







RWI Index Questionnaire: Myanmar 2012

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Indicator	Score
4.1.1	Context
4.1.1	Context

4.1.1.050: Has the government created a special fund or natural resource fund that concentrates revenue directly from oil, gas or mineral extraction?

Score: A B C

References:

Ministry of Energy, .

Ministry of Mines, .

Peer Review Comments:

http://www.cnbc.com/id/47698494/Myanmar_Needs_Sovereign_Wealth_Fund_to_Avoid_Resources_Curse_Stiglitz

4.1.1.051: What authority is responsible for the natural resource fund?

Score: A B C D E

Comments:

Not applicable.

References:

Ministry of Energy, .

Ministry of Mines, .

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Indicator		Score
4.2.1	Comprehensive reports	N/A
4.2.2.056	Audited reports	N/A

4.2.1 Comprehensive reports

4.2.1.052: Are the rules for the fund's deposits and withdrawals published, including the formula(s) for deposits and withdrawals?

Score: A B **C**

Comments:

No such fund exists.

References:

Ministry of Energy, .

Ministry of Mines, .

4.2.1.053: Does the fund management or authority in charge of the fund publish comprehensive information on its assets, transactions and investments?

Score: A B C D **E**

Comments:

No such fund exists.

References:

Ministry of Energy, .

Ministry of Mines, .

4.2.1.054: Are the reports containing information on the fund's assets and transactions understandable?

Score: A B C D **E**

Comments:

No such fund exists.

References:

Ministry of Energy, .

Ministry of Mines, .

4.2.1.055: How often are financial reports published by the fund management or authority in charge?**Score:** A B C D **E****Comments:**

No such fund exists.

References:

Ministry of Energy, .

Ministry of Mines, .

4.2.2.056 Audited reports

4.2.2.056a: Are the fund s financial reports audited?**Score:** A B C D **E****Comments:**

No such fund exists.

References:

Ministry of Energy, .

Ministry of Mines, .

4.2.2.056b: Are the audited financial reports published?**Score:** A B **C****Comments:**

Not applicable.

References:

Ministry of Energy, .

Ministry of Mines, .

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Indicator	Score
4.3.1 Legal Framework and Practice	N/A

4.3.1 Legal Framework and Practice

4.3.1.057: Are the rules governing deposits into the fund defined by legislation?

Score: A B **C**

Comments:

Not applicable.

References:

Ministry of Energy, .

Ministry of Mines, .

4.3.1.058: In practice, does the government follow the rules governing deposits to the natural resource fund?

Score: A B C D **E**

Comments:

Not applicable.

References:

Ministry of Energy, .

Ministry of Mines, .

4.3.1.059: Are the rules governing withdrawal or disbursement from the fund defined by legislation?

Score: A B **C**

Comments:

Not applicable.

References:

Ministry of Energy, .

Ministry of Mines, .

4.3.1.060: In practice, does the government follow the rules governing withdrawal or spending from natural resource fund?

Score: A B C D **E**

Comments:

Not applicable.

References:

Ministry of Energy, .

Ministry of Mines, .

4.3.1.061: Are withdrawals or spending from the fund reserves approved by the legislature as part of the budget process?

Score: A B **C**

Comments:

Not applicable.

References:

Ministry of Energy, .

Ministry of Mines, .

4.3.1.062: Are officials of the natural resource fund required to disclose information about their financial interest in any oil, gas or mining projects?

Score: A B **C**

Comments:

Not applicable.

References:

Ministry of Energy, .

Ministry of Mines, .

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Indicator	Score
5.1.1	Context
5.1.1	Context

5.1.1.063: Do central governments transfer resources to subnational authorities based on extraction of mineral resources?

Score: A B C **D** E

Comments:

Burma is a highly centralized government and has only in the last year began to give limited powers for states to control their budgets. Based on an interview with an RNDP official and secondary information, no budget is shared with sub-national governments from natural resource revenue.

References:

Interview with U Aung Mra Kyaw, the legislator of Rakhine National Development Party (RNDP), Sittwe, Arakan State, Myanmar.

Central Bank of Myanmar, .

