

## **Myanmar Extractive Industries Transparency Initiative**

### **Multi-stakeholder Group Consolidated Comments on the Draft Validation Report**

As part of the Myanmar validation process under the Extractive Industries Transparency Initiative (EITI) Standard of 2016, the Multi-Stakeholder Group (MSG) of the Myanmar Extractive Industries Transparency Initiative (MEITI) submits these comments on the *Validation of Myanmar: Report on initial data collection and stakeholder consultation*, produced by the EITI International Secretariat, and the independently validated *Draft Validation Report*, produced by CowaterSogema.

The comments were formulated by a representative team that MSG formed to consider and respond to the findings of the EITI International Secretariat in the *Validation of Myanmar* assessment on the MSG's behalf. The team included two representatives from each of the three sectors (government, private and civil society), nominated by the MSG.

The MSG wishes to thank the EITI International Secretariat from their engagement and support for Myanmar's EITI process. The MSG agrees on many of the comments provided by the EITI International Secretariat in their assessment and is committed to working to improve EITI implementation, taking into account all of the International Secretariat's recommendations.

MATA's requests that Myanmar's overall assessment should be graded as 'meaningful', due to civil society concerns about a lack of progress and reform needed to meet EITI standards, resulting in a contradictory and confusing governance framework.

#### **Specific comments**

##### **1. MSG oversight**

###### **1.1. Government engagement**

The EITI International Secretariat found progress to be 'satisfactory', with a demonstrated commitment to EITI from government. The validation assessment acknowledges active government participation in the MSG but urges the engagement of more senior officials to ensure effective implementation.

While the MSG agrees that there should be greater seniority of government participation in the MSG for improved decision-making, the MSG also acknowledges that government engagement in the MSG is facilitated through a Leading Committee and Working Committee. The Leading Committee includes the Minister of MOPF, the Minister of MONREC and the Minister of MOEE. The Secretary of the Leading Committee and Working Committee is the Deputy Minister of MOPF, and also acts as the Chairperson of the MSG.

The MSG credits Myanmar's EITI governance structure, connecting the MSG with the Leading Committee and Working Committee, with enabling more effective implementation of the EITI standards, the provision of timely, quality data and necessary guidance for the establishment and operation of specialist taskforces, such as that established to examine and pilot beneficial ownership reporting requirements, although further improvement is needed through an increased seniority of government participations in the MSG.

## **1.2. Industry engagement**

The International Secretariat found 'meaningful' progress towards this standard. One issue raised was a lack of engagement from non-MSG member oil and gas companies. The oil and gas sector have responded to the comments from the Initial Assessment Report (page 25). They state that the participation of all oil and gas companies in the EITI process involves full engagement through MOGE, who is acting as a focal government agency for coordinating between oil and gas companies and other third-party organizations.

The MSG disagrees with the assessment of the International Secretariat. There has been 100% participation of the oil and gas sector in EITI in Myanmar, with engagement at all stages, from scoping to final publication of the report.

The MSG sees the main challenge of oil and gas sector EITI engagement stemming from a lack of awareness of EITI among stakeholders, whose country of origin is not a member of EITI. This can cause a lack of awareness in the management of such companies that can hamper effective EITI involvement in Myanmar. However, as all companies in the oil and gas sector operate as a joint venture with MOGE, MOGE is an appropriate focal point for the MSG in oil and gas sector EITI implementation.

The MSG notes that MOGE has played an effective role as the focal point for the oil and gas sector, ensuring participation of oil and gas companies, the dissemination of EITI-related information, the completion of reports and the timely supply of data.

In addition, the EITI Secretariat raised concerns regarding the non-participation of UMEHL and MEC and a lack of efforts to engage them in the EITI process.

UMEHL's response is as follows: There has been effective engagement with UMEHL. The 2014-15 MEITI EITI Report recommended that UMEHL should be treated as an SOE. UMEHL was treated as an SOE until it restructured according to Notification 90/2016 of the MOPF, which led to its registration as a public company on 1 August 2017, under the name Myanmar Economic Holdings Public Company Limited (MEHPCL), adhering to public disclosure requirements.

The MSG notes progress in MEHPCL's internal reforms, including becoming a major taxpayer, a significant change from its previous tax-exempt status, which expired in 2013. As a result, MEHPCL data will be included in forthcoming reports.

