



Myanmar EITI
Reflection Conference
Report

27-28 May 2019, Nay Pyi Taw

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I. INTRODUCTION

Myanmar is a country rich in natural resources, these include oil & gas, various minerals, precious stones & gems, timber & forest products and hydropower potentials. The extractive industries of Myanmar are the most lucrative sectors and the main source of revenue for the country. The extraction of natural resources in Myanmar causes severe environmental, social, and political challenges, those of which contributes towards some of the country's long-standing ethnic conflicts. Despite these challenges, many opportunities remain.

One of the most pressing challenges for the current government is the ongoing peace process to ensure lasting peace between the central government and numerous ethnic armed groups in the country. The peace agenda is inextricably linked to progress in the economy, specifically on sustainable economic development. In the midst of this context, Myanmar's new government will need to address deep-rooted structural problems through economic, political and public administrative reforms. During peace talks, key issues stemmed from complications related to natural resources and revenue sharing. During peace talks, key issues stemmed from complications related to natural resources and revenue sharing. Finding a sustainable solution to these issues were key to achieving a political settlement that will put an end to all the armed conflicts.

In order to address these challenges, the government of Myanmar committed to implementing the Extractive Industries Transparency Initiative (EITI) in December of 2012, enacting Presidential Decree No.99/2012. Myanmar was awarded EITI Candidate country status in July of 2014 at the EITI Board's meeting in Mexico. On the 25th of October 2016, the EITI board confirmed that Myanmar would undergo the Validation process on the 1st of July 2018.

Henceforth, Myanmar published four reports and two forestry reports under Myanmar Extractive Industries Transparency Initiative (MEITI). Some processes that are currently working together on the MEITI work plan includes: the development of the Mining Cadaster, Beneficial Ownership (BO), & Gemstones Policy, as well as, the reformation of the Public Financial Management (PFM). Furthermore, Sub-National Coordination Units (SNU) were established to adjoin with the decentralization process within the country. As of then, the country was going through the validation process and was being assessed by the EITI international board. Despite many operational challenges and political

economic issues, EITI provided a much-needed platform for the government, Civil Society Organizations (CSOs), and businesses to engage on the topic of reformation for extractive industry governance in Myanmar.

The Myanmar Sustainable Development Plan (MSDP), introduced in August 2018, was developed as a long-term vision of a peaceful, prosperous, and democratic country for Myanmar. Created to last until 2030, the MSDP's object was to give coherence to the policies and institutions necessary to achieve genuine, inclusive, and transformational economic growth. Because of its transparency, accountability, and effectiveness in State Owned Enterprise (SEE/SOE) reform, the MSDP gain official recognition; and the utilization of EITI processes and reports became more critical.

II. EXPECTED OUTCOME AND OBJECTIVES

During the conference, it is important for the stakeholders, involved in the MEITI process, to reflect, and evaluate the past milestones and achievements in order to charge ahead with new EITI standards.



Comic drawn by renown cartoonist Salai Lai Lung a.k.a Lai Lung

Therefore, the objectives of the conference were:

- Overview of EITI implementation in Myanmar between 2012 – 2019
- Stocktaking of 2019 EITI Standards
- Way forward for future implementation

III. DURATION AND VENUE, AND PARTICIPANTS



Majority of MEITI stakeholders that were participating in the Reflection Conference on May 2019

The Myanmar EITI Reflection Conference was held at Horizon Lake View Resort in Nay Pyi Taw on the 27th and the 28th of May 2019. Not just MEITI stakeholders, Multi-Stakeholder Groups (MSGs), Sub-committees, SNUs, and BO Task Forces, but also relevant government agencies, companies, and development partners attended the conference. A total of 90 participants was present during the conference.

IV. DAY 1: SUMMARY

On the first day of the conference, the Programme and Technical Advisor from the National Coordination Secretariat (NCS) explained MEITI past milestones and current implementations. Afterwards, government representatives, companies and Civil Society Organization (CSO) representatives presented their contributions to MEITI process, outcomes, achievements & benefits and challenges from their respective sectors.

4.1 Opening Remark

The Reflection Conference opened with remarks from Deputy Minister Dr. Ye Myint Swe from the Ministry of Natural Resources and Environmental Conservations (MONREC). Dr. Ye Myint Swe reminded that Myanmar started the EITI process from 2012 and has been publishing EITI reports annually. He also announced that the fourth MEITI report has been published, that the supplementary report was being prepared, as well as, the finalized publication of the MEITI Forestry reports. He informed that there were eight Leading Committee meetings, ten Working Committee meetings, and twenty-one MSG meetings as of date.



Dr. Ye Myint Swe delivering the opening remarks for the conference

Dr. Ye Myint Swe went over some key progresses that the BO and Mining Cadastre processes in Myanmar has achieved. He first noted that the BO Task Force has been formed and ready to implement the BO process. He then explained that the Directorate of Investment and Company Administration (DICA), under the recently formed Ministry of Investment and Foreign Economic Relations, has been appointed as the focal agency for the BO to effectively implement the BO data collection and disclosure processes before January 2020; aimed in accordance with the 2016 EITI Standards. He also mentioned that the Mining Cadastre Working Committee under MONREC has been formed for the development of a Mineral Cadastral system. He then announced that Myanmar was in the process of finalizing the Validation process and was waiting for the result with hopes of achieving a status that best reflected Myanmar's situations. The implementation of 27 corrective actions, from the Initial Assessment Report and the Validation Report, was discussed afterwards. Dr. Ye Myint Swe encouraged the conference to discuss about the newly proposed EITI Standards of 2019, that was agreed in February at the EITI Board Meeting held at Kiev, Ukraine, and what actions Myanmar was going to take in implementing it. The Deputy Minister finished his opening remarks by encouraging the attendees of the MEITI Reflection Conference 2019 to discuss on ways to link the EITI implementations to the MSDP.

