidence has been brought to his attention which is likely to affect the reliability or completeness of reported payments by the company.

For Government Entities

The Reporting Templates submitted by Government Entities included in the reconciliation scope must be:

- signed by a person authorised to represent the Government Entity;
- accompanied by detailed receipts of the payments reported; and
- certified by the Auditor General.

4.6. Level of disaggregation

We recommend that the Reporting Templates and the data are submitted:

- by extractive company;
- by Government Entity or SOE for each company/taxpayer selected in the reconciliation scope; and
- by tax and by type of payment flows as detailed in the Reporting Template.

For each payment flow reported, companies/taxpayers and Government Entities will produce details by receipt / payment, by date and by beneficiary.

The companies will also be requested to provide:

- information on their beneficial ownership; and
- the audited financial statements for 2013-2014.

All data and the level of detail that would be required as part of the reconciliation period are presented in Annex 1 of this report.

5 Recommendations

Recommendations to be addressed before the reconciliation phase

5.1. Government Audit

We met the Auditor General and discussed the possibility of certifying government figures submitted on the EITI data collection templates. OAG confirmed it would be possible to give the necessary form of assurance provided he is granted adequate time allowed and the work could be included in the OAG work plan.

We recommend that the MSG arranges for a request to be made to OAG in good time in order that the latter is in a position to plan and to give his opinion on the template for the 2013/2014 reconciliation. We also recommend that OAG should be invited to the workshop during which the template and the reporting guidelines will be presented.

We also recommend that OAG provides a letter giving of confirmation on the consistency of the EITI declarations with audited government accounts.

5.2. Company Audit

In order to assure the credibility of the data that will be reported by extractive entities, we recommend the following procedure.

Management representation

Companies should be asked to provide a letter from a member of its management team to make representations about the accuracy of the figures provided for the EITI reconciliation. This would ensure that the information may be relied upon.

Audit confirmation

The credibility of the Myanmar EITI process will be enhanced by improving the evidence of audit of the figures submitted by companies for reconciliation. It is the practice in a number of countries for the EITI reports for major companies to be signed off by the company's auditor.

We therefore recommend that all major companies are required to ensure that their auditors submit an opinion on the template data.

Prior to the start of the reconciliation phase, the MSG should inform of these companies so that their auditors can make the necessary planning. There are large scale operators which have been proposed for the scope of the 2013/2014 Report, and whose payments have by this measure been material, the MSG might consider these to be the major companies.

5.3. Confidentiality provisions in PSCs

The model PSC used by MOE contains a confidentiality provision which prevents the public disclosure of information relating to O&G operations by both MOGE and the operators.

Over the short term and before the commencement of the reconciliation phase, this confidentiality provision would need to be waived to permit EITI reporting. The waiver can be a short-form written instrument (e.g. side letter) between MOGE and each individual operator which provides for:

- an exception to the confidentiality provision for EITI disclosure; and
- a commitment or undertaking by MOGE and the operator to comply with any EITI and disclosure requirements.

However, over the long term such provisions should be amended to allow disclosure for EITI purposes and include an EITI reporting obligation on the operators and MOGE. These

amendments should be considered for the forthcoming contracts and those currently being negotiated.

5.4. Accuracy of Production data

We understand that the Jade and Gemstone production and exports figures provided by the Ministry of Mines was based on the emporium data. The Ministry does not have its own procedures and systems in place to collect and control on field production.

We highlighted discrepancies between the different production/exports data published and a need for consistency of definition and greater detail.

We recommend that this should be considered further by the MSG, as an area of examination in the 2013/2014 EITI reconciliation.

Recommendations for future reports

5.5. Publication of statistics and information on the extractive industry

The EITI standard stipulates the disclosure of contextual information of the activities and regulations in the extractive industry, including the disclosure of:

- an overview of the extractive industry in terms of reserves, regions, current structure and size, significant exploration activities etc.;
- contribution to the economy, with regards to employment and export levels;
- government revenues generated by the extractive industry and funds earmarked for specific programmes / geographic regions and sub-national transfers; and
- public information on license allocations, register of licensees, beneficial owners, contract terms, etc.

Currently, it seems that the Myanmar EITI Secretariat does not have a comprehensive database including extractive operators, contextual information and statics. The contextual information in this report is referenced to different sources dispersed across public sector and often not publicly available. Certain analyses were limited due to unavailability of statistics in the sector. Where available, national statistics included information for a wider sector.

It is vital that the EITI Secretariat should ensure that there is a comprehensive database of extractive companies to be able to identify with confidence all the companies making material payments. It would not be necessary for the EITI Secretariat to maintain the database, rather to ensure that there is such a database within government and that it is properly prepared, and current, and complete.

The database can be further extended to include other useful information for statistics in the sector such as: production volumes, investments, and environmental payments, which can be collected and consolidated and which would provide the basis for annual reporting of statistics and facts of the industry.

We also recommend that the MSG assists the Secretariat with adequate resources in order to ensure that a comprehensive and up to date database of all extractive companies is set up.

5.6. Mining Cadastre

The EITI Standard requires implementing countries to maintain a publicly available register or cadastre system(s) with the following timely and comprehensive information regarding each of the licenses pertaining to companies covered in the EITI Report:

- i. License holder(s);
- ii. Coordinates of the license area;

- iii. Date of application, date of award and duration of the license; and
- iv. In the case of production licenses, the commodity being produced.

We note that the Mining Cadastre made available to us during the scoping study by the Ministry of Mines and MoE did not provide the coordinates of the license area, dates of application, dates of award duration of the license or the type of permit. This meant that the licensing database and the process of extracting information from the database require further examination.

The current system has the following weaknesses: i) it is not available online. ii) the details provided do not include the coordinates of the concessions. iii) transfers of mineral rights though documented are not computerised; iv) intensive manual manipulation required to extract the list of licenses; v) licences are not systematically pre-numbered.

We recommend that the Mining Cadastre ensures that all records are computerised and kept up to date. This would then allow reports of all licensed operators, with relevant details, can be easily generated for EITI and other purposes.

An online cadastral system should be installed, which includes information on coordinates of concessions and transfers of mineral rights as well as fees paid. The MoM and the MoE should have official online cadastre maps with details of licences.

5.7. Government Reporting System

During the reconciliation work, we noted that government systems are not always set up in such a way that it is easy for government to capture information required for EITI purposes and to report on a timely basis.

