

Contents

1. Executive Summary	2
2. Objectives	2
3. Expected Outcomes	2
4. Duration and Venue	2
5. Participants	2
6. Workshop Agenda	2
7. Opening Speech (U Kyaw Thet, MSG & DDG of DOM)	2
8. Presentation on MEITI reports recommendations and Recommendation Template (U Htun Paw Oo, Technical Specialist & Daw Zin Mar Myaing, Programme Advisor of NCS)	3
9. Group Discussions	3
10. Closing Remarks (U Kyaw Thet, Deputy Director General of DOM)	45
Annex one: List of participants in Recommendation Consultation Workshop	45
Annex Two: Workshop Agenda	47
Annex Three: Activities Photos	48

1. Executive Summary

The Recommendation Consultation Workshop was conducted on 9th June, 2018 at Inya Lake Hotel. The participants from Ministry of Planning and Finance (MOPF), Ministry of Natural Resources and Environmental Conservation (MONREC), Ministry of Electricity and Energy, Office of the Auditor General of the Union, multi-stakeholder group, development partners and National Coordination Secretariat (NCS) joined in this workshop and there were 47 attendances in total. The objectives of the workshop are to make commitments on the implementation of MEITI reports' recommendations within respective government departments and in stakeholders and to understand the importance of report to reforms in Myanmar. In this one-day workshop, recommendations of MEITI reports (2013-2014), (2014-2015) & (2015-2016) and recommendation workshop template were presented and discussed among respective government agencies and stakeholders in order to produce recommendation implementation timeline with short-term, medium-term and long-term and challenges & difficulties that would be faced. Lastly, the workshop was successfully accomplished because recommendation template outputs with timelines from respective stakeholders especially from government agencies were resulted.

2. Objectives

- To make commitments on the implementation of MEITI reports' recommendations within respective government departments and in stakeholders
- To understand the importance of report to reforms in Myanmar

3. Expected Outcomes

- Recommendations template outputs with timelines from respective stakeholders especially from government agencies

4. Duration and Venue

The Recommendation Consultation Workshop was conducted on 9th June, 2018 at Inya Lake Hotel.

5. Participants

A total of 47 participants in which representatives (higher officials) from Ministry of Planning and Finance (MOPF), Ministry of Natural Resources and Environmental Conservation (MONREC), Ministry of Electricity and Energy, a representative from Office of the Auditor General of the Union, multi-stakeholder group members, representatives from development partners and National Coordination Secretariat (NCS) joined in this workshop. The detailed participant list is attached in annex one.

Total - 47; Male - 27; Female- 20

6. Workshop Agenda

The detailed agenda is attached in annex two.

7. Opening Speech (U Kyaw Thet, MSG & DDG of DOM)

Firstly, U Kyaw Thet from Department of Mining delivered opening remarks. He said that he would like to say "Thanks much" to EITI working groups in government departments and other stakeholders for giving much efforts in producing MEITI reports and continued that he would like to urge government departments for participation in future MEITI activities and today the

participants needed to discuss how to response/implement recommendations in accordance with government departments' reform agenda.

8. Presentation on MEITI reports recommendations and Recommendation Template (U Htun Paw Oo, Technical Specialist & Daw Zin Mar Myaing, Programme Advisor of NCS)

Then, U Htun Paw Oo, Technical Specialist & Daw Zin Mar Myaing, Programme Advisor of NCS presented on recommendations from 1st, 2nd & 3rd MEITI reports recommendations in summary and explained about how to fill up the reporting template.

9. Group Discussions

After that, the participants were divided into five groups in order to discuss their respective recommendations as follows and these groups were facilitated by National Coordination Secretariat (NCS).

- Group 1 – Departments from Ministry of Natural Resources and Environmental Conservation (DOM, ME1, ME2 & DGSE)
- Group 2 – Myanmar Gems Enterprise
- Group 3 -Departments from Ministry of Electricity and Energy (MOGE & OGPD)
- Group 4 – Departments from Ministry of Planning and Finance (IRD, MCD, BD, TD, DICA)
- Group 5 – MSG members (Gov, PS & CSOs)

Then, these five groups discussed the following points for recommendations.

Recommendations from the 2nd & 3rd MEITI Reports (2014-2015) and (2015-2016)

RECOMMENDATIONS	ACTION PLAN (Identify constraints and best approach)	OUTPUT (Ex: legislation, revised systems, government issuance)	TIMELINE (Identify whether it's short term, long-term or medium term)	IN CHARGE (Agency / Individual)	MONITORING MECHANISMS (Indicators of progress)
7.1. Governance of the Extractive Revenues					
<p>7.1.1 Strengthen the institutional capacities of the IRD</p> <p>Myanmar has significant mineral and other natural resources which are being extracted widely. However, these resources contributed only about 17.8% of total revenue in 2015-2016. The Asian Development Bank (ADB) estimates that its revenue to GDP is 4.0% in 2011-2012, which is well below the region average and even below the fragile states average of 22%.</p> <p>Potential revenue from minerals is lost due to:</p> <ul style="list-style-type: none"> • weak mineral and other extractive industries revenue collection capacity at the IRD; • weak mineral and extractive industries revenue policy analysis and revenues forecasting capacities at MoPF; • weak capacities to monitor compliance with Oil & Gas and mining contracts and verify production amounts, exports, and global prices at the SOEs; and • lack of an effective extractive industries governance structure to promote transparency, accountability, and responsibility in the management of extractive industries. 	<p>IRD Comments</p> <p>Although the reasons contained in the EITI report is partially correct it cannot represent the whole picture of the process. The most important basic principle shall be the Government must have the capabilities to collect the data regarding the extractive industries, auditing of works/accounts, taking action practicing relevant laws. If there are no such capabilities it shall be most difficult for the revenue departments to collect the volume of revenue which should be collected from the relevant extractive industries. The Government has such capabilities only in the Oil and Gas sector. Such capabilities are weak in minerals, gems and forestry resources and the Government's capacity to take action especially in the border areas where many resources are extracted.</p> <p>For the effective management of extractive industries, the Internal Revenue Department needs to have higher capacities as well as law enforcement and abilities to take action are needed in these areas where these industries are located. Another most important point is more information exchange and cooperation and coordination are needed among the relevant government departments. The present status of information exchange and cooperation and</p>				

<p>Recommendation</p> <p><i>Therefore, we recommend:</i></p> <ul style="list-style-type: none"> • <i>the establishment of an Extractive Industries Revenue Unit within the IRD. The establishment of this unit will enhance the institutional capacity of the IRD to collect adequate revenue from the extractive industries;</i> • <i>to conduct training needs assessment covering the areas of tax audit, risk-based tax audits, data exchange, transfer pricing,</i> • <i>the establishment of procedures and systems to administer extractive industries revenue including an assessment and audit strategy;</i> • <i>to set up a data base of all companies and other entities in the extractive industries for taxation purposes;</i> • <i>to set up a Research Team responsible for drafting research and policy documents; and</i> • <i>to conduct a study on the Harmonisation of Mineral Taxation Regimes and the consolidation of fiscal regulations.</i> 	<p>coordination has never reached up to the satisfactory stage.</p> <p>It is recognized that the Internal Revenue Department is weak in its internal capacity in tax policy and tax governance.</p> <p>The Internal Revenue Department has been implementing and performing basic reforms in these two areas. Such reforms will help build internal capacity in managing extractive industries. However, it would have to take time to reach up to the stage of effectively managing the extractive industries while capacity building works are rapidly performed.</p> <p><u>Suggestions relevant to EITI</u></p> <p>To establish a revenue collection unit (Branch) for extractive industries at the Internal Revenue Department (IRD). By establishing such unit, internal capacity of collection of revenue which should be collected from the extractive industries will be enhanced.</p> <p><u>Response from the Internal Revenue Department (IRD)</u></p> <p>In order to establish the modernized and capable tax revenue management system, and the initial phase of reform programme, the Internal Revenue Department (IRD), Ministry of Planning and Finance has established the LTO (Large Taxpayer Office), which is using the Self-Assessment System since 1st April 2014 after receiving the approval on 30th August 2013. In addition to that the MTO (Medium Taxpayer Office) no. (1) has also been set up and using the Self-Assessment System since 1st April 2017. As these offices are taxpayer offices are the largest taxpayer offices in Myanmar and they are collecting tax revenue not only from the extractive</p>				
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industries but also for the commerce and manufacturing sectors.

Most of the Companies under the extractive industries sector are places in the Large Tax-payer Office (LTO Office). In this LTO Office there are (3) audit teams formed and capacity building training courses for Oil and Gas sector have significantly been provided. Such training courses have been supported by the NORAD. According to the present status/situation there is no sufficient manpower in the Internal Revenue Department to manage all extractive industries. According to the reforms programs, arrangements have been made to implement sustainable capacity building works from time to time. It is reviewed that there can be decrease in the long run by scattering the human resources/manpower and aid and support to (many sectors) even in this condition of less capacity.

- LTO and MTO have been established in Yangon.
- Oil and Gas Companies, forestry companies and medium companies have already been collected.