4.2 Overview of MEITI Journey, Milestones and Key Achievement

After the opening remarks, the conference began with a presentation on MEITI's journey, milestones, and key achievements by Ms. Zin Mar Myaing, program and technical advisor of MEITI NCS. Ms. Zin Mar Myaing started by elaborating the milestones MEITI has achieved over the past years. She then explained MEITI organizational structure with a list of responsibilities of its stakeholders. After which she displayed MEITI reports for the past years, as well as Annual Progress Reports (APRs). She also highlighted MEITI milestone, achievements, impacted reformed and challenges in her presentation. Ms. Zin Mar Myaing closed the presentation by exploring possible future challenges MEITI may encounter, recommendations and next actions.

(The challenges and future plan from her presentation is mentioned detail in the Chapter 6 – Salient points from the EITI Reflection Conference)



Zin Mar Myaing (Phway Phway) Programme and Technical Advisor of Myanmar EITI – National Coordination Secretariat presenting on Myanmar EITI's journey, key achievements, challenges and recommendations

4.3 Reflection on MEITI by World Bank

Next, the World Bank Group presented their reflection on MEITI. Mr. Morten Larsen, task team leader for the World Bank Group, proceeded with the presentation by talking about EITI project objectives. He also explained the implementation challenges and ambitions of EITI through the years. Additionally, he talked about the need for an extension for the next grant closing date. Mr. Larsen closed his presentation by discussing about future grants.

4.4 Oil and Gas Sector: Contribution to MEITI Process, Outcomes, Achievements and Benefits and Challenges

After the World Bank, the conference moved on towards the Oil and Gas sector. Mr. Than Htay Aung, advisor for the Myanmar Oil and Gas Enterprise (MOGE) and alternative MSC representative, from the **government sector**, presented on his presentation titled, "Oil and Gas Sector's Contribution to MEITI Process, Outcomes, Achievements, and Benefits and Challenges". Apart from achievements and benefits, Mr. Than Htay Aung also covered additional topics which included about the Quasi Fiscal Expenditures (QFE) and Corporate Social Responsibility (CSR) expenditures. He also addressed about funds dedicated to research & development, and training. The presentation ended on a follow up on MOGE's Other Account (OA).

From the **private sector**, Mr. Win Tin, Head of Contractual and Commercial Support from Total E&P Myanmar and alternative MSG representative, presented on contributions to EITI, outcomes and challenges for the Oil & Gas sector. He started with contributions from the Oil & Gas sector in extractive industries. He compared and weighed the Oil & Gas sector in extractive industries by analyzing macroeconomic indicators. Mr. Win Tin also explored various recommendations for the Oil & Gas sector. He wrapped up the presentation on challenges the private sector faced in the Oil & Gas industry.

4.5 Forestry Sector: Contribution to MEITI Process, Outcomes, Achievements and Benefits and Challenges

The next topic was on the Forestry sector. The government sector representative, Mr. Nyi Nyi Tun, general project manager of Myanmar Timber Enterprise (MTE), gave a presentation about the Forestry sector's contributions to MEITI. Mr. Nyi Nyi Tun firstly briefed the audience about MTE. He explored topics such as MTE's organizational structure, work & responsibilities, finance, and some of their current activities. He also emphasized the influence of the Forestry laws and regulations on the MEITI Forestry sector data. Mr. Nyi Nyi Tun closed the presentation by discussing the MEITI implementation processes, outcomes, achievements, benefits and challenges.

4.6 MATA's Reflection on MEITI

For the sixth presentation, Ms. Moe Moe Tun, from the steering committee of Myanmar Alliance for Transparency and Accountability (MATA) and MEITI MSG representative, introduced the benefits and challenges MATA faced in contributing to the MEITI process. After discussing about MATA's outcomes and early achievements with MEITI, Ms. Moe Moe Tun went on proposing main recommendations based on previous contracts with MEITI. She then mentioned MATA's future departmental improvements, and challenges before finishing the presentation.

4.7 Gems and Jade Sector: Contribution to the MEITI Process, Outcomes, Achievements and Benefits and Challenges

Mr. Min Thu, general manager of Myanmar's Gems and Jade Trade and MEITI MSG representative, from the government sector, came up next to discuss about the Gems and Jade sector's contribution to MEITI. Mr. Min Thu covered the Gems and Jade sector's previous achievements and outcomes during the presentation. One of which includes the PFM system. He also went over various rules and regulations, as well as stating the laws of the Gems and Jade sector. Mr. Min Thu ended his presentation after showing the challenges the Gems and Jade sector has encountered.

4.8 Mineral Sector: Contribution to MEITI Process, Outcomes, Achievements and Benefits and Challenges

From the government sector's MONREC, the Department of Mines' Deputy Director General, and MEITI MSG representative, Mr. Kyaw Thet presented on the mineral sector's contributions to the MEITI process, outcomes, achievements, benefits and challenges. Mr.