The MSG has commented that during the reporting period (2014-2015 and 2015-2016) UMEHL and MEC are assumed as the State-owned Enterprises (SOEs) and their participation is inefficient in implementing the EITI process in Myanmar as per the EITI Standard 2016.

The MSG notes that the government needs to do more to ensure private sector stakeholders that are not members of the MSG fully engage with the EITI process and emphasise the need to secure the engagement of military affiliated companies.

### **1.3. Civil society engagement**

The International Secretariat found progress to be 'satisfactory', with evidence of civil society engagement in design, implementation and monitoring of EITI and frequent consultations with government. Legal restrictions were noted, including on freedom of expression, assembly and association, with some fear of reprisals, especially sub-nationally. The Secretariat suggested greater monitoring of factors that impact an enabling environment for civil society, and also

urged legal reform to address restrictions on civic space, freedom of assembly and freedom of speech, including through increased civil society engagement.

The MSG requires greater government progress in creating an enabling environment for democratic civil society engagement in natural resource governance and notes serious impediments on civil society. The MSG notes significant risks to civil society actors, particularly at sub-national levels. MATA, the civil society member of the MSG, faces notable risks, with one member from Sagaing Region charged for leading a peaceful protest. MATA wishes to draw attention to other cases of infringements on freedom of speech and assembly in Annex 1.

Page 31 of the Validation of Myanmar report notes that MATA's organisational registration was pending. The MSG would like it corrected that MATA registered on 26 October 2018. MATA's Certificate of Registration is provided in Annex 2.

#### **1.4. MSG governance**

The International Secretariat's initial assessment is that Myanmar's progress is 'satisfactory'. Some concerns are raised regarding the engagement of non-MSG member oil and gas companies, which the MSG has commented on in response to Standard 1.2.

The MSG accepts the International Secretariat's recommendation to clarify and publish membership procedures. The MSG will begin the reform process by convening a reflection workshop to develop a plan for implementation. The MSG's target is to revise the ToRs, update the selection process and clarify membership criteria, with the completion date set for the third or fourth quarter of 2019. ToRs governing private sector membership criteria and requirements for active participation should be formulated.

MATA have highlighted occasional unacceptable interference by the Government in the MSG. For instance, in the 13<sup>th</sup> MSG meeting a decision was made to include hydropower but MOEE refused to be involved.

MSG have advised that in order to prepare the report for the hydropower sector is still required for further discussions with the relevant Government agencies.

## **1.5. Work plan**

The International Secretariat found ‘satisfactory’ progress and made recommendations to consider how the workplan links to national priorities, to assess capacity constraints in EITI implementation and to include sources of funding for each activity.

The MSG is in agreement with these recommendations and sees that the workplan, as a living document, requires periodic review and amendment. The MSG also agrees with the recommendation to identify capacity constraints to link objectives to national priorities.

The MSG will convene a reflection workshop in 2019 to review all items in the workplan, taking into account the recommendations included in the initial assessment. The MSG will add capacity building requirements to the workplan, link objectives to national priorities and include source of funding for each item.

The MSG is in agreement with the International Secretariat’s recommendation that the workplan should involve engagement with a wider constituency. The MSG will address that by discussing the workplan in public workshops and consultations.

## **2. Award of contracts and licences**

### **2.1 Legal Framework**

The International Secretariat found that progress towards Standard 2.1 is ‘satisfactory’ and recommends that information on the legal and regulatory framework is made available online.

The MSG notes that in the mining sector, notes relevant rules and regulations are already publicly available online at <http://www.mining.gov.mm>

For the gemstone sector, Myanmar passed a new Gemstone Law in 2018, which annulled the 1994 Gemstone Law, making improvements to the legal framework governing jade and gemstones.

The MSG notes with concern that a plan to write an EITI law has not been implemented, despite a prior commitment to do so. The MSG also highlights that substantial reforms of existing laws are still needed to strengthen the legal framework for EITI compliance.

## **2.2 Licence allocations**

The International Secretariat found progress towards 2.2. to be ‘meaningful’.

The MSG would like to note that there may be a misunderstanding regarding delays in the signing of licence allocations in the oil and gas sector for blocks AD10 and M7. A full translation of MOGE’s explanation is provided in Annex 3.