EITI Sub-Recommendation (1)

To study and identify the training needs assessment to cover the areas such as the revenue auditing, risk-based tax auditing, data exchanging, transferred pricing.

Response from the Internal Revenue Department (IRD)

Internal Revenue Department has assigned the staffs as per their relative levels to study the tax auditing, transfer pricing, tax reform management training,

The first result of reform

Done

IRD, MOPF

trainings for the avoidance of double taxation agreement, oil and gas revenue management training, tax policy and expenditures related with tax revenues workshop, policy and activities training, technical support training and more-effective and efficient Integrated Tax Administration System (ITAS) trainings in order to be able to work efficiently and effectively.

All of these training had already been conducted by foreign experts from World Bank, OTA, IMF, NORAD, etc.

After conducting the above-mentioned trainings, the staffs are able to apply the skills and expertise that they learned from the trainings and it enhanced the capacity of staff for sustainable developmen

The training needs assessment works were conducted and the implementation of reform programs have also been approved. As a result of training needs assessment, the risk-based tax auditing work is provided to be mainly done. The NORAD has provided trainings for the Oil and Gas works and the auditing works are also practically being performed. Similarly, the World Bank supports the trainings related to transfer pricing. The purpose of these trainings is to do audit efficiently according to the staff qualification/efficiency or to extend the qualification of the staff.

Risk-based assessment has already practiced in Medium Taxpayer Office (MTO) and Large Taxpayer Office (LTO). Moreover, auditors are trained for audit knowledge with on-job training per industry.

Effective tax governance system

Done

EITI Sub-Recommendation (2)

To establish and perform the procedures and systems including tax supervision and revenue auditing strategy for the collection and management of revenue from the extractive industries

Response from the Internal Revenue Department (IRD)

The audit strategy is already finished and the auditing on the general accounts and auditing on the oil and gas sector has been implemented phase by phase in LTO (Large Taxpayer Office) collaborating with NORAD. Furthermore, the auditing is implementing in line with risk management and the audit manual is already set up. All of these steps are already included in Reform Process and currently implementing on it.

The IRD would like to say that higher efficiency of performance is badly needed for the management as the extractive industries sector is complicated. At present the Internal Revenue Department has no such kind of efficiency.

The auditing strategy has been drawn up and the procedures for general works auditing and oil and gas sector auditing have been provided. It is also important to understand the limitation of efficiency in this part. The individual staff ability must be enhanced and more difficulties can be encountered if starting with more complicated sectors from time to time.

The auditing strategy has been drawn up and the procedures for general works auditing and oil and gas sector auditing have been provided.

- Effective tax governance system

Done

	<p><u>EITI Sub-Recommendation (3)</u></p> <p>To establish and perform data base for all companies and firms/teams for revenue collection in the extractive industries sector</p> <p><u>Response from the Internal Revenue Department (IRD)</u></p> <p>In accordance with the Tax Reform Programme of Internal Revenue Department, Ministry of Planning and Finance 2014-2024, the Data Centre is started establishing in Nay Pyi Taw and Yangon using the ITAS (Integrated Tax Administration System) for taxation. It will be practiced not only for the extractive industries but also for the other industries as per the project: MMPFM (Myanmar Modernization for Public Financial Management). The system will be started in December 2019.</p> <p>The present running system of the Internal Revenue Department is based on the manual system. At the LTO office, it has been performed with small scale computer system and all organizations under extractive industries sector are recorded. At present the procurement of an Integrated Tax Administration System (ITAS) is under way. Although it takes several years to use in the whole country, a data base system can be drawn up and used for the policy objectives.</p> <p>Mini Data Centres have been established in NPT and Yangon. The procurement of ITAS software is underway</p>	<p>ICT technology can support tax governance system</p>	<p>Ongoing</p>		
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	<p><u>EITI Sub-Recommendation (4)</u></p> <p>To establish and perform a research team (unit) to undertake to prepare the research and policy papers/reports.</p> <p><u>Response from the Internal Revenue Department (IRD)</u></p> <p>Internal Revenue Department, Ministry of Planning and Finance restructures the organization in line with the tax reform process as per the meeting decision of Union Government's cabinet meeting no. (12/2014) dated 19 June 2014. There are 11 units in new organization structure and the research and policy department is included as one of the 11 units.</p> <p>At this moment, a policy division has been established. The IMF team and the NORAD team are also helping this unit to build capacity regarding extractive industries. The re-writing of income tax law in order to build a basic of law to effectively collect the revenue from the extractive industries and the building of capacity are included in their helps. In re-writing the new income tax law the provisions of international revenue collection such as the transfer pricing (not included in the present income tax law) shall be included. Because of this long-term work, it is able to provide certainty, clarity and accuracy for both the tax payer and the Internal Revenue Department (IRD) from time to time.</p> <p>Research and Policy unit has been formed under IRD with the support from Norway and IMF, World Bank.</p>	<ul style="list-style-type: none"> To lay down effective and efficient tax policies in the fiscal regime of Myanmar 	Done	MOPF, Attorney General Office, Parliament	
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	<p>To conduct a study and assessment for balanced performance of revenue collection of extractive minerals and integrated performance of financial regulations</p> <p><u>Response from the Internal Revenue Department (IRD)</u></p> <p>The new income tax law is currently drafting and the extractive industries is included as separated section. Once this new law is enacted, it will be more beneficial and effective for the extractive industries.</p> <p>New Income Tax Law is being drafted. The draft law includes a separate chapter for extractive industries.</p>	Modernize Income Tax Law and consistency tax policy.	Ongoing		
<p>7.1.2 Lack of unique Taxpayer Identification Number (TIN) used by all Government Agencies for the identification of the extractive companies</p> <p>During the scoping phase, we noted that the statements of revenues obtained from MoEE, MONREC, IRD and Customs Department did not include the unique TIN of each company. The names of some companies were spelt differently from one Government Agency to another. These differences may be also due to the translation of these statements from Myanmar to English.</p> <p>Moreover, we noted that IRD and the Customs Department did not hold a comprehensive list of the extractive companies neither any specific identification number for Oil and Gas and mining companies.</p> <p>This situation led to:</p>	<p>IRD Comments</p> <p>Internal Revenue Department has started using the Taxpayer Identification Number (TIN) at (Large Taxpayer Office) LTO using the computer system since financial year 2014-2015 and the use of TIN is being expanded phase by phase at MTO (Medium Taxpayer Office). It is targeted that the new tax management system will be applied to the whole of the Internal Revenue Department on 1 April 2019 during the financial year 2019-2020. On the other hand, not only the extractive industries but also other government agencies related to ITD should use the TIN as same as TIN number used by IRD.</p> <p>In order to use the same TIN and develop the system, the information technology and network system is required to installed as well as the new law is needed to be enacted in compliance with the International Standard.</p>				

- IRD and Customs Department identified the extractive companies on the basis of their names which bears a huge risk regarding the comprehensiveness of their statements of revenues;
- because of the differences in the spelling of these names, we were not able to compile the statements of revenues received from these Government Agencies in order to perform a materiality analysis on the basis of total payments made by each extractive company. The analysis of the materiality threshold was done separately for each Government Entity without compiling all the data; and
- IRD and Customs Department were not able to identify some payments made by the extractive companies which led to some differences between their reporting templates and those of the extractive companies. These differences were identified during the reconciliation phase.

Recommendation

We recommend that all the Government Agencies use a unique TIN to record the payments received from extractive companies. This will require continued close cooperation between the different Government Agencies in order to address the situation of existing companies. With regards to the new companies, the TIN should be allocated at the moment they are set up. The TIN should be communicated to all Government Agencies and should be quoted for every company to avoid any ambiguity.

- LTO and MTO-1 have been using TIN for taxation purposes.
- IT network is required to connect across government ministries all over the country.
- Legal binding is required for all government agencies to use TIN.

- To use unique TIN number for effective governance system.

- Medium term (Yangon, Mandalay and NPT)
- Long term all over Myanmar

- Cabinet

7.1.3 Consider setting a resource revenue sharing system for extractive revenues

Oil, natural gas and mineral revenues are generated in nearly every state and region in Myanmar, with the most important onshore interests lying in Bago, Kachin, Magway, Mandalay, Sagaing, Shan and Tanintharyi. In these areas and others, extractive activities have significantly impacted livelihoods and the local environment.

Taxes and fees collected from extractive companies form part of the State Fund Accounts and are programmed to be spent towards projects and expenses for the entire country. There are no specific projects for which revenues collected from mining companies are allocated to.

Recommendation

Given that local communities are the ones directly affected by extractive activities, the government should consider setting up a special fund arising from revenues earned from extractive companies or revenue sharing mechanisms so that these may be allocated towards projects that would contribute to:

- *the rehabilitation and development of communities impacted by extractive operations.*
- *mitigate or prevent violent conflicts;*
- *respond to local claims for benefits, based on ideas of local ownership; and*
- *promote regional income equality between resource and non-resource rich regions.*

For better transparency and efficiency, the revenue sharing system would require stakeholder consensus on

Medium Term Fiscal Framework has been practiced since 2015-2016. The demands of State/Regional Financial funds are filled up based on the calculation of MTFF. Tax sharing is carried out using six indicators under Medium Term Fiscal Framework (MTFF).