Kyaw Thet started by introducing EITI and reflecting on the current 2016 Standards. He also reflected on past MEITI reports and analyzed needed changes in order to comply with the new 2019 EITI Standard. Current achievements & challenges and future changes were also discussed by Mr. Kyaw Thet. He then touched on the status of bringing benefits to the public and ended the presentation on recommendations from the mining sector.

Mr. Khin Maung Han, chairman of Myanmar Federation of Mining Association (MFMA) and MEITI MSG representative, as the **private sector** representative, discussed about how the private sector had contributed to the MEITI process. Mr. Khin Maung Han went over the private sector's efforts in building trust with foreign and local investors and implementing procedures to establish meaningful contracts between mining companies and the government or SEE/SOEs.

4.9 Day 1: Conclusion

During the first day, the active participation of all stakeholders could be seen at the question and answers sessions. There were times where the question and answers led to fruitful discussions and those pointed out the considerable facts from the future implementations. The first day of the conference was concluded with a lot of food for thought for the second day.

V. DAY 2: SUMMARY

The second day of the conference is to discuss the reforms needed and challenges in MEITI process and to introduce the soon to be issued EITI Standards 2019.

5.1 Recap

At the start of the day, Ms. Zin Mar Myaing briefly presented the discussions from the first day. She said that the representatives from each sector presented the benefits and challenges of each sector. She continued the recap with the linkage between the discussions and the EITI requirements. During her recap, she pointed out that to review the structure of Myanmar EITI where MSG leadership role would become more significant. The recap was then concluded with the encouragement for active discussion for day two's agenda.

5.2 EITI Standard 2016 and Myanmar Reform Nexus: Myanmar Extractive Sector SEE/SOEs, Decentralization, Mining Cadastre and Beneficial Ownership

Myanmar Extractive Sector SEE/SOEs

Mr. Maw Htun Aung, the Country Manager from Natural Resource Governance Institute (NRGI) Myanmar firstly introduced the EITI standards relevant to SEE/SOEs. Then, he discussed the findings from EITI reports such as weak transparency of SEE/SOEs, the requirements of Gems and Jade sector in acknowledgement, tracking and valuing, and sales of state share. The SEE/SOE policymaking and oversight, and resource governance index scores of MOGE and MGE have been mentioned in his presentation. He also drew attention to issues that require decisions. For instance, tax collection, and ended his presentation with way forwards: taking advantage of upcoming licensing rounds, publishing annual reports for SEE/SOEs and enhancing the effectiveness of SEE/SOEs.

Myanmar Mining Cadastre System Development

After that, Mr. Tun Paw Oo, the Technical Specialist from NCS presented the development of Myanmar Mining Cadastre System which is also one of the key EITI Standard 2016 requirements. His presentation stated that Phase (1) of the development covered the scoping study for minerals and gems sector and the preparation of terms of reference for Phase (2) development including proposed cadastre design and the Phase (2) of the cadastre development included the recruitment of Mineral Right Cadastre Expert. The process so far such as the recruitment of Pre-Cadastre Consultant, the conversion of licensing data of Department of Mines, Department of Geological Survey and Mineral Explorer, No. 1 Mining Enterprise, No. 2 Mining Enterprise and Myanma Pearl Enterprise into Cadastre system, the formation of Pre-cadastre Working Group and Mining Cadastre Working Committee under MONREC have been briefly explained. The requirement of different regulations for quick and clear procedure for mineral exploration and mining in accordance with the current metal, gems and jade regulations has shared as the challenge of the Cadastre development.

Decentralization

Mr. Hosana Chay, Myanmar Associate of NRGI, presented about decentralization. His presentation was started with the overview of decentralization and moved onto the law and permit procedures. The encouragement for legal mining, the beneficial development of national policies for the states and regions, the regional level monitoring, and the capacity building of states and regions were mentioned as the opportunities for decentralization. He stated the challenges are corruption, ineffective and time-consuming mismanagement, environmental and social impacts and the overlapping permit area between ASM and large-scale mining. The decentralization of Indonesia was explained as an exemplary study. His presentation was concluded with short-term and long-term recommendations for decentralization.

Beneficial Ownership

This session was divided into two parts: BO Coordinator Ms. Sandar Myint from NCS covering the key challenges and Director of DICA Mr. Myo Min covering the BO concept. Ms. Sandar Myint introduced the definition of BO, the BO milestones in Myanmar, EITI standard and requirements relevant to BO, benefits of BO disclosure. Then, Mr. Myo Min continued the session with the thorough explanation over the BO concept and concluded the session with the disclosure itself could be challenging for Myanmar and legal framework is required to do so.

5.3 Group Discussion: Reformation of SEE/SOEs, Decentralization, Beneficial Ownership and Mining Cadastre in Myanmar through MEITI Process

In this session, the participants were grouped into four groups to discuss reformation of SEE/SOEs, decentralization, BO and mining cadastre in Myanmar through MEITI process. Each group discussed the linkage between current activities in relevant government agencies and EITI standards, how the current natural resources governance was being supported to for improvement, and the challenges in the topic their group was assigned.



(Top Left) Discussion table on reformation of SEE/SOEs. (Top Right) Discussion table on the Myanmar Mining Cadastre. (Bottom Left) Discussion table on decentralization. (Bottom Right) Discussion table on beneficial ownership.