Government Entities do not use the Tax Identification Number for taxpayers. Payments are recorded in most cases using the companies' names. We noted that in several cases payments were allocated to the wrong company because the company name was misspelt or because the company name is similar to other companies. This renders the identification of payments per company laborious as payments can be made by other entities on behalf of the company.

We recommend that the Myanmar Tax Authorities implement the use of Unique Tax Identification Numbers for all taxpayers in order to avoid unnecessary confusion and mistakes. TIN would also lead to information being reported reliably and efficiently.

5.8. Disclosure of total government revenue

During the fieldwork, we were unable to obtain a full disclosure of Government revenues collected by IRD and Customs Department for the extractive sector. We understand that Government revenues are recorded through a single cash management system. This current system can provide information on revenue generated for each tax but cannot identify and separately account for the revenue generated of the extractive industry as a whole and desegregated by tax and by taxpayer.

We recommend that the MSG collaborates with the MoF and discusses the opportunity to improve the EITI reporting process requirements within the MoF management information system. Updated information from the Government's reporting system will enhance statistics from the sector and facilitate the calculation of materiality threshold and help determine the EITI scope more efficiently.

5.9. Budget comprehensiveness and transparency

The EITI standard requires that "the EITI Report should indicate which extractive industry revenues, are recorded in the national budget and whether these include cash or in-kind. Where revenues are not recorded in the national budget, the allocation of these revenues must be explained..."

We understand that in Myanmar there is extensive use of "other accounts" which are essentially accounts held by ministries and SEEs at the Myanmar Economic Bank (MEB) for management of

their own resources. These extra –budgetary accounts are not included in fiscal reports with limited information disclosed on their use and management.

FY2013/2014 data the budget department show that other accounts receipts of Kyat 8,476,572 million, which is 64% of the total budgeted revenues including Kyat 4,096,038 million from the MOGE alone.

What is not clear is the distribution of these funds and consolidated view on the stocks and flows of these funds by budget head are not available.

In order to improve the transparency and comprehensiveness of the budgeting process, we recommend that the Ministry of Finance considers whether own-source revenues from extractive sector could be redefined as normal budgetary revenue and whether more information need to be disclosed with regards to “other accounts” in the budget.

5.10. Data collection

During the scoping work we noted that government systems are not always set up in such a way that is easy to capture information required for EITI and to report on timely basis. For example desegregated payment flows received by the MoM from small scale operators were not available. Similarly, IRD was not able to provide details of payments received from the extractive sector as companies are not categorised by sector in the IRD data collection system. The only common reference to the companies is the company’s name which could be spelt differently from one Government Entity to another and from one payment to another in the same Government Entity confirmation.

The explanations received suggested that the system of data collection has not been designed to facilitate the retrieval of such details promptly. Most government agencies use database in Microsoft Excel for revenue collection management.

We recommend that the government agencies involved should review their systems for recording and reporting on receipts from extractive companies, so that information can be reported reliably.

5.11. Allocation of licenses

The EITI standard requires the disclosure of information related to the award or transfer of licenses pertaining to the companies covered in the EITI Report, including: a description of the process for transferring or awarding the license; the technical and financial criteria used; information about the recipient(s) of the license that has been transferred or awarded, including consortium members where applicable; and any non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards.

The mining legislation does not include clear provisions on the application of the principle of “first come, first served” for granting mining permits. However, the right to the production permit is guaranteed in case of the discovery of a deposit by the holder of prospecting permit.

We therefore recommend that the MoM reviews the current legislation to state clearly the process used for awarding licenses and when a round of bidding should be conducted with the highest bidder obtaining the concession. This will ensure transparency and could also generate higher revenues.

5.12. Military holding companies

The EITI Standard requires the disclosure by SOE(s) their quasi-fiscal expenditures such as payments for social services, public infrastructure, fuel subsidies and national debt servicing and to develop a reporting process with a view to achieving a level of transparency commensurate with other payments and revenue streams, and which should include SOE subsidiaries and joint ventures. SOEs are also required to disclose their level of beneficial ownership in mining, oil and gas companies operating within the country’s oil, gas and mining sector, including those held by

SOE subsidiaries and joint ventures, and any changes in the level of ownership during the reporting period.

We understand that the two large military holdings companies, UMEHL and MEC, hold important positions in Myanmar's economy, including in the mining and gems sectors. We also understand that these two conglomerates which report to the Directorates of the Defence Services are organised under laws which provide protections and privileges to state-based companies. We also understand that until 2014, these companies were exempt from certain taxes and contributions applied for private mining companies.

We recommend that both companies including their subsidiaries and joint ventures operating in the extractive sector should be treated as SOEs and included in the scope, irrespective of the materiality threshold. Accordingly, these companies will be required to disclose:

- *prevailing rules and practices regarding their financial relationship with the government;*
- *level of beneficial ownership in mining, oil and gas companies;*
- *payments and contribution to the national budget;*
- *their quasi-fiscal expenditures such as payments for social services, public infrastructure, fuel subsidies and national debt servicing; and*
- *transaction relating to loans or loan guarantees granted to mining, oil and gas companies operating within the country.*

5.13. Definition of the Beneficial Ownership

On the basis of the outcomes of the section 3, MSG needs to decide on a definition of beneficial ownership which would be included in a revised version of the TOR. The issues to be considered with regards to the definition of Beneficial Ownership include whether to cover ownership chains and if so which ownership thresholds to pursue.

We therefore recommended that MSG launches a consultation with GOUM along with extractive industry companies engaged in the country to agree a standard format for companies to display, substantiate and update ultimate beneficial ownership information according to EITI Requirement 3.11.

Accordingly, MSG could consider setting up a sub-committee comprising CSO, regulators, companies, experts and other stakeholders. This committee would facilitate exchange of information on the effectiveness and future developments of disclosure rules and regulations.

5.14. Regulatory Reform for Beneficial Ownership disclosure

According to EITI Requirement 3.11(a) it is recommended that implementing countries maintain a publicly available register of the beneficial owners of the corporate entity(ies) which bid for, operate or invest in extractive assets, including the identity(ies) of their beneficial owner(s) and the level of ownership.

Currently, there is no comprehensive and publicly available database on beneficial ownership in line with the new EITI Standard. The country does not maintain a public register (Company register) with basic information on corporate entities. The MSG should launch a consultation with the GOUM to initiate a regulatory reform aimed at bringing the Myanmar disclosure rules and regulations in par with internationally acceptable standards.