The MSG confirms that there have been no new tenders after 2013, when the last round of bidding was concluded. However, licences were not signed for M-7 and AD-10 until 2015, despite being awarded in 2013. Winners of the 2013 bidding round of 19 deep water and 11 shallow water blocks were disclosed in the 2013-2014 EITI report.

According to MOGE procedures, PSC terms and conditions have to be agreed with each winning company before the conclusion of contracts. For M-7, ROC and Tap Oil Company won through a joint bid, however during PSC negotiations, ROC declared bankruptcy and withdrew from negotiations. For Tap Oil Company to continue negotiations outside of their partnership with ROC, a name change was required through the Myanmar Investment Commission, resulting in a delay of contract signing until 2015.

Similarly, for block AD-10, Statoil Company won the bid in association with Conoco Phillips. However, Conoco Phillips later decided to withdraw, which would have also forced Statoil Company to register a new name through the Myanmar Investment Commission in order to sign the exploration contract. To avoid further delays, an agreement was made for Conoco Phillips to firm-out after signing the PSC. Statoil Company then suffered further delays in order to meet banking requirements under EU Sanctions and to harmonise environmental and social safeguards under IFC Standards.

For MOGE, there were additional delays in concluding two licences because of approval needed from the Office of the Attorney General, Office of Auditor General, MNPED and MCB on conclusion of the contractual negotiations.

The two respective blocks were therefore not formally allocated in 2015 but were actually part of the 2013 tender process.

The International Secretariat raised concerns regarding a lack of clarity on licence transfers. The MSG would like to point out that according to Section 24, Clause 155 of the 2018 Mining Rules and Regulations, application dates, licence holder requirements and licence transfers have to follow procedures set out in the new rules and regulations. The law is publicly available online at

[http://www.mining.gov.mm/LAWS\\_mm/1.LAWS\\_mm/Details.asp?submenuID=27&sid=67](http://www.mining.gov.mm/LAWS_mm/1.LAWS_mm/Details.asp?submenuID=27&sid=67)  
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The MSG acknowledges that previous laws did not clearly state procedures for licence-transfer, date of application requirements and rules of disclosure. While the 2018 Mining Law is not ideal, the MSG notes that there has been some improvement according to EITI standards, the extent of which can be assessed in the results of the forthcoming EITI Report. MATA, however, has significant concerns that licence transfer rules are ineffective, despite existing regulations. The Mining Law is available online at the following weblink:

[http://www.mining.gov.mm/DM\\_mm/1.DM\\_mm/details.asp?submenuID=8&sid=1686](http://www.mining.gov.mm/DM_mm/1.DM_mm/details.asp?submenuID=8&sid=1686)

An unofficial translation of the section 155 of the Mining Rules, related to licence transfers, is attached in Annex 4.

ME-1 would like to note that they are operating in compliance with the 2018 Mining Rules and Regulations.

According to EITI Standards, licence allocations for gems, jade and mining should follow financial criteria set out in EITI Standard 2.2 and the MSG should discuss whether licence transfers are in-line with rules and regulations.

MSG has highlighted that licensing in mining sector is still in “first-come, first-serve” practise.

### **2.3 Licence register**

The International Secretariat noted ‘meaningful’ progress towards meeting EITI Standard 2.3, highlighting an absence of information on coordinates, dates of application, award and duration of oil and gas licences.

For the oil and gas sector, coordinates of the remaining oil and gas blocks have been made publicly available online at the following weblink:

[https://myanmareiti.org/files/uploads/4\\_updated\\_combined\\_onshore\\_offshore\\_psc\\_blocks\\_conditions\\_all.pdf](https://myanmareiti.org/files/uploads/4_updated_combined_onshore_offshore_psc_blocks_conditions_all.pdf)

For the mining sector, ME-1 is committed to sharing comprehensive information for future EITI reports, including licence application dates, licence-holder names, production area information and coordinates. ME-2 also wishes to highlight that under the 2018 Mining Law, licence applications, progress of implementation, status of submission to inspection, feedback of ECD and status of tendering and sale of minerals owned by department is already online at [www.mining.gov.mm](http://www.mining.gov.mm) and [www.mining.gov.mm/ME-2-mm/Default.asp](http://www.mining.gov.mm/ME-2-mm/Default.asp)

## **2.4 Contract disclosure**

The International Secretariat found ‘satisfactory’ progress towards meeting Standard 2.4 and recommended full disclosure of contracts and a reconsideration of confidentiality clauses.