Group A: Decentralization

In group A, most of the participants were from SNU and the rest were from MSG. This group was facilitated by Mr. Hosana Chay. It was discussed in the group that amending the 2008 Constitution of Myanmar was required when reflecting the current activities of decentralization to EITI standard. In Magwe Region, the fund could be disclosed until township level. While the companies needed to pay more tax, they could operate all kind of business according to the Company Act.

Easier permit application procedures, tax collection at state and regional levels, more job opportunities in extractive industries, the preparation for federalism, the involvement of local and regional parliament at extractive industries sector, and reduction of illegal mining, were discussed as how decentralization had supported for better natural resources governance. The participants also discussed over the challenges and obstacles for decentralization. Not having enough human resources at provincial level, lack of capacities and resources, weak regulation for monitoring, weak management, and weak coordination between regional government and parliament could be challenging. There were issues of unclear responsibilities, corruption, and misuse of extractive sector revenues. There was a potential risk of conflict between large scale mining and Artisanal Mining (ASM) due to the overlapping permit area. These factors could produce negative environmental and social impacts. The mining in self-administered territory could not be monitored which was a big obstacle for decentralization.

Group B: Mining Cadastre in Myanmar through MEITI Process

In group B, representatives from all three sectors including MSG were present and it was facilitated by Mr. Tun Paw Oo. The participants discussed that it was important to have one map for Myanmar and for all stakeholders to use that map. To create such a map, the current situation requires the permission from the Ministry of Defense. From the Mining Cadastre development, Myanmar should aim to build a Cadastre system covering all extractive sector including mining, gems and jade, oil and gas. The standard operation procedure was required, and the law and regulation needed to be issued to include under SOP. The one stop service department needed to form under MONREC to implement mining cadastre. With the purpose of successful cadastre development, more cooperation with other relevant departments such as DICA, GAD was needed. Land demarcation, collection of regional CSRs over the law and data contribution system error could create unexpected obstacle for the development.

Group C: Reformation of SEE/SOEs

The main participants in this group were the government officials from relevant government agencies and MSG representatives. At the start, the participants discussed over the topics of valuation in mining, oil and gas and gems and jade, and the mining licenses issue caused by the matter of production licenses numbers greater than exploration license numbers.

The discussion went over by sector starting with Mining sector. In discussion about reformation of SEE/SOEs in mining sector, the issues related to Production Sharing Contract (PSC) were widely discussed. There were also capacity constraints in project valuation and contract terms valuation. It was better to recruit the independent consultant than having the third-party involvement. Regarding exploration period, the exploration period was very short compared to exploration periods in other countries. Hence, it led to higher risk. The accountability on public consultation should be considered. The government and companies should separate the operator and regulator role. In Mining PSC, the ratio was collected as resource rental tax and ring fencing is much needed as well.

Then the discussion moved onto oil and gas sector's PSC. In oil and gas sector, there were PSCs, Improvement Petroleum Recovery (IPR), Performance Compensation Contract (PCC). For IPR, the baseline was identified and there was also market price fluctuation to consider. The tax and duty of PSCs were paid by MOGE. It was obviously seen that analysis and evaluation of contracts, law, regulations and rules are in demand. Due to the statement in Union Tax Law of describing producer must pay the tax, MOGE has been paying the tax instead of Joint Venture companies.

SEE/SOEs reform in gems and jade sector was then discussed. During the discussion, it was mentioned that the state shares were kept as stocks. The production cost of JV model followed 75-25 ratio. The contract, model and valuation issues and the policy for permit issuing were discussed. The consideration of environmental factor was included in the discussion as well. The discussion of gem and jade sector ended with the conclusion of only one type of contract with better terms and conditions should be used in the licensing.

It was discussed that the stronger cooperation of relevant stakeholders was required, and actions should be taken in accordance with law beside the value chain of forestry sector for the reform of the whole forestry sector. These facts should be highlighted in the EITI reports.

Group D: Beneficial Ownership

The BO Task Force discussed over the draft BO Presidential Decree. There was discussion over anti-money laundry law stating BO but no enforcement and creation of easily understood BO reporting template form. The fact that the requirement of BO Presidential Decree as a legal binding was discussed as well.

5.4 What's new in EITI Standards 2019

Contract Transparency

This new standard was presented by Mr. Sebastian and Sahla and Mr. Hosana Chay. Mr. Hosana overviewed the important information regarding the contract Transparency first. Then, he continued the presentation by explaining what contract is, the important facts in a contract and its legal characteristics. The reason for contract disclosure was covered with what factors are included in an extractive sector contract and the benefits of contract disclosure. He also clarified the false accusations relevant to contract disclosure and shared the correct information. The contract disclosure data from all over the world were included in his presentations. He then stated how to disclosure the contract with comparison of current laws and regulations in oil and gas, minerals and gems and jade sectors and presented the reforms required, way forwards and considerable facts.

Systematic Disclosure

This new standard was introduced by Mr. Tun Paw Oo. Mr. Tun Paw Oo shared the background information of systematic disclosure, what it is and why it is required. He highlighted the feasibility study to implement systematic disclosure. The systematic disclosure implementations of other countries were shown as well. He then explained the current situation in Myanmar to implement this standard and the potential challenges.