Laws, regulations and contracts should all build in requirements for beneficial ownership disclosure, so that this becomes a standard requirement within Myanmar's legal framework. This could be achieved by:

- including the definition of ultimate beneficial ownership in the mining and oil and gas acts;

- including the BO disclosure requirements in the forthcoming mining and oil and gas contracts which are currently under negotiation;
- including the BO disclosure provisions in the Myanmar Companies Act which is currently under revision;
- requiring extractive companies to identify those persons with significant controls over the companies and maintain a register of those persons;
- requiring extractive companies to disclose additional information on political exposed persons; and
- making a BO register publically available, fully searchable and freely available online and stating clearly any exemptions if applicable.

By requiring extractive companies to provide this information to a central registry, there are additional benefits to EITI stakeholders, tax authorities and law enforcement agencies in saving time and being able to track the ownership structure of a company without waiting for the publication of the EITI report.

Making this information publicly available has advantages in terms of promoting transparency, building public trust and ensuring CSO and other stakeholders know better who the beneficial owners of the corporate entity(ies) that bid for, operate or invest in extractive assets are.

ANNEXES

Annex 1: Declaration forms

Oil & Gas Companies

This Template is addressed to Oil & Gas companies



Data Sheet

Full legal name of the company	
Registry number	
Date of the company establishment	
Company's Capital	[Currency Unit]
Contact address (registered office for legal entities)	

Employment 2013-2014	Average number of direct domestic employees
	Average number of direct foreign employees
	Average number of di 0

Core business activities	
Secondary business activities	

Active Licenses	Permit Code	Type (Exploration, Production ...)	Resources/Type of mineral	Area (Km2)	Location

Please state if the 2013-2014 financial statements have been audited (yes/no)	
Name of the 2013-2014 financial statements Auditor	

*The soft copy of the audited financial statements should be submitted along with the reporting templates.
If the audit report is publicly available, it is sufficient to include the reference or the link :*

This Template is addressed only to Oil and Gas companies

Final version (As of 16 Oct 2015)

EITI Payment/Receipt Report

(From April 2013_ to March 2014)



Name of the Entity (O&G Company)			
Identification Number		0	
Reporting template prepared by			Position
Email address			Tel.

Payments in kind				
Ref.	Type of payment/Revenue	Paid Amount		Comments
		Barrels	Mscf	
		-	-	
1	State production entitlement			
2	MOGE production entitlement			
3	Royalties			
4	Baseline payment (IPR/PCC)			
5	Risk compensation (IPR/PCC)			
6	Payment out of production (-)			

Payments in cash				
Ref.	Type of payment/Revenue	Paid Amount		Comments
		Kyat	USD	
Ministry of Finance				
IRD				
Customs department				
7	Corporate Income Tax (CIT)			
8	Commercial Tax			
9	Customs Duties			
10	Stamp Duties			
11	Capital Gains Tax			
12	Withholding tax			
13	Other significant payments (> 50,000 USD)			
Ministry of Energy				
MOGE				
14	Signature Bonus			
15	Royalties			
16	Production Split (State share)			
17	Production Bonus			
18	MOGE share (Profit and Cost)			
19	Dividend			
20	Training Fund			
21	Research and Development Fund			
22	Domestic Market Obligation (DMO)			
23	Data fee			
24	Land fees/Dead rent fee			
25	Other significant payments (> 50,000 USD)			
States/Regions				
26	Contribution to the State/region social development fund			
Social Payments				
27	Mandatory Corporate Social Responsibility			
28	Voluntary Corporate Social Responsibility			
Total payments		-	-	

This Template is addressed to Oil & Gas companies



Social Payments Details
Period covered: 1 April 2013 to 31 March 2014

Is there any contract/agreement signed with local communities/gouvernement for social expenditures?	
Is there any social expenditures foreseen in the Mining/ Oil&Gas contracts?	

Mandatory Social Expenditure

Beneficiary Identity	Beneficiary Location	Cash Payments		In Kind payments (Projects)		Purpose of payment ("Resettlement" or "Sustainability")	Legal/contractual basis of the payment (Ref to the agreement, Act, ..)*
		Amount (Kyat)	Date	Description (activities undertaken, beneficiaries, objectives..)	Project cost incurred during 2013-2014		
Total		0			0		

**(Attach the copy of the agreement of applicable)*

This Template is addressed only to Oil & Gas companies



Template legal ownership declaration form
 Period covered: 1 April 2013 to 31 March 2014

	Name of the Entity	Nationality of the Entity	% Interest	Publicly Listed entity (yes/no)	Stock exchange
Gouvernement of Myanmar					
SOES					
Individuals					
Private Entities *					
			0%	The total should be equal to 100%	

This Template is addressed only to Oil & Gas companies



Infrastructure provisions and barter arrangements
 Period covered: 1 April 2013 to 31 March 2014

Description of the project	Location of the project	Terms of the Transaction			Terms of Transaction and legal basis (Ref of the Agreement, date of signature, etc..)
		Total budget of the Engagement/Project	Value of engagements/project incurred from 1/4/2013 au 31/03/2014	Cumulated value of engagements/project incurred on 31/03/2014	
Total		0	0	0	

Gems & Jade Companies

This Template is addressed only to Gems & Jade companies



Data Sheet

Full legal name of the company	
Registry number	
Date of the company establishment	
Company's Capital	[Currency Unit]
Contact address (registered office for legal entities)	

Employment 2013-2014	Average number of direct domestic employees
	Average number of direct foreign employees
	Average number of direct employees 0

Core business activities	
Secondary business activities	

Active Licenses	Serial number (Permit Code)	Type (Exploration, Production ...)	Resources/Type of mineral	Area (acre)	Location

Please state if the 2013-2014 financial statements have been audited (yes/no)	
Name of the 2013-2014 financial statements Auditor	

The soft copy of the audited financial statements should be submitted along with the reporting templates. If the audit report is publicly available, it is sufficient to include the reference or the link :

This Template is addressed only to Jade & Gems Companies

EITI Payment/Receipt Report

(From April 2013_ to March 2014)

Name of the Entity (Jade&Gems company)				
Identification Number				
Reporting template prepared by			Position	
Email address			Tel.	