Ministry of Energy, .

Ministry of Mines, .

Ministry of Finance and Revenue, .

Peer Review Comments:

Natural resource management has been a key source of conflict between the Burmese government and ethnic minority groups, including the Karen, Shan and the Kachin, for decades. It is one of the primary reasons that the ceasefire with the latter broke down last year and it is likely to be one of the largest obstacles to durable peace with the two former. Based on local reports it is understood that regional authorities collect bribes (or unofficial taxes) from extractive companies, but all revenues are collected and spent by the central government.

<http://www.kdng.org/images/stories/publication/lessons%20from%20the%20kachin%20development%20experience%20longer%20paper.2.pdf>

5.1.1.064: Are conditions imposed on subnational government as part of revenue sharing regime?

Score: A B **C**

Comments:

Not applicable.

References:

Interview with U Aung Mra Kyaw, the legislator of Rakhine National Development Party (RNDP), Sittwe, Arakan State, Myanmar.

Central Bank of Myanmar, .

Ministry of Energy, .

Ministry of Mines, .

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Indicator	Score
5.2.1	Disclosure

5.2.1 Disclosure

5.2.1.065: Are the rules for revenue transfers from central to sub national governments published, including the formula(s) for revenue sharing?

Score: A B **C**

Comments:

Not applicable.

References:

Interview with U Aung Mra Kyaw, the legislator of Rakhine National Development Party (RNDP), Sittwe, Arakan State, Myanmar.

Central Bank of Myanmar, .

Ministry of Energy, .

Ministry of Mines, .

5.2.1.066: Does the central government publish comprehensive information on transfers of resource related revenues to sub-national governments?

Score: A B C D **E**

Comments:

Not applicable. There are apparently no transfers to sub-national governments.

References:

Interview with U Aung Mra Kyaw, the legislator of Rakhine National Development Party (RNDP), Sittwe, Arakan State, Myanmar.

Central Bank of Myanmar, .

Ministry of Energy, .

Ministry of Mines, .

5.2.1.067: Are the reports containing information on transfers of resource related revenues to sub-national governments understandable?

Score: A B C D **E**

Comments:

Not applicable. There are apparently no transfers to sub-national governments.

References:

Interview with U Aung Mra Kyaw, the legislator of Rakhine National Development Party (RNDP), Sittwe, Arakan State, Myanmar.

Central Bank of Myanmar, .

Ministry of Energy, .

Ministry of Mines, .

5.2.1.068: How often does the central government publish information on transfers of resource related revenues to sub-national governments?

Score: A B C D **(E)**

Comments:

Not applicable. There are apparently no transfers to sub-national governments.

References:

Interview with U Aung Mra Kyaw, the legislator of Rakhine National Development Party (RNDP), Sittwe, Arakan State, Myanmar.

Central Bank of Myanmar, .

Ministry of Energy, .

Ministry of Mines, .

5.2.1.069: Do sub-national governments publish information on transfers received from central governments?

Score: A B **(C)**

Comments:

Not applicable. There are apparently no transfers to sub-national governments.

References:

Interview with U Aung Mra Kyaw, the legislator of Rakhine National Development Party (RNDP), Sittwe, Arakan State, Myanmar.

Central Bank of Myanmar, .

Ministry of Energy, .

Ministry of Mines, .

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Indicator	Score
5.3.1 Legal Framework and Practice	N/A

5.3.1 Legal Framework and Practice

5.3.1.070: Are arrangements (including formulas and responsible institutions) for resource revenue sharing between central and sub-national governments defined by legislation?

Score: A B **C**

Comments:

Not applicable. There are apparently no transfers to sub-national governments.

References:

Interview with U Aung Mra Kyaw, the legislator of Rakhine National Development Party (RNDP), Sittwe, Arakan State, Myanmar.

Central Bank of Myanmar, .

Ministry of Energy, .

Ministry of Mines, .

5.3.1.071: In practice, does the government follow the rules established by resource revenue sharing legislation?

Score: A B C D **E**

Comments:

Resource revenue sharing legislation does not exist.