5.5 Closing Remarks

The National Coordinator Mr. Soe Win delivered the closing remarks by expressing his heartfelt gratitude to all stakeholders including the MSG representatives, the alternate representatives, senior government officials, sub-committee members, BO Task Force members, SNU members, the company's representatives and the developed partners. He said that this two-day conference was intended for all MEITI stakeholders and that this conference is a commemoration for the past milestones, achievements and contribution of the stakeholders over the MEITI journey especially to reinforce the trust and cooperation between the stakeholders and to re-strengthen the linkage with other national reform processes.

He stated that it could be found that MEITI has now shaped a platform for open dialogue between government agencies, companies and CSOs, supported transparency in laws, regulations and policies for better natural resource governance, and that EITI process is reflected in the Gemstone Policy of 2019 as the encouragement of transparency. He then shared that development of cadastre system had initiated due to the EITI processes, and that despite the challenges, MONREC has been able to participate in reformation for better natural resources governance due to the EITI standards.



Mr. Soe Win giving the conference closing remarks.

He mentioned that it was important to resolve the issues at ground-level to achieve better natural resources governance and SNUs were formed to fill that gap. MEITI process resulted in both tangible and intangible achievements. It was mentioned in his speech that it was natural that EITI has its limits and backward steps particularly for political commitments and for presenting sustainable policies options for all stakeholders. Mr. Soe Win encouraged by stating that EITI was linked to national visions and goals for reformation of peace, federalism, economic and public financial policies, and hence, cooperation is very essential.

He stated that this EITI reflection conference was the very first reflection conference among the global EITI communities and other EITI countries would be closely watching the outcomes from this conference. He concluded his speech by thanking and encouraging stakeholders to continue the cooperation and to overcome the challenges.

5.6 Day 2: Conclusion

The second day of the conference was concluded with the discussions over the agenda topics. The common agreements and challenges were discovered from discussions. This could lead to a more open and accountable dialogue among MEITI stakeholders in future.

VI. SALIENT POINTS FROM THE EITI REFLECTION CONFERENCE

6.1 Common Agreements from the EITI Reflection Conference

1. Agreed to review the Production Sharing Contract (PSC) in oil and gas sector, Performance Compensation Contract (PCC), Improved Petroleum Recovery Contract (IPR), the PSC in mining sector, licenses and all contracts of jade and gems sector to improve the terms and conditions of new contracts. For example, one of the discussions was instead of using the PSC for mining sector, the contract on sharing of the profits should be negotiated and signed.

(In accordance with the recommendation 2.4 of the 2016 EITI standards and validation, in order to strengthen the implementation, signing of contracts should be improved)

2. During the group discussion and presentation, the relevant Government agencies from oil and gas, forestry, jade and gems, and mining sectors all agreed that the annual EITI reports provide an essential platform and push for much-needed Public Financial Management (PFM) reform because it clearly shows how the revenue from natural resource flows into relevant Government agencies and then flow into the National Budget, and the data of the revenue sharing from the State and its partners and from the taxation.

(In accordance with the requirement 4 and 5 of the 2016 EITI standards, general public could have a better understanding on how taxation from extractive industries flow into the government budget and how these revenues are allocated for public expenditures.)

3. It is agreed that the platform that is participated by the MSG (government, companies and civil society) help strengthening the implementation of recommendations to improve the governance in extractive sector that can lead to constructive reform. The MSGs and other relevant stakeholders, and their development partners all agreed with this statement. For example, for the small-scale and artisanal activities that will be managed by the States and Regions, instead of having to submit Initial Environmental Examination (IEE) reports in line with the procedures of Environmental Impact Assessment prescribed in environmental conservation, an amendment was made into the law and rules

that IEE reports should be prepared with directives of the Environmental Conservation Department.

(In accordance with the requirement 7 of the 2016 EITI standard, accessibility of extractive industry data and debate among the stakeholders and public debate could improve governance in extractive sector.)

4. By implementing the MEITI process, common agreement was reached on most decisions from the debates among the multi-stakeholders and this help strengthening trust building and understanding among the stakeholders.
5. In order to widely implement the EITI activities in the 14 States and Regions of Myanmar and to widely disseminate information for public awareness, the Sub-national Coordination Units (SNU) was formed with the Notification Order and SNU were being formed in 5 States and Regions. The conference agreed to review and further discuss on how the Multi-stakeholders Group (MSG) and the SNU will work together at Union and State level in implementing activities.
6. Agreed to review and rewrite the whole structure of Myanmar EITI, the nomination process of the multi-stakeholder representative (MSG) in each constituency, and their Terms of Reference.

(In accordance with the requirement 1.4 of the 2016 EITI standards and validation, the participation and roles and responsibility of the multi-stakeholders should be rectified in accordance with the current activities.)

7. The MSDP is a comprehensive social, economic and environmental policy reform agenda that articulates our long-term development vision. “A vision for a peaceful, prosperous and democratic Myanmar” as stated by State Counsellor H.E. Daw Aung San Suu Kyi. The MSDP requires strong and strategic partnership across key stakeholder groups across various sectors and government ministries. MSDP is structured with three pillars, five goals, 28 strategies and 251 action plans. All are aligned with the country’s 12 Point Economic Policy, Sustainable Development Goals (SDGs), Greater Mekong Sub region (GMS) Strategies Framework, the ASEAN Economic Community (AEC) and other agreements within the region. Thus, the implementation of EITI process in Myanmar has encouraged the reform of the Government by providing the impartiality evaluation.