Payments in cash					
Ref.	Type of payment/Revenue	Paid Amount			Comments
		Kyat	USD	EUR	
Ministry of Mines					
Myanmar Gems Enterprise (MGE)					
1	Royalties (10%)	-	-	-	
11	Royalties 3%for MGE				
12	Royalties 7%for IRD				
2	Sale Split				
3	Emporium Fees / Sale Fees				
4	Supervision Fees				
5	Other significant payments (> 50,000 USD)				
States/Regions					
6	Contribution to the State/region social development fund				
Social Payments					
7	Mandatory Corporate Social Responsibility				
8	Voluntary Corporate Social Responsibility				
Total payments		-	-	-	

This Template is addressed to Jade & Gems Companies



Template legal ownership declaration form
Period covered: 1 April 2013 to 31 March 2014

	Name of the Entity	Nationality of the Entity	% Interest	Publicly Listed entity (yes/no)	Stock exchange
Gouvernement of Myanmar					
SOES					
Individuals					
Private Entities *					
			0%	The total should be equal to 100%	

This Template is addressed to Jade & Gems Companies



Transactions/Infrastructure provisions and barter arrangements
Period covered: 1 April 2013 to 31 March 2014

Description of the project	Location of the project	Terms of the Transaction			Terms of Transaction and legal basis (Ref of the Agreement, date of signature, etc..)
		Total budget of the Engagement/Project	Value of engagements/project incurred from 1/4/2013 au 31/03/2014	Cumulated value of engagements/project incurred on 31/03/2014	
Total		0	0	0	

Mining Companies

This Template is addressed to mining companies



Data Sheet

Full legal name of the company	
Registry number	
Date of the company establishment	
Company's Capital	[Currency Unit]
Contact address (registered office for legal entities)	

Employment 2013-2014	Average number of direct domestic employees
	Average number of direct foreign employees
	Average number of direct employees

Core business activities	
Secondary business activities	

Active Licenses	Permit Code	Type (Exploration, Production ...)	Resources/Type of mineral	Area (Km2)	Location

Please state if the 2013-2014 financial statements have been audited (yes/no)	
Name of the 2013-2014 financial statements Auditor	

The soft copy of the audited financial statements should be submitted along with the reporting templates. If the audit report is publicly available, it is sufficient to include the reference or the link :

(From April 2013_ to March 2014)



Name of the Entity (Mining company)				
Identification/Registry Number				
Reporting template prepared by			Position	
Email address			Tel.	

Payments in kind				
Ref.	Type of payment/Revenue	Paid Amount		Comments
		Volume		
1	Production Split (Government and SOEs share)	[Volume] in [Unit]		
2	Royalties	[Volume] in [Unit]		

Payments in cash					
Ref.	Type of payment/Revenue	Paid/Received Amount			Comments
		Kyat	USD	EUR	
<i>Ministry of Finance</i>					
<i>Internal Revenues Department</i>					
<i>Customs department</i>					
1	Corporate Income Tax (CT)				
2	Commercial Tax				
3	Customs Duties				
4	Stamp Duties				
5	Capital Gains Tax				
6	Withholding Tax				
7	Other significant payments (> 50,000 USD)				
<i>Ministry of Mines</i>					
<i>Department of Mines</i>					
<i>N°1 Mining Enterprise (ME1)</i>					
<i>N°2 Mining Enterprise (ME2)</i>					
<i>N°3 Mining Enterprise (ME3)</i>					
8	Royalties (*)				
9	Signature Bonus				
10	Production Split (*)				
11	Dead Rent Fees				
12	Licence Fees				
13	Dividends				
14	Other significant payments (> 50,000 USD)				
<i>Forest Department -Ministry of Environmental Conservation and Forestry</i>					
15	Land rental fees				
16	Environmental / Plantation fees				
<i>States/Regions</i>					
17	Contribution to the State/region social development fund				
<i>Social Payments</i>					
18	Mandatory Corporate Social Responsibility				
19	Voluntary Corporate Social Responsibility				
Total payments					

(*) Royalties and Production Split may be paid in a lumpsum and the company does not know the breakdown of the amount paid by tax . In this case, the company could fill in either line 8 or 10 to report the payment. The company may add comments to mention that the amount include Royalties and Production Split.

This Template is addressed only to mining companies



Template legal ownership declaration form
 Period covered: 1 April 2013 to 31 March 2014

	Name of the Entity	Nationality of the Entity	% Interest	Publicly Listed entity (yes/no)	Stock exchange
Gouvernement of Myanmar					
SOES					
Individuals					
Private Entities *					
			0%	The total should be equal to 100%	

This Template is addressed to mining companies



Transactions/Infrastructure provisions and barter arrangements
 Period covered: 1 April 2013 to 31 March 2014

Description of the project	Location of the project	Terms of the Transaction			Terms of Transaction and legal basis (Ref of the Agreement, date of signature, etc..)
		Total budget of the Engagement/Project	Value of engagements/project incurred from 1/4/2013 au 31/03/2014	Cumulated value of engagements/project incurred on 31/03/2014	
Total		0	0	0	

Oil & Gas - Government Agencies and MOGE

This template is addressed to MOGE, EPD (Ministry of Energy) and MoF

Final version (As of 16 Oct 2015)

EITI Payment/Receipt Report

(From April 2013_ to March 2014)



Name of the Entity (SOE/Government Agency)		
Identification Number		
Reporting template prepared by		Position
Email address		Tel.

Payments in Kind

Ref.	Type of payment/Revenue	Received Amount		Comments
		Barrels	Mscf	
MOGE				
1	State production entitlement			
2	MOGE production entitlement			
3	Royalties			
4	Baseline payment (IPR/PCC)			
5	Risk compensation (IPR/PCC)			
6	Payment out of production (-)			

Payments in cash

Ref.	Type of payment/Revenue	Received Amount		Comments
		Kyat	USD	
Ministry of Finance				
IRD				
Customs department				
7	Corporate Income Tax (CIT)			
8	Commercial Tax			
9	Customs Duties			
10	Stamp Duties			
11	Capital Gains Tax			
12	Withholding tax			
13	Other significant payments (> 50,000 USD)			
Ministry of Energy				
MOGE				
14	Signature Bonus			
15	Royalties			
16	Production Split (State share)			
17	Production Bonus			
18	MOGE share (Profit and Cost)			
19	Dividend			
20	Training Fund			
21	Research and Development Fund			
22	Domestic Market Obligation (DMO)			
23	Data fee			
24	Land fees/Dead rent fee			
25	Profit Sharing Oil & Gas transportation			
26	Transit fees Oil & Gas transportation			
27	Road right fee Oil & Gas transportation			
28	Other significant payments (> 50,000 USD)			
States/Regions				
29	Contribution to the State/region social development fund			
Total payments				

This Template is addressed only to MOGE, EPD (Ministry of Energy) and MoF (IRD and Budget/Treasury Department)


EITI Payment/Receipt Report

(From April 2013_ to March 2014)



Name of the Entity (MOGE/EPD/MoE and MoF)			
Reporting template prepared by		Position	
Email address		Tel.	