The MSG would like to highlight that within the mining sector, the respective government agencies are working with NRGI to develop a transparent and sustainable financial model that meets EITI Standards. To achieve this, they have been conducting trainings on various aspects of contracting, including negotiations, terms and conditions and public disclosure. The collaboration with NRGI is ongoing and has already resulted in increased awareness and participation of contract disclosure standards among mining private sector stakeholders.

For the oil and gas sector, the MSG would like to highlight that standard contract terms and conditions of the model are disclosed in Appendix 12 of the 2015-16 EITI Report. Performance Compensation Contracts (PCC) for onshore blocks include a clause specifying that ‘MOGE and Contractor shall collaborate to implement the Extractive Industries Transparency Initiative’. The MSG therefore expects tangible improvements in contract terms and conditions, and public disclosure in the near future.

The MONREC would like to highlight that contract disclosure can take place after consultation and an agreement with private investors. A model contract is publicly available online, at [http://www.mining.gov.mm/DM\\_mm/1.DM\\_mm/details.asp?submenuID=8&sid=1393](http://www.mining.gov.mm/DM_mm/1.DM_mm/details.asp?submenuID=8&sid=1393)



For the jade and gems sector, a new Myanmar Gems Law was approved by the Hluttaw on 30 January 2019 and is currently awaiting presidential approval. According to the new Law, contracts for mid-scale gems and jade exploration and production have to be publicly disclosed and will be included in future EITI reports. The law is publicly available online at: <https://pyidaungsu.hluttaw.mm/laws/lawno43112019>

### **2.5 Beneficial ownership disclosure**

The MSG appreciates the International Secretariat's recommendation of Myanmar's progress towards meeting EITI Beneficial Ownership requirements, which will involve mandatory disclosure from 2020.

The MSG would like to highlight a Presidential statement issued on 9 December 2018, in commemoration of International Anti-Corruption Day. The statement approves the establishment of a Corruption Prevention Unit (CPU) in each union-level ministry, implemented by the Anti-Corruption Commission (ACC). The MSG acknowledges progress, noting that on 19 January 2019, the Anti-Corruption Commission held a workshop on CPU establishment and on 5 February 2019, UNDP conducted a technical training (no. 1/2019) to support CPUs. The MSG expects that the ACC and CPUs will strengthen beneficial ownership disclosure requirements.

### **2.6 State participation**

The International Secretariat notes 'meaningful' progress in Myanmar's compliance with Standard 2.5, due to data gaps and a lack of disclosure related to loan arrangements and the ownership of SOEs.

The MSG wishes to point out p.58 of the *Validation of Myanmar* report, which, referencing the 2015-16 EITI Report, highlights that 'there are no rules related to MOGE's ability to seek third-party funding (debt or equity)'. The MSG would like to note that the Treasury has clarified that MOGE's budget is wholly from state contributions and not from third-party funds. Government share of production is also disclosed in the 2015-16 EITI Report, with the state share of onshore and offshore production in oil and gas at 100% (p.14).

The MSG wishes to highlight p.59 of the *Validation of Myanmar* report, which states that MOGE's 'costs in line with its participation in PSCs' is not disclosed due to the requirement of the templates. The MSG would like to note that MOGE has agreed that costs expended, costs recovered, and cash calls will be disclosed as of the forthcoming EITI reports.

The MSG notes that under the 2016 Public Debt Law, all external debt receives a sovereign guarantee and become the responsibility of the MOPF, in accordance Section 1 of Article XI, Public debt includes all liabilities created from ministries and government agencies and government agencies can only issue guarantees on non-state loans under Section 10.

### **3. Monitoring and production**

#### **3.2 Assessment**

The International Secretariat found progress to be 'satisfactory' and recommends the regular and systematic disclosure of extractive industries.

For the jade and gem sector, the MGE wishes to acknowledge that state-owned shares can only be sold at the Gem Emporium and MGE is committed to disclosing future sales of state-owned gems.