The implementation of the EITI process is aligned with MSDP's Pillar 3: People and Planet, Goal 5: Natural Resources and the Environment for Prosperity of the Nation, Strategy 5.5.4: greatly accelerate all necessary measures to meet requirements for EITI implementation. Thus, the conference agreed to develop the EITI Work Plan 2019 that would link up with the national policy and to hold consultations with all development partners.

(In accordance to the recommendation 1.5 of the 2016 EITI standards and validation, to set EITI work plan that are linked to and reflect the national priorities for the extractive industries.)



Conference attendees enjoying the EITI standard illustrations drew by artist Lai Lung.

6.2 The Benefits of Implementing EITI Process

1. The First, Second, Third and Fourth EITI reports state that 79% of the extractive revenues are collected by SEE/SOEs and deposited in their OAs. There have been report recommendations, corrective actions from validation process, and a wide range of public debate among media and public, and discussions in Hluttaw about how government should address issues relating to OAs.
 - a. After the fiscal year of 2012-2013, Union Fund Account (UFA) - OA has been officially allowed to open with the notification order 547/2012 of the Ministry of Planning and Finance (MOPF). Since then SEE/SOEs and OA have been allowed to open. According to the explanation of the MOPF, SEE/SOEs - OA are part of Union Fund and therefore are a part of the Union Budget.
 - b. Regarding transfers from the government to State Economic Enterprises (SEE/SOEs), an announcement was made by the MOPF on February 28, 2019 informing all government departments that all financial management plans of SEE/SOEs will be managed under a single UFA-SEE/SOE Account. Beginning from the 2019-2020 financial year, SEE/SOEs are required to deposit all their payments to UFA-SEE/SOEs and budgeted expenditures will be paid out from UFA-SEE/SOE Account following Union Budget process. By 30-9-2019, after audited and approved by the Audit General of the Union, the balance in the UFA-OA including loans, deposit and temporary accounts (Non-Budget) will be moved to the UFA-SEE/SOE Account through the account transfer. After audited and approved by the Auditor General of the Union, the balance of the UFA-OA will be submitted to the Union government and then transferred to the Government Account (Union Government Deposit Account). Also, the UFA-OA accounts that have been opened will be closed after the balance has been cleared.

One of the notable results following the effect of this announcement is that as all OAs will move to a single UFA-SEE/SOE Account after 30-9-2019, revenues will not be kept separately but will be credited into the UFA. Furthermore, this change will help strengthening the EITI reports to be more credible and reliable as more complete statistical data related to revenues from extractive sector will be created.

(In accordance with the recommendation 4.9 and 5.1 of the 2016 EITI standard and validation, by recording all tax revenues from OAs including revenues from extractive industries under the national budget, it will strengthen the quality of the statistical data.)

2. The SEE/SOEs are owned by all citizens and it is an important force for every country. SEE/SOEs are considerably crucial especially for Myanmar because SEE/SOEs (mostly the extractive industries) generates approximately 50% of the national revenues annually. According to the 1989 SEE/SOE Law, these enterprises are granted with monopoly and freedom in various spheres of economic activity. Since 2012, the Union Government has been implementing a series of reforms for the SEE/SOEs to become business-oriented enterprises and to be independent on its own. However, because of the deeply rooted system for many years, the reforms to improve the lack of responsibility, accountability and management have not been achieved.
 - a. Under the MSDP, Pillar 1 Goal 2 Strategy 2.1 stipulates that SEE/SOEs must increase their efforts to improve efficiency and competitiveness.
 - b. For the SEE/SOEs to operate in compliance with the MSDP, the MOPF is collaborating with the World Bank, US Treasury, and Myanmar Development Institute to improve the oversight the SEE/SOEs. Their underlying profitability, and financial sustainability and their socio-economic impacts of SEE/SOEs are their main focus. The result of these efforts will be to create the right policies and procedures for reforming and strengthening SEE/SOEs as well as corporatizing or privatizing them where appropriate. Reducing the burden of SEE/SOEs on the government budget is a clear objective in the coming years, coupled with determination to generate greater social and economic return to Myanmar people. In addition, as EITI process encourages the reform of the SEE/SOEs in extractive sector that is directly linked with the current reform process being implemented by the government. For the near future, the government is trying to reform the MOGE to become the National Oil Company (NOC). The implementations for reforming SEE/SOEs in extractive sector are currently being undertaken. Beginning from this year, the Myanmar Gems Enterprise (MGE) will work together with its development partner, NRCI to publish annual report.

(In accordance with the recommendation 2.6 of the 2016 EITI standard and validation, the SEE/SOEs in extractive sector should operate with transparency to strengthen the implementation.)

3. The Sub-national Units have been established in 6 Regions and States across the country with the objectives to support decentralization and authority transfer to the Regions and States as set in the EITI standard, and to cooperate with all relevant stakeholders in enhancing sustainability in social and economic development with the least environmental impact in compliance with international standards in governing natural resources. The Union Government issued notification order no. 76/2018 on June 29, 2018 which promulgate "Cooperation in the implementation of Myanmar Extractive Industry Transparency Initiative- MEITI process by respective Union Ministries, Union Level Organizations and State or Regional Government sustainably."

(In accordance with the recommendation 5.2 of the 2016 EITI standard and validation, by allocating authority from Union government to the Regions and States and allowing respective Regions and States to collect tax revenues, it could strengthen the implementation.)