Payments in cash						
Ref.	Type of payment/Revenue	Paid/Received Amount		Comments		
		Kyat	USD			
<i>Transfers to budget accounts</i>						
		-	-			
4	Corporate Income Tax (CIT)					
5	Commercial Tax					
6	Customs Duties					
7	Stamp Duties					
8	Capital Gains Tax					
9	Withholding tax					
10	State contribution					
11	Other material transfers (> 50,000 USD)					
<i>Other accounts - MOG Own Accounts</i>						
		-	-			
12	Transfers to MOGE other accounts (+)					
13	Transfers from the Government Budget to MOGE (-)					
<i>Quasi fiscal expenditure</i>						
		-	-			
14	In kind payments					
15	Cash payments					
Total payments						
						Currency
16. Sale of the state's share of production	Oil	[State the stage of the value chain the product is at?]	[Volume]	Barrels	[Sale Value]	
	Gas	[State the stage of the value chain the product is at?]	[Volume]	MSCF	[Sale Value]	
17. Domestic Market obligation	Oil		[Volume]	Barrels	[Value]	
	Gas		[Volume]	MSCF	[Value]	
18. Myanmar O&G production	Oil	[State the stage of the value chain the product is at?]	[Volume]	Barrels	[Value]	
	Gas	[State the stage of the value chain the product is at?]		MSCF		
19. Myanmar O&G Exports	Oil	[State the stage of the value chain the product is at?]	[Volume]	Barrels	[Value]	
	Gas	[State the stage of the value chain the product is at?]		MSCF		

This Template is addressed to Ministry of Energy									
 MYANMAR MEITI Extractive Industries Transparency Initiative			Licenses awarding and transfers Period covered: 1 April 2013 to 31 March 2014						
Reference of awarded title	Area (Km2)	Awarding/Transfer date	Holder Entity/Consortium	Awarding process				Others comments	
				Awarding process	Technical Criteria	Financial Criteria	List of candidate		
								<i>If requested information are publicly available, please insert a reference or a link</i>	

Mining and Gems & Jade - Government Agencies and SOEs

This Template is addressed to Myanmar Gems Enterprise (MGE)

EITI Payment/Receipt Report

(From April 2013_ to March 2014)



Name of the Entity (MGE)			
Identification/Registry Number	0		
Reporting template prepared by			Position
Email address			Tel.

Payments in cash					
Ref.	Type of payment/Revenue	Received Amount			Comments
		Kyat	USD	EUR	
Ministry of Mines					
1	Royalties (10%)	-	-	-	
11	Royalties 3% for MGE				
12	Royalties 7% for IRD				
2	Sale Split				
3	Emporium Fees / Sale Fees				
4	Supervision Fees				
5	Other significant payments (> 50,000 USD)				
States/Regions					
6	Contribution to the State/region social development fund				
Total payments		-	-	-	

This Template is addressed to MoF (IRD and Customs Department), SOEs of Ministry of Mines and Forest Department of MOECAF

EITI Payment/Receipt Report

(From April 2013_ to March 2014)



Name of the Entity (ME1, ME2, ME3, DoM)				
Identification/Registry Number		0		
Reporting template prepared by			Position	
Email address			Tel.	

Payments in kind

Ref.	Type of payment/Revenue	Received Amount		Comments
		Volume		
1	Production Split (Government and SOEs share)	[Volume] in [Unit]		
2	Royalties	[Volume] in [Unit]		

Payments in cash

Ref.	Type of payment/Revenue	Received Amount			Comments
		Kyat	USD	EUR	
Ministry of Finance					
<i>Internal Revenue Department (IRD)</i>					
<i>Customs department</i>					
1	Corporate Income Tax (CIT)				
2	Commercial Tax				
3	Customs Duties				
4	Stamp Duties				
5	Capital Gains Tax				
6	Withholding Tax				
7	Other significant payments (> 50,000 USD)				
Ministry of Mines					
<i>Department of Mines</i>					
<i>N°1 Mining Enterprise (ME1)</i>					
<i>N°2 Mining Enterprise (ME2)</i>					
<i>N°3 Mining Enterprise (ME3)</i>					
8	Royalties				
9	Signature Bonus				
10	Production Split				
11	Dead Rent Fees				
12	Licence Fees				
13	Dividends				
14	Other significant payments (> 50,000 USD)				
Forest Department -Ministry of Environmental Conservation and					
15	Land rental fees				
16	Environmental / Plantation fees				
States/Regions					
17	Contribution to the State/region social development fund				
Total payments		-	-	-	

This Template is addressed only to MGE (Ministry of Mines) and MoF (IRD and Budget/Treasury Department)

EITI Payment/Receipt Report

(From April 2013_ to March 2014)



Name of the Entity (MGE / MoF)				
Identification Number				
Reporting template prepared by			Position	
Email address			Tel.	

Payments in cash						
Ref.	Type of payment/Revenue	Paid/Received Amount			Comments	Currency
		Kyat	USD	EUR		
Transfers to budget accounts						
1	Corporate Income Tax (CIT)	-	-	-		
2	State Contribution					
3	Commercial Tax					
4	Other material transfers (> 50,000 USD)					
Other accounts						
5	Transfers to Other Accounts (+)					
6	Transfers from Government Budget to MGE (-)					
Quasi fiscal expenditure						
7	In kind payments					
8	Cash payments					
Total payments						
11. Type of mineral sold in emporium	Gems	[State the stage of [Volume]	Tonnes		[Value]	
	Jade	the value chain the	Tonnes			
	Gems	[State the stage of [Volume]	Tonnes		[Value]	
	Jade	the value chain the	Tonnes			
	Gems	[State the stage of [Volume]	Tonnes		[Value]	
	Jade	the value chain the	Tonnes			
12. Myanmar exports	Gems	product is at?	Tonnes			
	Jade	[Volume]	Tonnes			

This Template is addressed only to MoM, Department of Mines, ME1, ME2, ME3 and MoF (IRD and Budget/Treasury Department)

EITI Payment/Receipt Report

(From April 2013_ to March 2014)



Name of the Entity (MoM, Department of Mines, ME1, ME2, ME3 / MoF)				
Identification Number		0		
Reporting template prepared by			Position	
Email address			Tel.	