1. Total population
2. poverty index
3. Area
4. Per capita tax collection
5. Per capital GDP
6. Urban population as percent of Total State population

(-) Political agreement is required for a resource sharing system.

promote regional income equality between resource and non-resource rich regions

any revenue sharing formula, as well as legal codification.

7.1.4 Lack of transparency of SOEs

Information disclosure and higher standards of accountability in SOEs, when accompanied by other governance reforms such as centralisation of State ownership, listing, board improvements and financial restructuring – can contribute to improved efficiency and performance of SOEs. Information disclosure including both financial and non-financial data is essential for the government, so it can be an effective owner; the Parliament to evaluate the performance of the state as an owner; the media to raise awareness on SOE efficiency; and taxpayers and the general public to have a comprehensive picture of SOE performance.

We understand that MOGE has started to disclose total production figures for each offshore field, amounts for export and domestic use, blocks currently under contract and companies engaged. However, there are still improvements that can be made in transparency and corporate governance. SOEs falling under MoNREC are less transparent than those of the oil and gas sector, although MoNREC is reportedly taking greater steps this year to standardise requirements for SOEs and private companies. SOEs under MoNREC disclose very few details about the joint ventures in which they participate, their revenues, expenditure, or relationships with subcontractors. Moreover, no steps have been taken to make military-affiliated enterprises more transparent or accountable.

Furthermore, the legal nature, powers and duties of SOEs are unclear from publicly available information.

MONREC comments

Although the Ministry of Natural Resources and Environmental Conservation has prepared their step in this year to set out the standard requirements of the State-owned Economic Enterprises and private Companies, the State-owned Economic Enterprises under the Ministry of Natural Resources and Environmental Conservation is less transparent than the Oil and Gas sector. The State-owned Economic Enterprises under the Ministry of Natural Resources and Environmental Conservation are less disclosure on information regarding their joint venture businesses, income, expenditures (or) conditions in relationship with the sub-contractors. Besides there are no performances to be more transparent (or) accountable with the works related to the Military/Tatmadaw (Armed Forces).

According to the information obtained by the general public, the legislation, nature of work, mandates and duties and responsibilities are not clear. In some cases, there are dual roles and responsibilities as business partner as well as regulator in running the businesses.

In the annual consolidated report, the following points may be included and contained:

(a) General declaration on the information about the State-owned policies and how these policies are being implemented (for example information about who own and how possess and summary of the progress of

Some have dual roles, both as a business partner in operations and as a regulator.

Recommendation

We recommend that MoNREC and MoEE take reasonable steps to publish an annual aggregate report that covers all SOEs and make it a key disclosure tool directed to the relevant stakeholders including the general public, the parliament and the media. The following information may be included in the annual aggregate report:

- *A general statement on the State’s ownership policy and information on how the State has implemented this policy (i.e. Information on the organisation of the ownership function as well as an overview of the progress of SOEs, the relationship between SOEs and the Government, SOEs mandate, role in licensing, conflict of interest management);*
- *Aggregate financial information and reporting on changes in SOEs’ boards;*
- *Key financial indicators including revenues collected, profit, cash flow from operating activities, gross investment, transfers to the government, spending); and*
- *Information on individual reporting on the SOEs.*

We also recommend to complete the transformation of SOEs and separate their current regulatory function into another part of the MoNREC/MoEE, to remove conflicts of interests, leading to better long-term regulation of the extractive sector.

the State-owned Economic Enterprises, relationship between the State-owned Economic Enterprises and the Government, the mandate of the State-owned Economic Enterprises, the role of obtaining licenses, conflict of interest management)

(b) Issuance of news regarding the change of Boards of the State-owned Economic Enterprises and consolidated financial information.

(c) Income collected, profits, income flow from running businesses, net investment, transfer to the Government, financial spending.

(d) Information regarding the individual reporting on the State-owned Economic Enterprises.

- On our website (www.mining.gov.mm), we will disclose and update revenue,

It will be more transparent

Short-term

MONREC & NCS

<p>expenditure, production/revenue sharing ratio and in-kinds (sales), in a transparent manner, of the following state-owned enterprises under the Ministry of Natural Resource and Environmental Conservation (Mining): No. 1 Mining Enterprise, No. 2 Mining Enterprise, Myanma Gems Enterprise and Myanma Pearl Enterprise.</p> <ul style="list-style-type: none"> • In new Mining Rules, there is a tender system in State's designated blocks/worksites • To implement the activities in accordance with Mining Rules • The rules for respective government departments are now developing in States/Regions in a timely manner <p>MOEE comments</p> <p>1. Permanent Secretary office has been formed by the collaboration with Minister's office and Energy Planning Department (EPD) since April, 2015. In that office, Press Release and Local/International Relationship Branch was established and release and publish the following news and information of Ministry of Electricity and Energy (MOEE)</p> <ul style="list-style-type: none"> • The activities of Ministry are regularly updated and published every second week of the month by inviting to the new and media agencies. 	<p>Mining Rules (13.2.2018) Notification order no. (13/2018)</p>	<p>It is estimated to accept the applications for new mining blocks/worksites in compliance with new Mining Rules in upcoming September</p>	<p>MONREC</p>	<p>With Cadaster system, respective departments will collaborate in it.</p>
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<ul style="list-style-type: none"> • The information is also available on the website and face book page of MOEE • Occasionally, the panel discussion and interview program are on the State-owned newspaper and broadcasted on TV channel • Institutional function is also uploaded on MOEE's website <ol style="list-style-type: none"> 2. The publishing of SOE's annual report is subject to the government's policy. But, the annual updated information and financial data are published on website; <ul style="list-style-type: none"> • Publish MOGE's Financial report • Publish on changes in MOGE's board 3. The required information to be included in Annual Aggregate report is uploaded on MOEE website and published on gazette 4. Due to SOE's reforms, there are some concerns about the government staffs who are currently working at SOEs, how they would be transferred, how the government will consider for them? 5. To response the points about the monitoring role, MOGE is currently doing the operation and the OGPD is doing as the regulator. 6. The EPD (Energy Planning Department) was revoked since 2015 and the "Permanent Secretary" Office has been established for Supervision. 7. The OGPD (Oil and Gas Planning Department) has been formed since September, 2016 to act as "Regulatory Role". 	<ul style="list-style-type: none"> • Described in Ordinances • Whenever there are questions about MOEE at Hluttaw, MOEE always responses them at Hluttaw • Publishing Annual aggregate report depends on Government policy and guidance/instructions • To enact SOE's law and Privatization Law 	<p>Annually</p>	<p>MOEE</p> <p>MOPF</p>	
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7.2. Management of the Gems and Jade sector

<p>7.2.1 Lack of certification, traceability and valuation of the gemstones</p> <p>One of the major criticisms NGOs have made of the Jade and Gems sector is that there are inadequate checks throughout the production and distribution process. Based on interviews with a range of stakeholders for the purpose of this report it is estimated that more than half of gemstones produced in Myanmar are not declared and therefore bypass the formal system.</p> <p>As described in Section 3.3.6 above, the valuation of gemstones in Myanmar is performed by a Valuation Committee which comprises representatives from MGE, other government agencies (IRD, Customs, Parliament), MGJEA and an external expert. The chairman of this committee is an MGE officer. We understand from the meetings held with MGE representatives and from the field visit to the MGE regional office that there are no post independent audits or verifications of the valuation of the gemstones.</p> <p>The current practices represent a gap with international good practices for gemstone valuation. It is not clear whether the representatives from MGE and the other government agencies have the appropriate skills and market knowledge to independently assess the value of the gemstones. The valuation is restricted to the discretion of MGE and one external expert only.</p> <p>Furthermore, we note that the process of declaration of gemstone does not follow proper and effective procedures. The only legal provisions on this matter are mentioned in the Gemstone Law which stipulates that “failure to register the rough gemstone produced or</p>	<p>MGE’s comments</p> <p>1. Capacity building activities</p> <ul style="list-style-type: none"> Myanma Gems Enterprise staffs are sent to diploma courses on gemology offered by domestic universities, and two courses on English proficiency were offered to improve staffs’ competency and academic skills. Foreign experts are also invited to the country in order to give lectures. Environmental awareness campaigns and talks are also being organized in mining sites. Department officials are being sent to international gems expositions in order to study gems and jewelry sector. Staffs are also sent to courses of masters in Geology. Mr. Shane Anthony Langdon, a volunteer expert from Australian Volunteer International (AVI), will be teaching a course on environmental management. <p>Challenges</p> <ul style="list-style-type: none"> There are a lot of mining sites in gems and jade sector. Other challenges are shortage of staffs, instability, conflicts, and absence of rule of law. <p>2. Gemstone Governance Framework</p> <ul style="list-style-type: none"> The provision that states “each permitted mining sites shall report gems production, royalty payment, sales, and stocks every six months to the relevant department or the organization that issues a permit” shall be added in the new Myanmar Gemstone Law, which is currently being drafted, It is easier to regulate and supervise state-owned enterprises in the value chain of gems. 	<ul style="list-style-type: none"> Training Courses 2 years 1 year (as per the contract) Amyotha Hluttaw has passed the new gemstone law. There are currently preliminary discussions to submit the 	<ul style="list-style-type: none"> Short-term 	<p>MGE</p>	<ul style="list-style-type: none"> In Progress Currently implementing in accordance with rules and regulations
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failure to register the rough gemstone actually produced and instead registering a substituted rough gemstone shall, on conviction, shall be punished by imprisonment for a minimum of 7 years to a maximum of 15 years, and shall also be liable to a fine” and that non declared gemstones cannot be sold in the Emporium.