4. By publishing EITI reports, general public can access information about the tax revenues, non-tax revenues and the spending related to social expenditure (corporate social responsibility).

(In accordance with the recommendation 6.1 of the 2016 EITI standard and validation, companies were able to disclose social expenditure to the public.)

5. As MEITI process has already linked up with the Pillar 3, Goal 5, Strategy 5.5 of the national policy "MSDP" that was approved on August 2018, this continually support the progress of MEITI process.
6. The information in EITI is useful for the PFM Reform that is being implemented by the State and the revenue streams can be seen in the Citizen budget.
7. Because of recommendations from the EITI reports, relevant government departments from minerals and gems sector were informed with date and were able to accomplish some reforms.

8. From the discussion on the National Gemstone Policy, in compliance with the requirements of EITI standards, these are considered to be pertinent: to set up mapping of Myanmar mining licenses, in order to establish a good management of natural resources, mining should be monitored and production should be declared, to disclose the information of the beneficial owners (who actually benefit from them to the gemstone industry), to set up Sovereign Wealth Fund or National Resource Fund and environmental impact management, responsible mining, traceability and assurance and social impact management. Moreover, to ensure transparency, before passing the Gemstones Law, consultations with the public in Regions and States were conducted to get their comments and feedback. Continue to work towards to include the EITI requirements in the new bylaw.
9. By broadcasting the public talks of the multi-stakeholders relating to MEITI through MRTV, general public have been informed on process and implementation.

(In accordance with the requirement 7.1 and 7.2 the 2016 EITI standard and recommendation 7.2 of the Validation, general public have been informed on the implementation of the EITI)

10. Enable to access to information on extractive sector more than before, and have regular platform where multi-stakeholders can meet and from the recommendations, provided, this help enhancing the natural resources governance (For example, the launching of Mining Cadastre) and linking up with reform programs of the government.
11. In accordance with the 2016 EITI Standard, in order to disclose BO information in a timely manner, all relevant stakeholders agreed that a decree to be released by the President Office on January 2020 and it is expected to be released on June 2019. In the first stage of BO disclosure, as noted in the Fourth EITI Report, a total of 150 companies covering 95% of oil and gas, jade and gems, mining and pearl sector will have to participate in this process. The Conference agreed to push forwards for BO decree which includes conducting wider awareness programs on BO for these companies and using incremental persuasion technique to get their participation, and to highlight companies that provide false information in the reports with naming shaming.

6.3 Challenges of Implementing EITI Process in Myanmar

1. In terms of analyzing and using the information from the MEITI reports, there is a weakness in supporting reform of government departments to move towards better system and in cultivating the creation of a good investment environment for companies, and weakness in publicly information to be easily understood by the public.
2. The main challenge in implementing BO disclosure in accordance with EITI Standards is the process is very new to Myanmar and there is challenge in explaining these definitions to the public in a practical way for them to easily understand, in complying with standards of EITI that is getting higher, and implementing this process within a limited time.
3. Regarding the Contract Disclosure that will be included in the 2019 standard and to be implemented in 2021, as there are Confidential Clause contained in contracts, the government should get the approval from the relevant government ministries, Auditor General of the Union, and the Office of the Attorney General in comply with the procedures, and should begin to negotiate with the companies and raise their awareness on BO.
4. Jade and gems sector represent 16 % revenues that flow into the government budget. Some challenges related to jade and gems sector are peace in the country, rule of law, and lack of efficient management. In addition, the representatives from Myanmar Gems Enterprise discussed that in complying with environment protection, there can be a challenge as there will be less income for the national revenues by reducing the amount of production.
5. In accordance with the new standards of EITI, when defining the gender equality, there is a challenge for women to engage in the extractive sector due to the nature of this work.
6. To accomplish the Mining Cadastre, one single map has to be used and there is challenge for simplifying the procedures in mining, jade and gems and pearl sector, and for preparation within a short time before start using the Cadastre system.
7. According to amended Myanmar Mining Law of 2015 December, the respective Regions and States are granted with authority to issue permits for small-scale and medium-scale site and some Regions and States have begun to issue permits. Although decentralization should be implemented, there can be a problem of duplication as Cadastre is currently being implemented only at Union Level. In

addition, as some Regions and States grant only few permits, this leads to illegal mining. Finally, only when Database System that record the permit areas in Regions and State has been developed, there can be a linkage with the Union Level as well as can improve transparency. Thus, there should be a national strategy for small scale and ASM.

8. Concerning tracking background information, there is difficulty to track the background information of the small-scale and artisanal gems mining and production activities after they paid.
9. There is a need to improve the refining industry in gemstone sector, technical knowledge for refining market and handiwork and to expand the market internationally.
10. In order to increase the participation of the Regions/States in the EITI process, more awareness programs and capability building have to be carried out and the cooperation between the Union and Regions/States have to be strengthened.