Payments in cash						
Ref.	Type of payment/Revenue	Paid/Received Amount			Comments	Currency
		Kyat	USD	EUR		
Transfers to budget accounts						
1	Corporate Income Tax (CIT)	-	-	-		
2	State Contribution					
3	Commercial Tax					
4	Other material transfers (> 50,000 USD)					
Other accounts						
5	Transfers to other accounts (+)					
6	Transfers from Government Budget to MoM, Department of Mines, ME1, ME2, ME3 (-)					
Quasi fiscal expenditure						
7	In kind payments					
8	Cash payments					
Total payments						
24. Type of mineral produced	Gold	[State the stage of the value chain the product is at?]	[Volume]	Kg	[Value]	
	Coal	[State the stage of the value chain the product is at?]	[Volume]	Tonnes	[Value]	
	Copper	[State the stage of the value chain the product is at?]	[Volume]	Kg	[Value]	
	Tin	[State the stage of the value chain the product is at?]	[Volume]	Tonnes	[Value]	
	Tinngsten	[State the stage of the value chain the product is at?]	[Volume]	Kg	[Value]	
	Others	[State the stage of the value chain the product is at?]	[Volume]	Tonnes	[Value]	
					
25. Type of mineral sold/exported	Gold	[State the stage of the value chain the product is at?]	[Volume]	Kg	[Value]	
	Coal	[State the stage of the value chain the product is at?]	[Volume]	Tonnes	[Value]	
	Copper	[State the stage of the value chain the product is at?]	[Volume]	Kg	[Value]	
	Tin	[State the stage of the value chain the product is at?]	[Volume]	Tonnes	[Value]	
	Tinngsten	[State the stage of the value chain the product is at?]	[Volume]	Kg	[Value]	
	Others	[State the stage of the value chain the product is at?]	[Volume]	Tonnes	[Value]	
					

This Template is addressed to the SOEs (Ministry of Mines), Department of Mines, MoF and Forest Department of MOECAF



Transactions/Infrastructure provisions and barter arrangements
 Period covered: 1 April 2013 to 31 March 2014

Description of the project	Location of the project	Terms of the Transaction			Terms of Transaction and legal basis (Ref of the Agreement, date of signature, etc..)
		Total budget of the Engagement/Project	Value of engagements/project incurred from 1/4/2013 au 31/03/2014	Cumulated value of engagements/project incurred on 31/03/2014	
Total		0	0	0	

This Template is addressed only to the Ministry of Mines and the Ministry of Finance



Loans /Loan guarantee granted to Entities operating in extractive sector
 Period covered: 1 April 2013 to 31 March 2014

Beneficiary (Name of the Entity operating in mining sector)	Total amount of the loan/loan guarantee	Terms of the Transaction					Other comments
		Date of the grant	Repayment period	Interest rate	Outstanding amount not reimbursed on 31/03/2014	Amount reimbursed during the year	
Total	0	0	0		0	0	

This Template is addressed to Ministry of Mines



Licenses awarding and transfers
 Period covered: 1 April 2013 to 31 March 2014

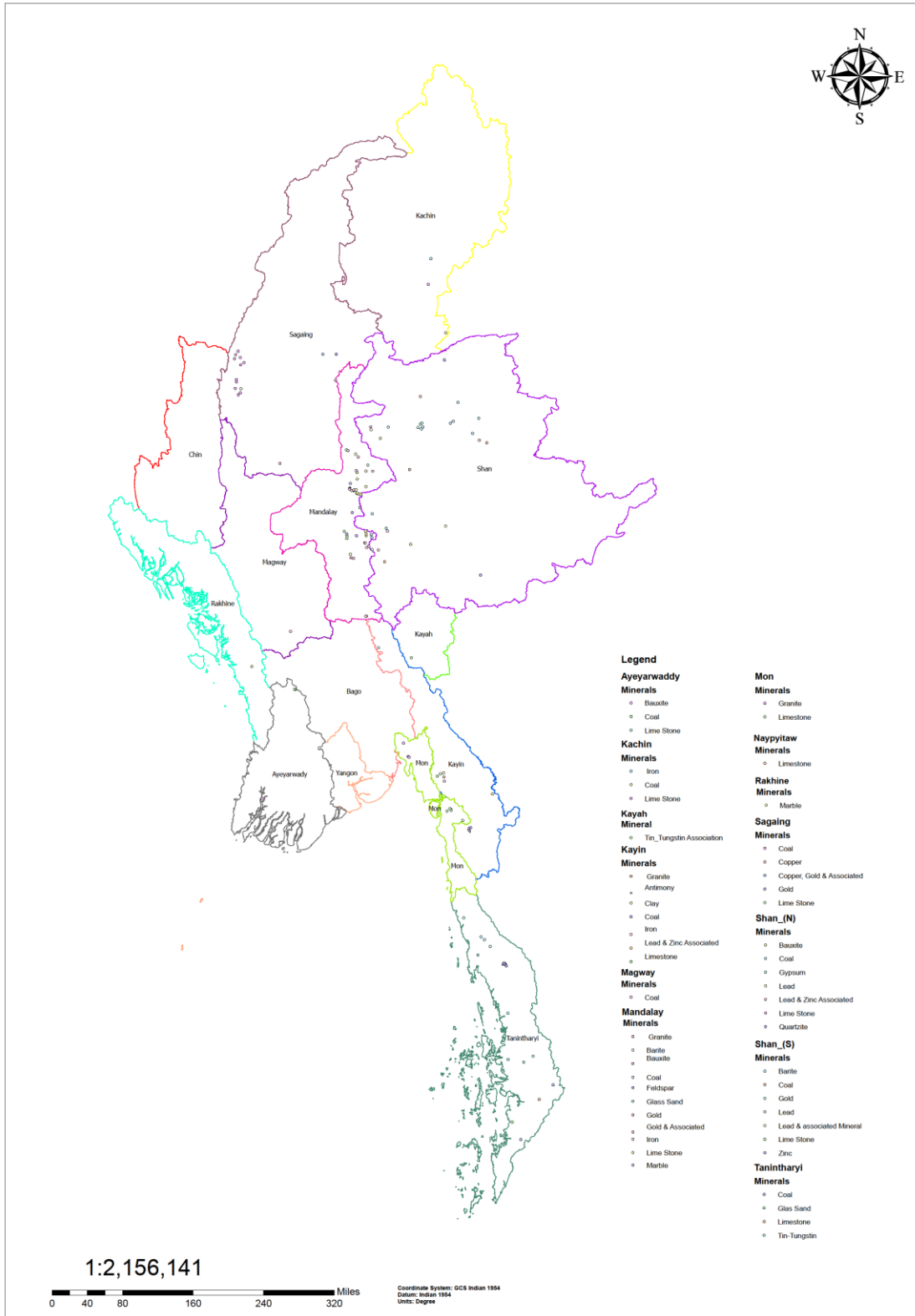
Reference of awarded title	Area (Km2)	Awarding/Transfer date	Holder Entity/Consortium	Awarding process				Others comments
				Awarding process	Technical Criteria	Financial Criteria	List of candidate	
								<i>If requested information are publicly available, please insert a reference or a link</i>