Traceability from mines to market in Myanmar need to be improved in order to meet international standards, which demand increasing responsible sources of gemstones, supply chain and ethical and sustainable business models. In the gemstones sector, transparency, traceability and certification are crucial and reflect the increasing global trend towards greater accountability across all economic sectors.

A further issue is that the number of public and private labs in Myanmar which can independently certify gemstones to international standards remains extremely limited.

Recommendations

1. Capacity building

We recommend to perform a capacity review of MGE staff and to consider developing employees’ skills and hiring technically skilled experienced gemstones experts.

MONREC and MGE’s capacity and technical expertise must be strengthened to begin addressing poor monitoring and oversight, which in turn leads to foregone revenue and growth of the informal sector. The capacity of government agency staff to monitor and enforce legal compliance should also be built.

2. Gemstone Governance Framework

However, regulating private companies is quite difficult. In order to develop policies to support the gemstone sector, the current government, with an approval from the Union Attorney Office, formed the tri-lateral Gemstone Sector Supporting Committee. It includes 23 members from government, private sector, and civil society. Second draft of the gemstone policy has already been developed based on the consultation workshops with communities in Myitkyina, Mogok, Monywa and Mandalay, where mining sites exist.

Challenges

- Amoytha Hluttaw already passed the new Myanmar Gemstone Law. We are having discussions and working with relevant organizations so that Pyithu Hluttaw could pass the law.
- Were the law enacted, we will follow the law and enforce it.

3. Valuation Procedures

- Rough gemstones from sites operated by private companies and joint-venture companies must be sent to the valuation team. The team records the type, quantity, weight and size of gemstones, and registers and values them. The royalty rate is 20 percent in the case of ruby, sapphire and jade, and 10 percent in the case of other gemstones.
- Valuation method of rough gemstone/jade has been changed and the valuation is now based on the emporium sale.
- 3% service fees has to be paid if rough gemstones extracted by private companies that hold permits and joint-venture companies were to be sold at emporiums.

draft to Pyithu Hluttaw.

- Valuation teams

- Currently implementing in accordance with rules and regulations

We recommend the development of a national Gemstone Sector Policy and a corresponding review of the Gemstone legal framework, to improve governance, including production as well as allocation of permits, valuation, export and sales; and the development of appropriate systems and procedures for the monitoring and reporting of gemstone production.

3. Valuation Procedures

We recommend that MONREC:

- *reviews and strengthens the valuation process of gemstones by involving external valuers with extensive knowledge of the sector markets and valuation methods and by requiring checks against fair value/market price;*
- *opts for a clear description of the valuation method in the minutes of the valuation committee and perform random audits and reconciliations between the valuation of gemstones and their sale prices at the Emporium to determine if there were any shortfalls when collecting the royalties on production.*

4. Responsible Mining and Traceability

We recommend that MONREC considers:

- *Encouraging gemstone mines to begin adopting international standards for responsible mining, to meet the increasing global demand for responsibly sourced gemstones*
- *Exploring the future potential of establishing a mine-to-market traceability system, in line with other similar emerging international initiatives*

- Valuation teams to assess rough gemstones from each site in order to collect royalties used to be comprised of government officials and gem experts. After the new government took office, valuation teams became “third party” bodies that include representatives from state/regional government, state/regional parliament, township tax office, gem and Jewelry Entrepreneur Association and representatives from gemstone and jade business community.

Challenges

- Unlike ruby, sapphire and diamond, there is a high margin of error in assessing the value of rough jade. The value of gemstones can only be assessed when gemstones were brought to the valuation team by companies and registered. Therefore, it is hard to crosscheck the assessed value with the auctioned price at emporium.
- If the team coordinates with Internal Revenue Department, it could crosscheck the assessed value.

4. Responsible Mining and Traceability

- There should be a traceability system.
- Companies have been instructed to report through forms when rough gemstones, which have been collected royalties, are brought to emporiums and finished.
- Both the department and private sector have gemstone and jade laboratories. Those laboratories provide certifications. The new draft law also considers about developing those laboratories.

- Directives (have been sent to companies). There is no provision on traceability system in the existing law. It is a preparatory measure.
- The proposed law has such provision.

- In progress

- In progress

<p><i>(see footnote for some examples¹). The Kimberley Process is an international multi-stakeholder certification mechanism that was established in diamond producing countries to stem the flow of rough ‘conflict’ diamonds. There are several other international initiatives emerging, most of which focus on diamonds and precious metals (not colored gemstones). Nevertheless, Myanmar may wish to begin engaging in talks with local stakeholders and importing countries to consider the viability of establishing a similar sort of certification process to prevent conflict gemstones from entering the legitimate trade. The creation of an international certification could help in combating the informal sector and breaking the link between the illicit trade in rough gemstone and human rights abuses associated with armed conflict. However, any such activity must be preceded by implementation of other recommendations in this report, including clarification of institutional roles and responsibilities, institutional capacity building, and development of a sector-wide governance framework.</i></p>	<ul style="list-style-type: none"> • A jade portal is currently being developed through working together with international organizations such as NRGJ. <p>Challenges</p> <ul style="list-style-type: none"> • Data are both in digital and paper formats. There is still a significant weakness. 	<ul style="list-style-type: none"> • Jade portal is currently being developed. 	<ul style="list-style-type: none"> • As per the memorandum of understanding. 		
<p>7.2.2 Gemstones sector institutional reform</p> <p>As described in Section 3.3.6 above, the main role of MGE is to impose taxes in accordance with the Mines Law and Gemstone Law for Gems and Jade production</p>	<p>MGE’s comments</p> <ul style="list-style-type: none"> • Currently working on to enact the new gemstone law. (Regulating, supervising, and partnering shall be done separately.) 	<p>Amyotha Hluttaw has passed the new gemstone law. There are currently preliminary</p>			<p>Currently implementing in accordance with rules and regulations.</p>

¹ The Kimberley Process Certification Scheme <https://www.kimberlyprocess.com/>; The Initiative for Responsible Mining Assurance (IRMA) <http://www.responsiblemining.net/>; The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas <http://www.oecd.org/corporate/mne/mining.htm>; and, The Responsible Jewellery Council (RJC) Code of Practice and Chain of Custody Certification Mechanism for Diamond, Gold and Platinum-Group Metals <https://www.responsiblejewellery.com/about-rcj/>

<p>or for the sale of rough and finished products. MGE also participates in Joint Ventures on behalf of the State, manages the Emporium and issues Gems and Jade permits. There is an inherent conflict of interest between its role as a policymaker, a regulator and also as a JV partner.</p> <p>The existing arrangement does not meet international best practices for governing the State-Owned Enterprises. The cumulation of all these functions coupled with MGE’s limited capabilities represent a high risk of conflict of interest.</p> <p>Human resources capacity is also an issue for MGE in terms of staff with adequate technical skills and experience to manage its varied roles. During our field visit to the MGE regional office in Lone Khin and through our interviews with MGE representatives, we noted that MGE used to allocate three staff members in each production field. Currently, MGE allocates only one staff number in each production field as a result of the limited number of staff.</p> <p>Recommendation</p> <p><i>We recommend to revisit MGE roles in any government considerations of institutional reform in Myanmar’s gemstone sector and to adapt them to best international practices. The role of MGE and the other departments under MONREC (DoM, DGSE, etc) should be clearly defined in laws and regulations. The segregation between the role of MGE as regulatory body and its role as partner in JVs should be considered.</i></p>	<ul style="list-style-type: none"> • Currently arranging to place Myanmar Gems Enterprise as a member [of the committee] to start using a mining cadaster. • It is pointed out that there is a conflict of interest between Myanmar Gems Enterprise’s role as a policymaker, a regulator and also as a joint-venture partner. Yet, Myanmar Gems Enterprise is not the sole organization that assume these roles. There are detail provisions concerning with these matters in Section XI “Functions and Duties of the Chief Inspector” in Myanmar Gemstone Law of 1995 and the second amendment of 1995 law. We will carry out following actions: <ul style="list-style-type: none"> (1) reviewing Myanmar Gems Enterprise’s role (policymaker, regulator, and joint-venture partner); (2) taking measures to meet with international practices; (3) reviewing the capacity of Myanmar Gems Enterprise’s staffs and improving their capacity. 	<p>discussions to submit the draft to Pyithu Hluttaw.</p> <p>MGE has proposed two of its officials for [the committee] to implement a mining cadaster.</p>	<p>When mining cadaster is implemented.</p>		<p>In progress.</p> <p>Stop extension of expired worksites</p>
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7.3. EITI Implementation

7.3.1. Completeness of the data reported on license register

The EITI Standard requires implementing countries to maintain a publicly available register or cadastral system including comprehensive information regarding each of the licenses relating to companies covered in the EITI Report. This register should cover the following information:

- 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.