VII. FUTURE PLAN

1. Natural Resources Commission led by the State that will oversight the management of revenues from the natural resource to be beneficial to the people in the long run and oversight the whole extractive industry sector should be immediately formed. As a result, the upstream ministries made up of Ministry of Natural Resources and Environmental Conservation (MONREC) and Ministry of Electricity and Energy (MOEE), and downstream ministries made up of Ministry of Planning and Finance (MOPF) can work together coherently for the implementation.
2. As there is no law yet for the implementation of the EITI process sustainably, due to the past experience, for the EITI process not to be slow down or adjourned between the 2020 election and the change of the new government, a concrete law, bylaw, decree, and directives from the state should be enacted or issued.
3. By transferring a part of the revenues from the natural resource to the Provident Fund for the next generations, this will contribute to the benefit of the people in this country.
4. In order to continually implement the transparency of production in extractive industries and for the process to be sustainable, the government should consider for agreeing with using national budget.
5. In order to implement the Open Data Policy and Systematic Disclosure, there is a need to cooperate with companies and for the government should start using the Database system within their respective departments as well as link up with the Myanmar Statistical Information Service (MSIS) and the Central Statistical Office (CSO) websites that are disclosing data and plans independently carried out by the Department which can be possibly be used in the interim period. Additionally, for this system to be successful, there is a need to link up with the E-government system that is being carried by the government.

VIII. CONCLUSION

The Myanmar EITI Reflection Conference of 2019 help achieve a lot of common ground between various MEITI stakeholders of different backgrounds. The objectives of this conference, to evaluate and reflect past MEITI milestones, achievements, contributions, and current activities, were largely successful through active discussions, open dialogues, and vigorous debates. And as a result, participant gained light on numerous benefits that each and every one gained as well as challenges that everyone faced along the MEITI journey. This conference was successful thanks to the substantial commitment by the Myanmar EITI stakeholders, and the vital funds contribution and indispensable support by the NRC Myanmar. Thanks to these efforts, Myanmar is now reenergized with a stronger focus on good governance and a more transparent principle to implement the EITI Standard of 2019 in line with global EITI communities.

XI. APPENDIX

Appendix A - Acronyms

AEC	ASEAN Economic Community
APR	Annual Progress Report
ASM	Artisanal Mining
BO	Beneficial Ownership
CSO	Civil Society Organizations
DICA	Directorate of Investment and Company Administration
EITI	Extractive Industries Transparency Initiative
IPR	Improvement Petroleum Recovery
MEITI	Myanmar Extractive Industries Transparency Initiative
MFMA	Myanmar Federation of Mining Association
MOEE	Ministry of Electricity and Energy
MONREC	Ministry of Natural Resources and Environmental Conservation
MOGE	Myanma Oil and Gas Enterprise
MOPF	Ministry of Planning and Finance
MSDP	Myanmar Sustainable Development Plan
MSG	Multi-stakeholder Group
MTE	Myanma Timber Enterprise
NCS	National Coordination Secretariat
NRGI	Natural Resource Governance Institute
OA	Other Account
PCC	Performance Compensation Contract
PFM	Public Financial Management
PSC	Production Sharing Contract
SDG	Sustainable Development Goal
SNU	Sub-National Coordination Units
SEE/SOE	State Economic Enterprise / State Owned Enterprise
UFA	Union Fund Account

Appendix B – Agenda

Time	Activities	
Day 1 (27-5-2019)		
8:15 - 9:30 am	Registration	MEITI - NCS
9:30 - 9:45 am	Opening Speech	Deputy Minister, MONRE
9:45 - 10:15 am	Overview of EITI journey, milestones and key achievements (2012 - 2019)	MEITI - NCS
10:15 – 10:30 am	Reflection on MEITI	World Bank
10:30 – 11:10 am	Oil and Gas Sector: Contribution to MEITI Process, Outcomes, Achievements and Benefits and Challenges (1) Government Sector (2) Private Sector (3) Q and A	<ul style="list-style-type: none"> ▪ MOEE ▪ Total E & P Myanmar
11:25 am – 11:50am	Forestry Sector: Contribution to MEITI Process, Outcomes, Achievements and Benefits and Challenges (1) Government Sector (2) Q and A	<ul style="list-style-type: none"> ▪ MTE
11:50-12:30 pm	MATA's reflection on MEITI	<ul style="list-style-type: none"> ▪ MATA
12:30 - 1:30 pm	Lunch	
1:30 – 2:15 pm	Gems and Jade Sector: Contribution to MEITI Process, Outcomes, Achievements and Benefits and Challenges (1) Government Sector (2) Q and A	<ul style="list-style-type: none"> ▪ MGE
2:15 - 3:00 pm	Mineral Sector: Contribution to MEITI Process, Outcomes, Achievements and Benefits and Challenges (1) Government Sector (2) Private Sector (3) Q and A	<ul style="list-style-type: none"> ▪ DoM, MONREC ▪ MFMA.Private Sector
3:00 - 3:15 pm	Coffee break	
3:15 - 4 pm	Wrap up and Q&A	NRGI/ MEITI - NCS
Day 2 (28-5-2019)		
9:00 – 9:30 am	Recap on Day 1	NRGI/ MEITI - NCS
9:30 – 10:30 am	EITI 2016 Standards and Myanmar reform nexus	NRGI/MEITI - NCS
10:30- 10:50 am	Coffee break	
10:50 -12:30 pm	Group Discussion: - What do you need to get to where you want to be? - What other reforms do you need? - What are the challenges?	
12:30 – 1:30 pm	Lunch	
1:30- 3:30 pm	EITI 2019 standards - what's new	NRGI/ MEITI - NCS
3:30- 3:50 pm	Coffee break	
3:50 - 4:30 pm	Recap and key takeaways	NRGI/ MEITI – NCS
4:30 - 4:40 pm	Closing Remarks	National Coordinator