The International Secretariat also urges MONREC and MOEE to regularly disclose all extractive information online. For the mining sector, ME-1 notes that they have an established practice to publicise monthly news online.

#### **3.2 and 3.3 Production data and export data**

The EITI International Secretariat reports 'meaningful' progress in meeting both production and export data standards, as a result of a lack of disaggregated data in the gemstone sector by type of gemstone and export sales.

The MSG would like it noted that the lack of disaggregated data is in part, due to failures and misunderstandings in the data template provided by the IA, in which the requirements of some columns were not clearly identified. As a result, government provided aggregated data for total gem sales in the 2014-15 and 2015-16 EITI Report, which both followed the same template. The MSG noted this weakness when reviewing the MEITI draft report and has taken steps to

rectify it. An absence of an existing system of gem categorisation has been a challenge and caused some confusion, given the diversity of gems on the market. However, a system of categorisation is now in the process of establishment. The government is committed to improving gem data for future reports, including through the collection and disclosure of disaggregated data by gem type and export volume. MGE expects new gem regulations to mandate six-monthly reporting of sales outside the Myanmar Gem Emporium.

The MSG would also like to point out that there are export values in the 2015-16 EITI Report as a result of the IA's use of emporium data from the Central Statistical Organisation. MGE emporium sales are aggregates of export and domestic sales and for future reports, MGE is committed to directly disclosing disaggregated data.

In the 7<sup>th</sup> MSG meeting on 2 October 2017, a decision was made to include the pearl sector unilaterally, given time constraints preventing full sector participation. The MSG notes that for the 2<sup>nd</sup> and 3<sup>rd</sup> EITI reports, MPE only received a single template form. From the 4<sup>th</sup> EITI report FY 2016-17, pearl data will be comprehensively included and reconciled.

#### **4. Revenue collection**

##### **4.2 In-kind revenues**

The International Secretariat reports 'meaningful' progress and notes conflicting explanations between stakeholders and the findings of the EITI report. The MSG notes requirements for the disaggregation of in-kind payments.

The MSG would like it noted that from forthcoming reports, MOGE is committed to the full disclosure of state shares in projects and domestic sales by volume and value. Data will include a disaggregation of in-kind payments.

For the mining sector, ME-1 wishes to note that detailed in-kind payments will be clearly disaggregated by company from the 4<sup>th</sup> EITI Report onwards, and also made public online. ME-2 notes that they already have an in-kind system in place for gold, fine wolfram, fine tungsten, mixed tungsten and mixed Schelite. Quality requirements are specified, with gold at a minimum of 19.25 karats and fine wolfram at 65% metalised. According to existing regulations, state-owned in-kind gold shares cannot be sold to third parties. Sales can be

lawfully made to the Ministry of Religious Affairs, Ministry of Defence and Ministry of Home Affairs, according to instruction from the Central Bank and President's Office.

The MSG acknowledges that the Department of Mines has been disclosing in-kind payments since the first EITI Report.

For the jade and gemstone sector, the MGE wishes to acknowledge that in-kind payments received are publicly displayed at the Myanmar Gems Museum.

#### **4.5 SOE transactions**

The International Secretariat found 'meaningful' progress towards Standard 4.5. The MSG would like a correction made to p.82 of the *Validation of Myanmar* report, regarding the public disclosure of SOE-related budget transfers, which states that 'it is unclear whether this information was publicly available at the commencement of validation'. The MOPF can confirm that aggregate income and expenditure reports of SOEs were publicly disclosed on the MOPF website before the commencement of validation, in January 2017. The Union Minister of MOPF, on behalf of the Union Government, submits annual executive budget proposals to the Union parliament, which is then published online the following day.

The 2017-2018 document can be found at the following weblink:

[https://www.mopf.gov.mm/sites/default/files/upload\\_pdf/2018/08/06%202017-2018%20Fiscal%20Year%20State%20Economics%20Enterprises%27%20Commercial%20Statement.pdf](https://www.mopf.gov.mm/sites/default/files/upload_pdf/2018/08/06%202017-2018%20Fiscal%20Year%20State%20Economics%20Enterprises%27%20Commercial%20Statement.pdf)

The SOE income and expenditure of 2018-2019 is also available online at the following link:

[https://www.mopf.gov.mm/sites/default/files/upload\\_pdf/2018/08/2018-2019\\_SEEs%20Commercial.pdf](https://www.mopf.gov.mm/sites/default/files/upload_pdf/2018/08/2018-2019_SEEs%20Commercial.pdf)

SOE funds have to be managed according to the MOPF fund management plan, which started in the 2012-13 fiscal year, described in letter 3/20 (547/2012) on 3 April 2012, attached in Annex 5.