Where such registers do not exist or are incomplete, the EITI Report should include the above information.

We noted in certain cases that the list of approved mining and Oil and Gas contracts/permits does not include information about the application date, award date, duration and coordinates of the licensed area.

Recommendation

We recommend that MoNREC and MoEE include systematically these information in the register and for it to be accessible by the public via the ministry's website.

DoM comments

The data regarding the license of minerals sector except the application date are described under the heading of the Department of Mining of the Internet Web Page of the Ministry of Mining www.mining.gov.mm and it has been updated monthly.

- (a) The ministry's website (www.mining.gov.mm) regularly updates data of mining sector, under the section of Department of Mines, except application dates.
- (b) We will also take measures to disclose data of gems sector.
- (c) There will be a more complete data after developing a mineral cadaster.
- (d) The new mining regulations were issued on February 2, 2018, and the new regulations also include application date.
- (e) Any change in board of directors and transfer of permits will also be published on the website.

MOEE Comments

- 1. MOEE is contracted with oil and gas companies such as PSC, IPR and not with the licensing process
- 2. OPGD already provided list of awarded companies/ Contractors, application date, awarded date, duration of contracts and types of commodity being produced at the production stage

	3. Coordinates of awarded Oil & Gas companies will be sent to NCS	They will be uploaded on MOEE website and also will sent to NCS office	Third week of June, 2018	OGPD	
<p>7.3.2. Unclear licensing process</p> <p>The information we received from MONREC and MoEE regarding the licensing process in the Oil and Gas and mining sectors do not disclose clearly the technical and financial criteria used to evaluate the license application. Although a bidding process is used in the Oil and Gas sector, the lack of information about the evaluation criteria and the candidates for each license reduces transparency and opens doors to abuses.</p> <p>Despite the fact that foreign investors are prohibited by law to have gems and jade licenses and cannot even enter into JVs with nationals and local companies, in practice it is well known that the beneficial owners of many mines are in fact foreigners which reveals the vulnerability of the licensing process.</p> <p>Recommendation</p> <p>We recommend that “first come first served” should be the basis for licensing in the mining sector. Competitive procedures should only be applied in the cases where there is detailed geological data available or mineral deposits were proved. in the latter case, the valuation of the bidders should be based on clear technical and financial criteria and identity and beneficial owners of all the candidates should be identified..</p>	<p>DoM Comments</p> <p>In the minerals sector, the foreign companies are allowed to invest 100% in obtaining license for minerals exploration, testing/surveying, and large-scale production and in cooperation with domestic companies. Foreign investment is not allowed in obtaining licenses for other small-scale and manual (bare earner) production.</p> <p>The policy of the Ministry up to date is “First Come First Serve” and “Known Deposit” and the provisions is included and enacted in the new Rules such as if the facts are meeting with as the would-be-operator who wish to do is more than one person, many people are interested, tender calling will be conducted. According to the new rules the application for obtaining licenses for minerals exploration/ testing and surveying/ mining shall only be accepted and performed at the Minister’s office and the Department of Mining.</p> <p>The general public may see and study transparently regarding the License Information after installing the Mineral Cadastre.</p> <p>(a) There is no prohibition of issuing minerals permits to foreign investors. Foreign investors can have 100 percent stakes in large-scale mining projects. However, foreign investment is restricted in small and medium scale mining and artisanal mining.</p> <p>(b) Due to the nature of mining operation, mining permits were issued on a first-come first-served</p>	<p>Mining Rules (13.2.2018) Notification order no. (13/2018)</p>	<p>It is estimated to accept the applications for new mining blocks/worksites in compliance with new Mining Rules in upcoming September</p>	<p>MONREC</p>	<p>In Progress</p>

basis. If the proposed project lies within the area that has not been conducted a geological survey in prior, the priority will be given to a person or organization that applies first in accordance with the Myanmar Mines Regulations issued on February 13, 2018. If the proposed project lies within the area that has a complete geological data and commercially viable and there is one or multiple applicants, the permit will be issued by a bidding process.

- (c) In order to institutionalize the process of issuing permits on a first-come, first-served basis, the separate office shall be set up to receive license applications. That office shall be responsible for not only receiving applications but also scrutinizing any duplication, requesting comments from state/regional governments and forestry department, and reporting to the management committee of the ministry. The office will also be responsible for archiving the issued licenses and disclosing licenses on the website.
- (d) The task force will be formed to supervise the tender process. That task force shall be responsible to compile a list of completely surveyed and commercially viable mineral deposit sites and develop evaluation criteria.
- (e) If the selection has to done through a competitive tender, the whole process shall be transparent.
- (f) As the beneficial ownership rule will be followed in 2020, necessary measures must be taken for future permits. It can be started by requiring the applicant to disclose not only a legal owner but also a beneficial owner in the application.

MOEE's Comments

1. Calling on Onshore/Offshore blocks tenders, Evaluation and Process for PSC contract

- ❖ It is required to form Tender Implementation Committee for Ministry of Electricity and Energy for calling on tenders to Onshore/Offshore blocks.
- ❖ MOGE has to assess and verify for available blocks.
- ❖ It is required to propose and submit to President's office for the approval for tender invitation process.
- ❖ After receiving the approval from President's Office, tender invitation will be announced and appeared on Government Gazette such as The New Light of Myanmar, Myanmar Alinn newspaper, Kyaymon newspaper for about 5 to 7 days and also on Ministry of Electricity and Energy (MOEE) website.
- ❖ The tender announcement (soft copy and hard copy) should be sent to Ministry of Foreign Affairs to inform the international Oil & Gas companies via respective Embassies in their countries.
- ❖ When the international companies submit Letter of Expression of Interests (LoEI) to MOEE, the below-mentioned documents are required to present completely.
 - Certificate of Incorporation
 - Company's Articles of Association

- ❖ Evaluation Criteria in bidding process are already described in MEITI reports
- ❖ Regarding with selected companies and bidding round process, MOEE held press conference and give responses in newspaper

- Memorandum of Association
 - Latest Annual Report
 - Latest Financial Statement or Financial Report
 - Detail Track Record
 - Endorsed for authenticity by the respective Embassy of the Republic of the Union of Myanmar at the place of Company's registration
- ❖ The above-mentioned documents must be verified by the Myanmar Embassies in respective countries.
 - ❖ The interested companies have to send the LOEI and additional documents should be addressed to the Director General of Oil and Gas Planning Department (OGPD) before the latest date for tender invitation (2 months after announcement) but, submitting it through email is not allowed.
 - ❖ LOEIs will be cancelled if the documents are not completed.
 - ❖ Pre-qualified test
 - In pre-qualified test, the companies need to have the background experiences as operator at least five years with the international oil and gas companies
 - The experience of offshore oil and gas exploration/drilling, technical expertise and financial strength will be checked

- Supporting documents must be completed
- If the documents are not fulfilled, the applicant will not be included in the pre-qualified list

- ❖ The qualified list of companies will be announced in Government Gazette and on MOEE website
- ❖ After pre-qualification step, the qualified companies are invited to MOGE for discussion and negotiation for data review and preferred terms and conditions. After that, the qualified companies are required to submit their commitments with terms and conditions in their proposals.
- ❖ Then, terms and conditions proposed by the companies are compared among the candidates and the best companies are chosen as Selected Candidate among the other companies. All these activities are implemented by Tender Implementation Committee.
- ❖ The selected companies are announced on the website and published the press release statement transparently.
- ❖ The selected companies are invited to discuss in detail for the signing process.
- ❖ The comments from the office of the Union Attorney General, the Office of the Auditor General of the Union, Ministry of Planning and Finance (former Ministry of Finance, Revenue and National Planning Development), Ministry of Commerce,

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Central Bank upon the negotiated contract will be collected and revise on it before enter the contract.

- ❖ After receiving the comments and feedbacks on the negotiated contracts, which are sent to the President's Office, Union Economic Committee, Union of government, Myanmar Investment Commission and then enter the PSC (Production Sharing Contract).