Annex 2: Map of oil & gas blocks in Myanmar



Annex 3: Mineral Deposit Map in Myanmar

၂၀၁၃ - ၂၀၁၄ ခုနှစ်အတွင်း သတ္တုတွင်း ဝန်ကြီးဌာနမှ ခွင့်ပြုထားသော အကြီးစား လုပ်ကွက်များ၏ တည်နေရာပြ မြေပုံ



Annex 4: List of mining companies

No	Name of Company	Mineral Types	Concerned Dept./ Enterprise
1	Directorate of Military Office of Chief of Defence Defense Industries, Ministry of Defence	Coal, Iron, Lime Stone	DOM
2	No. 1, Heavy Industry, Ministry of Industry	Lime Stone	DOM
3	No. 3, Heavy Industry, Ministry of Industry	Marble, Dolomite, Lime Stone, Feldspar, Glass Sand, Bauxite,	DOM
4	Myanma Economic Holding Corporation	Coal, Gypsum, Marble, Lime Stone, Iron, Clay, Granite,	DOM
5	Dragon Cement Co. Ltd. (Na-Gar Bi-Lat-Myay Co. Ltd.)	Lime Stone	DOM
6	Eden Energy and Natural Resources Development	Coal	DOM
7	May Flower Mining Enterprise Limited	Zinc Ore	ME-1
8	Win Myint Mo Industries Co. Ltd.	Leadn and Zinc Concentrate	ME-1
9	Linn Pyae Mining Co. Ltd	Lead Concentrate	ME-1
10	Top Ten Star Production Co. Ltd	Lead Concentrate	ME-1
11	GPS Joint Venture Co. Ltd	Lead Concentrate	ME-1
12	Tha Byu Mining Co. Ltd	Antimoni Ore	ME-1
13	Electrum Mining Co. Ltd	Iron Ore	ME-1
14	Cornerstone Resources (Myanmar) Ltd	Zinc Ore	ME-1
15	Myanma Economic Holding Ltd.	Copper	ME-1
16	Myanmar Pongpipat Company Limited	Tin	ME-2
17	A&A Natural Resources Development Company Limited	Tin, Tengsten, Mixed	ME-2
18	DELCO (Developers Enterepreneurs Liaison Construction Organizers Limited	Tin, Tengsten, Mixed	ME-2
19	Silver Bright Co. Ltd.	Tin, Tengsten, Mixed	ME-2
20	Diamond Shark Mining Co. Ltd	Tin, Tengsten, Mixed	ME-2
21	Kayah State Mineral Prodcution Co.	Mixed	ME-2
22	Myanma Tin-Tungsten	Tin	ME-2
23	Ayeyarwady Myitphyar Co., Ltd.	Coal	ME-3
24	Triple A Cement International Co., Ltd	Coal	ME-3
25	UE Export Import Co., Ltd	Coal	ME-3
26	Tun Thwin Mining Co., Ltd	Coal	ME-3
27	Geo Asia Industry and Mining Co., Ltd.	Coal	ME-3
28	YCDC	Coal	ME-3
29	UE Export Import Co., Ltd	Lime Stone	ME-3
30	Myanmar CNICO Co., Ltd.	Ferro Nickel	ME-3

No	Name of Company	Mineral Types	Concerned Dept./ Enterprise
31	Max Myanmar Co., Group.	Lime Stone, Coal	ME-3
32	Htoo International Industrial Group Co., Ltd	Lime Stone, Coal	ME-3
33	Myanmar Economic Corporation	Coal	ME-3
34	May Flower Enterprise Co., Ltd.	Coal	ME-3
35	May Flower Mining Interprise Co., Ltd.	Coal	ME-3
36	Ngwe Yi Pale Mining Co., Ltd	Coal, Lime Stone, Gypsum, Bauxite	ME-3
37	Dagon Mining Co., Ltd.	Coal	ME-3
38	Myanmar Naing Group Co., Ltd.	Lime Stone	ME-3
39	Shawe Taung Mining Co., Ltd.	Lime Stone, Coal	ME-3
40	Myanmar Might Mining Co., Ltd	Lime Stone	ME-3
41	Sliver Lion Mining Co., Ltd.	Granite	ME-3
42	Group of Four Mining Co., Ltd.	Coal	ME-3
43	Young Investment Group Industrial Co., Ltd.	Coal, Lime Stone, Bauxite	ME-3
44	Mine Htet Co., Ltd.	Coal	ME-3
45	Geo Asia Mining Co., Ltd.	Coal	ME-3
46	Manadaly distribution and Mining Co., Ltd.	Coal	ME-3
47	Green Asia Co., Ltd.	Lime Stone	ME-3
48	June Industrial and Production Co., Ltd.	Lime Stone	ME-3
49	Pacific Link Cement Production Co., Ltd.	Lime Stone	ME-3
50	Kan Baw Za Industrial Co., Ltd,	Lime Stone	ME-3
51	San Lin International Export, Improt Co., Ltd.	Lime Stone	ME-3
52	Farmer Pho Yazar Mining Co., Ltd,	Lime Stone	ME-3
53	United Cement Co., Ltd.	Lime Stone	ME-3
54	Asia Phyo Mining Co., Ltd.	Lime Stone	ME-3
55	Green Strategic Mining Co., Ltd.	Quartz	ME-3
56	Than Phyo Thu Mining Co., Ltd.	Coal	ME-3
57	Triple A Cement International Co., Ltd	Lime Stone, Bauxite	ME-3
58	Good Brother Mission Co., Ltd,	Lime Stone	ME-3
59	U Taw Taw and Sons Co., Ltd.	Marble Decorative	ME-3
60	Simco Song Da Joint Stoke Co., Ltd.	Marble	ME-3
61	May Flower Mining Enterprise Interprise Co., Ltd.	Coal	ME-3
62	Manadaly Cement Co., Ltd.	Lime Stone	ME-3
63	24 Hour Mining Co., Ltd.	Lime Stone	ME-3