The *Validation of Myanmar* report notes that ‘it is unclear from the report whether MPE collects any payments from pearl companies. Payments to MPE have not been disclosed in the report.’ The MSG would like to note that MPE joined the EITI process as a unilateral partner so there is no company data available for reconciliation. Company data will be disclosed and reconciled from the forthcoming report onwards.

MATA notes with concern that information disclosure relating to SOEs activities, including state participation and expenditures, are incomplete and ambiguous.

## **5. Revenue allocation**

### **5.1. Distribution of revenues**

The International Secretariat found ‘inadequate’ progress towards EITI Standard 5.1, due to a lack of clarity on the allocation of funds to other accounts, whether they are recorded in the state budget and a lack of publicly-available information on SOE management of those funds.

The MSG expects that the disclosure of other accounts will be improved in future EITI reports, as a result of strengthened systems of disclosure at the union level.

The SOE Budget Department wishes to note that revenue from extractive industries is used in accordance with Union Financial Management Law (35/2017) and the annual Union Budget Laws. Other account information is included in the Union Fund Account, with revenue and expenses detailed in tables published under annual Budget Laws. The UFA-OA of SOEs are included in the Citizen’s Budget and publicly disseminated. The SOE Budget Department therefore disagrees with the International Secretariat’s assessment of inadequate progress and makes the following statement:

#### **Clarificatory response to the recommendations submitted by the International EITI Office and the independent reviewer**

1. Regarding the statement “**MOPF should submit the conditions stipulated on the reserved incomes**” contained in the Recommendation No. (10), we propose to remove such statement since the State’s Financial Management Regulation (35/2017) and the financial rules and regulations under the annually enacted Budget Law have to be abided by spending the revenues of the State as well as the incomes from the natural resources section. Separate procedures are drafted and provided for SEE UFA (OA) and other OA.

2. Regarding the recommendation “**further clarification is necessary with regards to the incomes from extraction of natural resources not recorded in the State’s Budget**” contained in the Recommendation No. (20), it is assumed that incomes from extraction of natural resources not recorded in the State’s Budget means the funds in UFA-OA. The funds in Other Account is included in the State’s Budget (Union Fund Account). The incomes and expenses of the Other Account are mentioned in the tables under the annual enacted Budget Law and may be spent only in accordance with the said law. UFA-OA of state-owned economic enterprises are incorporated in the Citizen’s Budget distributed to the public for their knowledge, and more information is available on the MOPF website. Moreover, the Deputy Ministry of the Ministry of Planning and Finance led an economic panel discussion which was broadcasted on Myanma Radio and Television and announced in the daily newspapers. Further, it is being reviewed how it should be continued with regards to the UFA-OA of state-owned economic enterprises.

3. With regards to the expression “outside of the national budgetary process” contained in the Recommendation No. (22), state-owned economic enterprises have to operate strictly within the State’s budget, and therefore, we propose that it is not “outside of the national budgetary process”.

The MSG notes there is some disclosure of OAs but more detail is needed.

The MSG also notes that the Company Act needs to be strengthened to ensure the IRD collects disaggregated data and establishes a ring-fencing policy.

The MSG notes that MOPF is implementing the second state of Public Financial Management Program Strategy. Distribution of revenue takes place on approval of the recommendations of the financial commission of the Pyidaungsu Hluttaw. The detailed strategy document and workplan is publicly available online at the following weblink:

<https://www.myanmar.gov.mm/documents/20143/9099620/Strategy+Eng%28PDF%29.pdf/6e278da4-3b5e-fb45-b37f-12434de58d79>

## **6. Socio-economic contribution**

### **6.1. Social expenditures**

The International Secretariat found progress towards Standard 6.1 to be ‘inadequate’, as a result of a lack of regulation, data gaps and an absence of data on in-kind social expenditures.