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	<p>2. There are Technical and Financial Criteria used in the valuation of the bidders in Oil and Gas Sector</p> <p>3. List of applicants for last bidding round in 2013</p>	<ul style="list-style-type: none"> ❖ OGPD/MOEE will try to disclose the financial and technical criteria used in evaluation process as much as they can on MOEE website in next bidding round • OGPD will send list of applicants for 2013 bidding round to NCS 	<ul style="list-style-type: none"> ❖ Next bidding round • Third week of June, 2018 	<p>OGPD</p> <p>OGPD</p>	
<p>7.3.3. Lack of availability and accessibility of information -IRD</p> <p>One of the identified revenue streams under IRD is withholding taxes arising from interest paid to non-resident foreign nationals, royalty payments to claim owners and purchase of goods and services payments. Final withholding taxes, however, are monitored in aggregate under the current reporting system, irrespective of the extractive companies having withheld the tax. Consequently, IRD disclosures will usually be lower due to the inability to readily extract of withholding taxes details.</p> <p>Recommendation</p> <p><i>As a result, IRD may consider customising certain reports generated from the current system that will enable the further disaggregation of information to facilitate reconciliation for future reports.</i></p>	<p>IRD comments</p> <p>As Integrated Tax Administration System (ITAS) is currently implemented, the required data for EITI report will be provided comprehensively once this system has been finalized successfully. It is expected that this system will run for the whole IRD department during April, 2019. Up to now, it is used at LTO and MTO offices. Thus, IRD has already purchased a computer system that can support the detail data for EITI process.</p> <ul style="list-style-type: none"> • Tax revenue management system (TRMS) is already established in LTO and MTO-1 and is currently used. • After Integrated Tax Administration System is installed. 	<p>Easy to collect information</p>	<p>Medium Term</p>	<p>IRD</p>	

<p>7.3.4. Delayed submission of templates</p> <p>A total of 70 companies completed and submitted their reporting templates on or before 27 October 2017, the deadline date set by MSG (Please refer to Annex 14 for the details of the non-participating companies).</p> <p>The low number of responses required frequent follow up by telephone calls and emails to these companies.</p> <p>As a result of the non-submission of the reporting templates by some of the companies, we were not able to confirm the collections reported by the agencies. This precluded the production of a comprehensive report which accurately and comprehensively reflects the aggregate payments of the companies to the government.</p> <p>Recommendation</p> <p><i>Regulatory mechanisms such as the Foreign Investment Legislation could be used in future to impose EITI disclosure requirements on companies in the extractive industries as the MIC can impose specific conditions on investments.</i></p>					
<p>7.3.5. Improvement in the bidding process for O&G blocks</p> <p>As part of the EITI process, the government has stated its intention to introduce greater transparency in decision making and better oversight mechanisms. Despite notable improvement in transparency during the most recent onshore and offshore oil and gas bidding rounds, including the public advertising of tenders in English, the selection criteria and decision-making process and Environmental Management Plan (EMP) information remains opaque.</p>	<p>MOEE's comments</p> <ol style="list-style-type: none"> 1. Oil and Gas companies in onshore and offshore fields have to submit their EIA/SIA and EMP to MONREC and continue these activities after getting approval/permissions. The companies have already posted these activities on their website and social network 				

<p>Systematic disclosure of the following additional information would improve the governance of the bidding and selection process:</p> <ul style="list-style-type: none"> • <i>who is mandated to make the decision about awards.</i> • <i>the criteria and priorities for selection of successful bidders (these criteria should be revised to seek information on bidders' commitments to environmental and social sustainability by requiring information on policies and management systems for environmental, social, human rights, health and safety, community engagement);</i> • <i>whether there was a signature bonus paid; and</i> • <i>the evaluation criteria and scoring method applied by MOGE, together with a brief justification for the selection of the chosen operators.</i> 	<p>2. Regarding with decision-making process, MOEE did press release and explanation on this</p>	<p>MOEE will disclose about Decision making body/committee and their ToRs</p>	<p>In Next bidding round</p>	<p>MOEE/OGPD</p>	
<p>7.3.6. Improvement in the bidding process for gemstone permits</p> <p>Gemstone concessions are awarded through competitive bidding. The Myanmar Gems Enterprise (MGE) publishes new opportunities to tender in local newspapers and allows prospective investors one month to survey the concession site. MONREC has not made additional information on the application process available on its website. Mineral licenses are currently awarded on a first-come, first-served basis, although the Gemstone Law opens the door for tenders in future. In both cases, very little published data are available on the selection criteria and decision-making process.</p> <p>Recommendation</p>	<p>MGE's comments</p> <ul style="list-style-type: none"> • The existing permits are issued in accordance with the 1995 gemstone law. The new law is currently being debated in Pyithu Hluttaw. After the new law is enacted, permits will be issued in accordance with the new law. • When the new law is passed, gemstone permit will be reissued. Bidding process of gemstone permits and other related information will be available on MONREC and MGE websites. • After consulting with states and regions that produce gemstone, the bidding process of 	<p>Amyotha Hluttaw has passed the new gemstone law. There are currently preliminary discussions to submit the draft to Pyithu Hluttaw.</p>			

<p><i>We recommend to review and revise bidding processes for mining concessions in consultation with stakeholders for mining states in a bid to promote openness and fairness. This could include the disclosure of:</i></p> <ul style="list-style-type: none"> • <i>application procedures including all the required steps;</i> • <i>who is mandated to make the decision about awards;</i> • <i>the criteria and priorities for selection of successful bidders (these criteria should be revised to seek information on bidder's commitments to environmental and social sustainability by requiring information on policies and management systems for environmental, social, human rights, health and safety, community engagement);</i> • <i>data on active mineral licenses by state and by region; and</i> • <i>guidance to be followed in the event of conflicts of interest and corruption which take account of the identities and histories of bidders.</i> 	<p>gemstone permits will be reviewed and the following information will be publicly disclosed:</p> <ol style="list-style-type: none"> (1) application procedure including all the required steps; (2) persons mandated to make decisions about awards; (3) the criteria and priorities for selection of successful bidders; (4) data on active mineral licenses by state and region; and (5) conflicts of interest which take account of the identities and histories of bidders. (6) guidance to be followed in the event of corruption 				
<p>7.3.7. Creation of a reporting system for employment data</p> <p>In accordance with the EITI Standard, implementing countries must disclose information about employment in the extractive industries in absolute terms and as a percentage of the total employment.</p> <p>We note that both MONREC and MoEE do not have a reporting system that would determine the direct impact measured through the jobs attributable to the extractive</p>	<p>MONREC's Comments</p> <p>Although the provisions regarding the appointment of mining employees, assigning works, age, salary and wages and other fees and allowances are set out in the chapter (17) of the 1996 Myanmar Mines Rules, arrangement shall be made to collect data regarding the network of labour and employment within the own system for the correct data reflecting the present situation and obtaining more data.</p>				

<p>industry. Thus, employment data collected and stated in this report is partial and does not reflect the comprehensive extractive sector contribution.</p> <p>Recommendation</p> <p><i>In order to improve the accuracy and accessibility of contextual information, we recommend that MoNREC and MoEE periodically (at least annually) update their system with information on the contribution of the industry to labour and employment.</i></p>	<p>Even though lists of laborers in the sites operated by joint-venture companies were submitted along with monthly production reports, those lists were not compiled thoroughly. Thus, we had requested relevant departments to submit accurate and comprehensive list of laborers, which reflect the actual situation, from the sites operated by joint-venture partners. Those data will be posted on MEITI website as well as on the ministry's website (ww.mining.gov.mm)</p> <p>The above data have already been sent to MEITI-NCS office on 24th April, 2018.</p> <p>Challenges – Reference data is needed for calculation of total workforce percentage and it is necessary to provide template for employment data Now, it is ready for employment data of government departments. But, it is difficult to trace/check company data accuracies. If the required data can be categorized, it will be easy to collect workforce data collection.</p> <p>MOEE's comments</p> <p>With regards to reporting system for employment data, MOEE publish them and there is a system for employment data at MOGE's Planning Department and they are released/published twice a year/ per six months.</p>	<p>The employment data for Joint-ventures companies already provided to MEITI-NCS on 24th April, 2018.</p>	<p>Short-term</p>	<p>MONREC</p>	<p>It will be evaluated annually.</p>
<p>7.3.8. Inaccuracy of production data</p> <p>We understand that the production data provided by SOEs and departments falling under MoNREC was based on the submissions and declarations from the mining companies. MoNREC does not have its own</p>	<p>MONREC's Comments</p> <p>Since May 2017 the system of monthly reporting of the provision of production target coordinated by both sides before starting the production and the</p>	<p>MONREC got more reliable data and information</p>	<p>Long Term</p>	<p>MONREC</p>	<p>It will be evaluated annually.</p>