No	Name of Company	Mineral Types	Concerned Dept./ Enterprise
64	Tun Kyawe Paw Co., Ltd.	Coal	ME-3
65	Shwe Pauk Pauk Mining Co., Ltd.	Coal	ME-3
66	Model industry Co., Ltd.	Barite	ME-3
67	First Resources Co.,Ltd	Gypsum	ME-3
68	United Masterpiece Mining Co.,Ltd	Barite	ME-3
69	Eternal (Htar Wa Ya)	Gold	ME-2
70	Myanmar Golden Point Family	Gold	ME-2
71	National Prosperity Co.,LTd	Gold	ME-2
72	Shwe Moe Yan Co. Ltd	Gold	ME-2
73	Asia World Co. (Asia Ga-Bar-Myae Co.)	Gold	ME-2

Annex 5: List of O&G companies

Offshore Companies

Company	Block
Petronas Carigali Myanmar Inc	M 12-13&14
Total	M-5,6
Daewoo	A-1 A-3 AD-7 M-9 M-3 M-11 MD-7
PTTEP International Ltd	MD-8
CNOOC Myanmar Ltd	M-10
Rimbunan Petrogas Ltd	M-1
Chinnery Assets Ltd	AD-1 AD-6 AD-8
MPRL E&P Pte Ltd	A-6
Petrovietnam Exploration	M2

Onshore Companies

Company	Block
Myanmar Petroleum Resources Ltd	Mann Yenan hyaung Chauk
Goldpetrol Co Ltd	
Nobel Oil Company	B-1
North Petro-Chem Cooperation	F
SNOG Pte Ltd	PSC-R RSF-2 RSF-3
Petronas Carigali Myanmar Inc	
Jubilant Oil and Gas Pvt Ltd	PSC 1
PTTEP South Asia Ltd	PSC G EP 2
Geopetrol Pyalo Corporation	RSF-9
Istech Energy EP-5 PTE Ltd	EP-5

Annex 6: Persons involved or contacted

Persons involved

Moore Stephens LLP	
Tim Woodward	Partner
Ben Toorabally	Head of Office / Mission Director
Karim Lourimi	Assistant Manager
Elyes Kooli	Audit Senior

Cho Cho Toe & Associates - Moore Stephens Local Partner	
Cho Cho Toe	Partner
Daw Tin Myo Thu Zar	Audit Senior

Persons contacted

Auditor General Office	
Daw Naing Thet Oo	Directo General
Daw San San Win	Deputy Directo General
Daw Khin Aye Swe	Director
Daw Khin Khin Thi	Director
U Than Htun	Deputy Director
U Nyan Win	Deputy Director
Daw Yi Yi Myint	Assistant Director

MEITI	
Ms.Emma Irwin	MEITI Technical Adviser
U Min Zar Ni Lin	Senior Technical Specialist- MEITI
Daw Nan Kyi Hsut Wai	Research & Outreach Training Officer
Daw Khin Saw Htay	Program Coordinator
Daw Nan Kyi Hsut Wai	Research & Outreach Training Officer
Daw Thi Thi Han	Research & Outreach Training Officer

CSO	
Dr.Wah Wah Maung	Acting Director General

Budget department	
Daw Thida Htun	Director
Daw Ni Ni Swe	Director
Daw Theingi Oo	Director
Daw Nang Hla Hla Minn	Deputy Director
Daw Lwin Lwin Khine	Deputy Director
Daw Yee Yee Win	Deputy Director
Daw Khin Thander Tun	Assistant Director

Ministry of Energy	
U Myint Zaw	Deputy Minister
U Pe' Zin Tun	Permanent Secretary
U Than Htay Aung	Deputy Director (MOGE)
Daw Nu Nu Yi	Assistant Manager (MOGE)
U Aung Kyaw Htoo	Deputy Director (MEP)
U Khin Maung Than	Executive Engineer (Offshore- MOGE)

IRD	
U Than Zaw Win	Director/ Tax Collection Supervision Division
Daw Cho Cho Zin	Assistant Director/ Tax Collection Supervision Division
U Zaw Moe	Assistant Director/ Statistic Division
Daw Thazin Myint Myat	Assistant Director/ Design and Monitoring Unit

Ministry of Mines	
U Win Htein	Director General
U Ye Myat Soe	Director General
U Kyaw Thet	Director
U Aye Zaw	Director
U Thein Tun	Director

Ministry of Finance	
Dr.Maung Maung Thein	Deputy Minister
U Zaw Naing	Deputy Director General
U Naung Win	Staff Officer

Customs	
Daw Aye Aye Htoo	Deputy Director
Daw May Su Aung	Assistant Director
Daw Soe Soe Lwin	Director
Daw Lynn Yu Swe	Staff Officer
U Thein Htay	Director

Extractive companies	
Mr.Xavier Prael	General Manager (Total E & P Myanmar)
Mr.Bertrand brun	Joint Venture & Planning Manager (Total E & P Myanmar)
Mr.Pui Thai Chong	Country Chairman (Myanmar) (Petronas)
Andy Tin Win	Head(External & Industry Relations) (Petronas)
U Khin Mg Han	Vice Chairman MFMA
U Zaw Win	Secretary MFMA
U Mg Mg Myint Win	Secretary MFMA
U Saw Moe Myint	MFMA
U Win Maw	General Secretary MFMA
U Aye Lwin	General Secretary MFMA

MATA	
U Myo Myint Oo	MEITI Watch Group & MATA
U Naing Lin Htut	Ayeyarwaddy MATA
U Ye Thein Oo	Myanmar - China Pipeline Watch Committee
U Tin Thit	MSG/MATA
U Saw Moe Myint	MATA
Dr.Lwin Lwin Wai	MATA
U Maw Htun Aung	NRGI
Daw Moe Moe Tun	Green Tust POL
Salai Cunf Lian Thawng	Pyoe Lin

Others	
Mr.Vidar ovesen	Consultant
Daw May Thet Zin	Country Economist World Bank