As noted in the 2015-16 EITI Report, a social investment program is not required within PSCs but is strongly encouraged by the Myanmar Investment Commission (see pages 56-57). The report notes that since 2013, PSCs have included employment and training objectives to benefit

the Myanmar labour force, as well as mandatory contributions to a training fund and research and development fund, although beyond that, CSR and social investment programs are voluntary. MATA continues to urge MOGE to provide greater detail and transparency regarding training funds and research and development funds.

The MSG would like it noted that Myanmar has made substantial progress regulating social expenditure requirements through the development of a new Petroleum Development, Exploration, Drilling and Production Law, currently in draft form. The draft law mandates social expenditure in all PSCs, enforced by the MOEE, which has final approval on all contracts. MEITI has publicly published MOGE's CSR report online at [https://myanmareiti.org/sites/myanmareiti.org/files/publication\\_docs/moge\\_csr\\_list.pdf](https://myanmareiti.org/sites/myanmareiti.org/files/publication_docs/moge_csr_list.pdf)

For the mining sector, all contracts since 2016 have to specify social expenditure, according to the 2018 Mining Law. Details of social expenditure are publicly available at [http://www.mining.gov.mm/DM\\_mm/1.DM\\_mm/details.asp?submenuID=8&sid=1350](http://www.mining.gov.mm/DM_mm/1.DM_mm/details.asp?submenuID=8&sid=1350)

As a result of Myanmar's progress in meeting Standard 6.1, the MSG requests the International Secretariat upgrade their assessment from inadequate to meaningful.

## **6.2. SOE quasi-fiscal expenditures**

The International Secretariat found 'inadequate' progress towards Standard 6.2, noting that for oil and gas, expenditure levels are at the discretion of companies. Information gaps are also noted.

The MSG would like to point out an error under section 6.7 of the 2015-16 EITI Report, where there is a table purporting to detail quasi-fiscal expenditure. The data is in fact CSR expenditure and not quasi-fiscal expenditure.

The MSG assumed that MOGE in fact have misunderstood data filling requirements on the reporting templates for the payment of Special Goods Tax (SGT), which comes under quasi-fiscal expenditure. MOGE states they were unaware of the requirements but have since made a commitment to provide disaggregated data, commencing in Myanmar's forthcoming EITI Report.

Given the lack of clarity regarding Standard 6.2 and Myanmar's subsequent efforts to rectify the issues, the MSG requests that the assessment be upgraded from inadequate to meaningful.

## **7. Outcomes and impact**

### **7.1 Public Debate**

The International Secretariat found progress towards Standard 7.1 to be 'satisfactory'.

MATA wishes to raise concerns hampering Myanmar's progress towards this Standard. It is crucial that the translation of EITI reports into Burmese are prioritised.

### **7.3 Lessons learned and follow-up on recommendations**

The International Secretariat notes 'satisfactory' progress and recommends strengthening mechanisms to follow up and monitor progress towards the implementation of recommendations.

The MSG would like to highlight that consultation workshops have been periodically conducted, which include assessments of progress towards reform plans of respective government agencies. Before the publication of the forthcoming EITI report, the MSG will hold further consultation workshops to evaluate the extent each government and private sector stakeholder is implementing EITI Standards.

In response to comments on page 107 of the *Validation of Myanmar* assessment, the International Secretariat notes the formation of the Gems Supporting Committee. The Gemstone Policy has since been finalised through multi-stakeholder consultations and is attached in Annex 6.

Through the EITI process, the MSG has learnt the need to regularly conduct review and reflections to ensure the full implementation of EITI Standards.

### **7.4 Outcome and impact of implementation**

The International Secretariat has found progress towards Standard 7.4 to be 'satisfactory'.



The MSG sees a key impact being the establishment Sub-national Units (SNUs), which are a voluntary expansion and localisation of EITI Standards. So far, SNUs have been formed in Tanintharyi Region, Magwe Region, Sagaing Region, Mandalay Region and Shan State. Each SNU includes a multi-stakeholder group consisting of government, private sector and civil society stakeholders. SNUs will be expanded to remaining states and regions under the MSG communication and outreach strategy, publicly available on the MEITI website. The MSG requests acknowledgement of SNU implementation in the *Validation of Myanmar* assessment.

The MSG further notes that since the first EITI Report, stakeholders have implemented the regular practice of uploading information online.