<p>procedures and systems to collect and control production data provided by the mining companies.</p> <p>Recommendation</p> <p><i>We recommend that the agencies falling under MONREC set up their own mechanisms, processes and procedures to collect and control production data. Also, it is recommended that the agencies under MoNREC carry out periodic reconciliations of the production volumes declared by the mining companies with the measurements of the agency for each reporting year.</i></p>	<p>system of field monitoring periodically have been performed.</p> <p>(a) State-owned enterprises set production targets based on the discussion with relevant joint-venture partners and submit monthly reports. There were occasional site visits to inspect whether sites are meeting production targets. There were also site visits by regional offices to inspect whether productions were halted during the monsoon season (June, July, August, September)</p> <p>(b) Observers are also placed in mining sites. In order to make the inspection more systematic, there are plans to conduct site visits regularly.</p> <p>(c) In States/Regions, the officials at sites check and verify it.</p>				
<p>7.3.9. Lack of availability and accessibility of information on companies social and environmental commitments</p> <p>We understand that there are no regulations to date that require mandatory/voluntary expenditure and funds to be specifically disclosed in companies and SOEs annual financial statements.</p> <p>Recommendation</p> <p><i>Companies and SOEs could consider publicly disclosing mandatory and voluntary expenditure and funds to ensure full transparency of their social and environmental commitments. Many of these expenditure and funds, if not all, are already disclosed to Government Entities, and would therefore not pose a significant challenge in being made available. Including this information in key public documents such as annual reports, press releases and financial statements, would</i></p>	<p>MONREC's Comments</p> <p>There are no regulations provided to demand to include the compulsory voluntary expenditure and finance in the annual financial statements of Companies and State-owned Economic Enterprises.</p> <p>The Companies and State-owned Economic Enterprises may present their compulsory/ voluntary expenditure and finance in order to show their full transparency regarding their commitment on corporate social responsibility.</p> <p>These data shall be included and described in the public documents such as annual reports, press releases, financial statements etc.</p> <p>(a) Joint-venture partners are required to report their corporate social responsibility activities in monthly production reports. Environmental</p>	<p>MONREC already sent CSR data to MEITI-NCS office since 24th April, 2018.</p>	<p>Long Term</p>	<p>MONREC & Companies</p>	<p>Need to be monitored by State/Regional</p>

provide an additional layer of credibility and reliability to the disclosures.

- conservation activities are required to report separately.
 - (b) Both private companies and state-owned enterprises shall be required to disclose progress on their social environmental obligations through public documents such as annual reports, press statements and financial statements.
 - (c) We have requested joint-venture partners of departments and enterprises to report their CSR activities and figures. Upon receipt of those data, we will disclose them on MEITI website and the ministry's (www.mining.gov.mm).
 - (d) MONREC try to produce Procedures for CSR activities and CSR data will be disclosed in next MEITI reports
- Challenges – There is no valid evidences to check

MOEEs comments

1. Oil and Gas companies has already disclosed their CSR activities and expenditures for social and environment in reports and in social network
2. MOGE has already put CSR activities in their financial statement and OAG verify it annually and also published on social network
3. Information related with CSR activities are described in Oil exploration and production law and at the moment, this law is at the stage of Hluttaw debate.

Annually

MOGE

administrative bodies and CSOs/CBOs

7.3.10. Improving the implementation of projects donated by extractive companies

We understand that donations and infrastructure projects by extractive companies are given directly to ultimate beneficiaries. These are not always reported by either the

MONREC's Comments

It is known that the donation and infrastructure projects by the extractive companies are directly provided to the final beneficiaries. The town/city

<p>beneficiaries or the company to the respective State/Regions, and as such, municipalities and regions are not fully aware of the extent of the companies' contributions to extractive regions.</p> <p>Recommendation</p> <p><i>It is recommended that MoEE and MoNREC coordinate with State or regional bodies to keep a record of these projects in order to ensure proper accounting of the value of these contributions and to include them in the development plan of the extractive regions to avoid duplication with the efforts made by the central government.</i></p>	<p>development departments and the region do not aware such kind of provisions (aid and assistance) for the extractive areas due to never acknowledgement to the relevant Regions and States by both beneficiaries and Company.</p> <p>The overlapping can be avoided by inclusion of the value/ cost of such projects by recording and including the appropriate calculation to be made by the Ministry of Natural Resources and Environmental Conservation in cooperation with the Departments of Region and State and include in the development plan to be implemented in these extractive regions by the Central Government.</p> <p>It shall be described in the website by asking separately to the relevant Companies.</p> <p>(a) Joint-venture partners shall also be required to report CSR activities and donations not only to our department but also to regional governments, authorities, and municipal governments.</p> <p>(b) Figures of donations and infrastructure projects implemented by companies will be requested from relevant companies and departments. Upon receipt of those data, we will disclose them on MEITI website and the ministry's (www.mining.gov.mm). We will also disclose the data publicly through newsletters.</p> <p>MOEE's comments</p> <p>For implementation of projects donated by extractive companies, the companies presented about their donated projects to the respective state/regional government and after they have</p>	<p>MONREC already sent CSR data to MEITI-NCS office since 24th April, 2018.</p>	<p>Long Term</p>	<p>MONREC & Companies</p>	<p>Need to be monitored by State/Regional administrative bodies and CSOs/CBOs</p>
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	discussed whether this project is already done or not, the companies started their donated projects.				
<p>7.3.11. Lack of reporting at project level</p> <p>As noted in Section 4.7, the EITI Standard requires reporting at project level in certain circumstances.</p> <p>The MEITI Report does not contain this level of disaggregation because Government Entities, SOEs and companies do not allocate revenue streams between projects.</p> <p>Recommendation</p> <p><i>We recommend Government Entities, SOEs as well as extractive companies assess how to disaggregate revenue streams between projects wherever possible, in order to report these revenue streams at project level.</i></p>	<p>MONREC’s comment</p> <p>The Government departments, State-owned Economic Enterprises (SOE) and Companies have been reporting the project stage financial affairs.</p> <p>(a) Previous first, second and third reports are not project reports but company-level reports. The main issue was that taxes paid by companies to Internal Revenue Department are corporate income taxes and cannot be differentiated into each project.</p> <p>(b) No. 1 Mining Enterprise, No. 2 Mining Enterprise, Myanmar Pearl Enterprise and Department of Mining have no problem to compile project reports. Private companies in gems sector usually operate multiple project sites, and therefore it might be quite difficult for them to compile project reports. Yet, we will do our best to include project reports in upcoming reports.</p> <p>MOEE’s comments</p> <ol style="list-style-type: none"> 1. MOGE has already provided disaggregated revenue streams at project level and it is not possible for each block. 2. There is a clause in PSC contract that the companies need to participate in EITI process. 	<ul style="list-style-type: none"> • For MONREC, it will be easier and faster to fill up the data at project level because MONREC already separated the revenues project by project. • But, for companies, it will be more difficult because differences in funding. 	<p>Long Term</p> <p>Companies can do with project contract</p>	<p>MONREC</p> <p>MOPF</p>	<p>Currently working and there is a plan to continue</p>
<p>7.3.12. Extracting Data and Information</p> <p>The purpose of developing an EITI report is to provide reference to the public and shape better understanding of</p>	<p>MONREC’s Comments</p>				

<p>the reconciliation process. To this end, it is vital that the public obtains information and clarification from parties which are directly involved in the extractive governance.</p> <p>The team of Reconcilers faced numerous difficulties in obtaining data and confirmations due to:</p> <ul style="list-style-type: none"> • <i>red tape which hindered the data gathering process; and</i> • <i>data and information presented by reporting entities inconsistent with the reporting format.</i> <p>As a result, the EITI report was not of the expected quality. Given the constraints we faced, there was not enough time to perform data analysis properly, which could have been informative to users of the report.</p> <p>Recommendation</p> <p><i>Focal points in reporting entities should be encouraged to take more active roles in providing data and information as well as to give comprehensive explanations and confirm elements in EITI report. The reporting format adopted by MSG could be used by reporting entities to start the data collection process, prior the Independent Administrator starting the fieldwork.</i></p>	<p>It will be easier to collect information and data if there are standard format for filling up the information and data.</p> <p>MOEE's comments</p> <ol style="list-style-type: none"> 1. To provide awareness raising training to companies 2. For government sector, there are EITI working groups in respective departments in order to participate/coordinate in this process. 	<p>If there is a format, government departments can fill up them</p> <p>MOGE already produced an ordinance/ a notification letter for EITI working group in order to streamline EITI process</p>	<p>Short Term (Can fill up them in accordance with the designated fiscal year)</p>	<p>MONREC</p> <ul style="list-style-type: none"> • MSG & NCS • MOEE 	<p>In progress</p>
<p>7.3.13. MSG to consider expanding scope of future MEITI Reports</p> <p>The first two MEITI reports relate only to upstream entities (i.e., actual mining and extracting companies) and do not cover sub-contractors, which are part and parcel of the extractive industry.</p>					

Although coverage of the gemstone sector has expanded in the two last reports, due to massive informal activity they still cover only a fraction of the whole sector.

Recommendation

We recommend for future reports, that MSG considers:

- the inclusion of upstream sub-contractors in the extractive sector. The main objective for the inclusion of these entities is to provide a more comprehensive assessment of the value chain of these industries and their respective economic contribution;
- expanding the coverage of the gems and jade sector by applying for Adapted Implementation based on the Gemstone Sector reform plan and including the trading companies in the reconciliation process; and
- Military Holding companies and their subsidiaries as specific entities which are risky and therefore should be subject to higher level of scrutiny, including request to submit an auditors' specific attestation, specific interviews, and / or analysis and auditing of specific transactions within their accounts.

MSG's Comments

1. Next scoping should be expanding rely not only to Revenue but also Area

EITI report

Short Term

MSG

MSG

2. For consideration of inclusion of Sub-Contractor, PSC contract should be amended. There is no law for PSC, so that it will be directive notification from DoM. Amended PSC contract will be cover on 2019-20 reporting period.

Amendment on PSC contract between Government and Private sector

2019-20 and future (mid-term)

MONREC

MSG

3. To reduce informal activities in Jade and Gems sector Government should establish regional sales markets for small scale, GTC, in order to control and traceable of Jade

Upcoming amendment jade law

Short Term

MGE & MSG

MSG

	<p>government should regulate medium scale mining</p> <p>4. MSG should encourage to Leading committee to get access the data and information from Military background company</p> <p>5. Must verify by OAG and Independent Auditor</p>	<p>Recommendation</p>	<p>Short Term</p> <p>Short Term</p>	<p>MSG & Leading Committee</p>	<p>MSG meeting minutes</p>
<p>7.3.14. Sale of the State’ share of production</p> <p>According to the EITI requirement (4.2), “where the sale of the state’s share of production or other revenues collected in kind is material, the government, including state-owned enterprises, are required to disclose the volumes sold and revenues received. The published data must be disaggregated by individual buying company. Reporting could also break down disclosures by the type of product, price, market and sale volume.”</p> <p>In case of Myanmar, we understand that according to the Oil and Gas PSCs, the State share on production is calculated on the basis of the total volume produced by the field. The Joint Ventures partners sell all gas revenues in accordance with a long-term gas sales contracts and the revenues received are thereafter allocated on cash basis to MOGE and the partners in accordance to the PSCs provisions. MOGE did not disclose the volume sold and revenues received disaggregated by individual buying company. Information about the price and market destination was not disclosed as well.</p> <p>Recommendation</p>					

<p><i>We recommend to disclose all the information required regarding the first trade of the State's share of production. This information shall include:</i></p> <ul style="list-style-type: none"> - <i>the volume and value of each sale operation;</i> - <i>the date;</i> - <i>the type of mineral sold</i> - <i>the identity of the buying company;</i> - <i>the Incoterms;</i> - <i>the individual price of sell; and</i> - <i>the market/destination of the sale.</i> 	<p>MONREC comments;</p> <p>(a) No. 2 Mining Enterprise reported government's production share of relevant fiscal years, which received in kind of gold and tin/tungsten. We will take necessary measures to include sales of companies' production share in future reports.</p> <p>(b) Along with No. 2 Mining Enterprises, other enterprises that received payments in kind, such as Mining Department, No. 2 Mining Enterprise and Myanmar Pearl Enterprise will also be included in future reports.</p> <p>MOEE's comments</p> <p>There are no in-kind revenues in MOGE and MOGE already provided sale prices for domestic uses related with sales of state share of production</p>	<p>MOGE sent sales for domestic to NCS dated on 8th June, 2018</p>	<p>8th June, 2018</p>	<p>MOGE</p>	
<p>7.3.15. Implementation of recommendations from the first MEITI report</p> <p>The recommendations formulated in the first MEITI Report emphasise the need for reforms in existing reporting mechanisms to promote better transparency through enhancement of data quality, and amendments to legislations and existing regulations.</p> <p>We understand that the current design of monitoring action plans to address the recommendations and observations raised in the first MEITI report is still being strengthened.</p> <p>Recommendation</p>	<p>MSG's comments</p> <p>Implementation of recommendation of 1st MEITI report, MSG should discuss on the meeting, timely updated to Working Committee and Leading Committee, relevant government department should monitor the workplan, all those activities must be recorded in MSG meeting minutes</p>	<p>MSG meeting decision</p>		<p>MSG</p>	<p>MSG meeting minutes</p>

<p><i>Accordingly, we recommend that MSG implements a formal process to document the review its activities and Government Entities of the recommendations be implemented such as inclusion in the agenda of monthly MSG meetings. Also, review activities can be further re-enforced through adoption of a more structured accountability and reporting lines, as well as fixed timetable for implementation.</i></p>					
<p>For Recommendations related with Gov departments,</p>	<p>MSG's comments Depends on the activities from the related department</p>		<p>Short Term</p>	<p>MSG</p>	
<p>Recommendations from the 1st MEITI report recommendations (2013-2014)</p>					
<p>7.1 Reliability of the data reported</p>	<p>OAG's comments The Office of the Auditor General of the Union (OAG) reports to the President of the Republic of the Union of Myanmar at the same time to the Myanmar Union Parliament. The OAG send the report to the Public Account Committee (PAC). After the PAC has done the analysis, verification, and evaluation on the report submitted by OAG, the report will be published on the website of PAC. Regional/ State Auditor General reports to the Chief Minister of State/Region and the Regional Parliament as well. OAG follows the enacted Law, Rules and Regulations.</p>	<p>Attorney General of the Union Law 2010 was amended in 2013, 2014 and 22-Jan 2018 in which last date Amendment of the Law Article 11 (A) & (O), 25 (A) and 25 (D).</p>	<p>OAG reports at least one time every year. If there is any urgent thing, OAD reports occasionally. Likewise, occasionally, Regional/ State Auditor General reports to the Chief Minister of State/Region and the Regional Parliament as well.</p>	<p>OAG & Regional/State Auditor General</p>	<p>OAG submit findings report to Government Departments in EITI process and State-owned Enterprises (SOEs). Even though, the Office of the Auditor General of the Union (OAG) do not publish the report to the public directly, OAG reports the information to PAC regularly and it will be published on the website of PAC. In addition, OAG participates in the press conference.</p>

7.7 Publications of Statistics and information on the extractive industry	MSG's comments Disclose the data and information from Extractive industries	To get official letter from Government regarding with the accessible of extractive industries data and information through MEITI NCS office	Short Term	MSG	MSG decisions record, MSG meeting minutes
7.11 Enactment of EITI reporting regulations	In order to have EITI law in Myanmar, relevant stakeholders should carry out the initial study	Parliament, Attorney General Office, Study related laws and regulation	Short Term	MSG	

10. Closing Remarks (U Kyaw Thet, Deputy Director General of DOM)

Finally, U Kyaw Thet (DDG of DOM) delivered a closing remark. He said that all the stakeholders including the government departments need not to reduce their efforts because the validation will be started soon and have to participate more and more in MEITI process in order to become not just an EITI compliance country but also to move forward with reports to reforms.

Annex one: List of participants in Recommendation Consultation Workshop

Attendance List of Recommendation Consultation Workshop (09.06.2018)

Sr	Name	Organization	Position	Email Address
<u>MSG (Government)</u>				
1	U Than Htay Aung	MOGE	DG (Retd.)	thanhtay3000@gmail.com
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Annex Two: Workshop Agenda

Agenda for Recommendation Consultation Workshop

No.	Time	Session	Facilitator/Responsible Person	Remarks/Output
1	9:00 – 9:15	Opening Speech	U Kyaw Thet, DDG of DOM	
2	9:15 – 10:00	Presentation on Recommendations (2014-15 & 2015-16)	NCS	
3	10:00 – 10:30	Explanation on the Recommendations workshop template	NCS	
4	10:30 – 11:00	Tea Break		
5	11:00 – 12:30	Group Discussion on Recommendations F 1 – MoNREC (DOM, ME-1, ME-2 & DGSE) F 2 – MGE F 3 – MOEE (MOGE, OGPD) F 4 – MOPF (IRD, MCD, BD/TD, MIC/DICA) F 5 - MSG	Facilitator & Participants	<ul style="list-style-type: none"> • What is the key concern? • Evidence on progress • Sources of verification • When to send to NCS
6	12:30 – 1:30	Lunch Break		
7	1:30 – 3:00	Continuous on Group Discussions F 1 – MoNREC (DOM, ME-1, ME-2 & DGSE) F 2 – MGE F 3 – MOEE (MOGE, OGPD) F 4 – MOPF (IRD, MCD, BD/TD, MIC/DICA) F 5 - MSG	Facilitator & Participants	<ul style="list-style-type: none"> • What the action plan and steps to be taken are • When - timeframe to carry out? • Who - who/ which department will lead and with whom to coordinate
8	3:00 – 3: 30	Tea Break		
9	3:30 – 4:15	Presentations on Group Discussions	Participants	Presentations on Action Plan & Timeframe and Take approval from Concerned Dep;
10	4:15 – 4:30	Closing Remarks	U Kyaw Thet, DDG of DOM	

Annex Three: Activities Photos



Opening Speech by U Kyaw Thet (DDG of DOM, MONREC)



Presentation on MEITI reports Recommendations by U Htun Paw Oo (Technical Specialist, NCS)



Presentation on MEITI reports Recommendations & Recommendation template by Daw Zin Mar Myaing (Technical Advisor, NCS)



Group Discussions by MSG



Group Discussion by Ministry of Electricity and Energy (MOGE & OGPD)



Group Discussions by Ministry of Natural Resources and Environmental Conservation (DOM, ME1, ME2 & MPE)



Group Discussions by MGE & OAG



Explanation on group discussions by Daw Mya Mya Oo (Deputy Director General of IRD)

Ministry of Planning and Finance (IRD, MCD, BD & DICA)



Explanation on discussions by U Min Thu (General Manager of MGE)



Closing Remarks by U Kyaw Thet (DDG of DOM, MONREC)