References:

Interview with U Aung Mra Kyaw, the legislator of Rakhine National Development Party (RNDP), Sittwe, Arakan State, Myanmar.

Central Bank of Myanmar, .

Ministry of Energy, .

Ministry of Mines, .

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Context

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Indicator	Score
1.1	Context

1.1 Context

1.1.001: Does the country have a clear legal definition of ownership of mineral resources?

Score: A B C D E

References:

2008 Constitution, Article 37, paragraph a, .

Myanmar Mines Law, 1994, < http://www.blc-burma.org/html/myanmar%20law/lr_e_ml94_08.html> .

Peer Review Comments:

Additional source: State-owned Economic Enterprises Law, article 3

<http://www.mcpt.gov.mm/sites/default/files/pdf/laws%20and%20regulation/Miscellaneous/The%20State-owned%20Economic%20Enterprises%20Law.pdf>

1.1.002: Who has authority to grant hydrocarbon and mineral rights or licenses?

Score: A B C D E

Comments:

The licensing process and the role of actors are not clearly known. All foreign companies must receive a permit to do business in the country from Myanmar Investment Commission. The Ministry of Energy oversees the sector for oil and gas (although the state-owned enterprise also has some regulatory functions) and award contracts, it appears that the Energy Planning Department, under the Ministry of Energy, announces bidding for oil and gas blocks, and ultimately awards contracts.

For mining, according to the Myanmar Mines Law, the Planning and Work Inspection Department of the Ministry of Mines will receive requests for permits for "(a) prospecting, exploration or small scale production of industrial mineral; [and] (b) prospecting, exploration or small scale production of stone." Furthermore the law states that, "the respective Mining Enterprise or the officer authorized by the Ministry may issue permit in respect of subsistence production of gemstone, metallic mineral industrial or stone, specified in the notification by the Ministry."

References:

Ministry of Energy, www.energy.gov.mm/. Myanma Oil and Gas Enterprise, "four basic responsibilities ", #4, .

Myanmar Foreign Investment Law , 1988, "Acceptance of Proposal"
<http://www.energy.gov.mm/foreigninvestmentlaw.htm>

Myanmar Mines Law, 1994, .

1.1.003: What licensing practices does the government commonly follow?**Score:** A B C D E**Comments:**

See comment in previous question - not clear how licenses are awarded.

References:

The Burma Environmental Working Group (BEWG), BEWG, June 2011, Burma's Environment: People Problems, Policies, .

Pa-O Youth Organization (PYO), PYO, June 2009, "Robbing the Future: Russian-backed Mining Project Threatens Pa-O Communities in Shan State, Burma", .

1.1.004: What is the fiscal system for mineral resources?**Score:** A B C D E**Comments:**

There is a mixed system which allows different types of agreements. PSC were recently awarded, as well as concessions.

The Ministry of Mines was recently accused of corruption in a news article and in response filed a lawsuit against the Daily Journal, a Rangoon based newspaper, for suggesting it was "engaged in a massive fraud when it resold to Chinese interests what was previously Canadian multinational Ivanhoe Mine's 50 percent stake in Burma's largest mine". The article was based on a leaked government audit report. The Irrawaddy, Tin Maung Htoo, March 25, 2012, "The Corruption Scandal in Burma: The Canadian Connection", .

References:

<http://www.allens.com.au/pubs/ener/foene27apr12.htm>

Ministry of Mines, as of May 5, 2012, "Activities and Investment Opportunities in the Mining Sector in Myanmar", .

Myanmar Mines Law, 1994, Government of Myanmar, .

The Irrawaddy, Tin Maung Htoo, March 25, 2012, "The Corruption Scandal in Burma: The Canadian Connection", .

Peer Review Comments:

A number of regulatory changes have been introduced in Burma in recent months. Amendments to the 1988 Union Foreign Investment law came into force in May 2012, which included the provision of tax relief to foreign companies. A review of Burma's mining laws is currently underway, but it is unclear if/how this will affect fiscal regimes.

More details here:

http://www.mining.com.mm/imis/Mines/fiscal_regimes.asp

1.1.005: What agency has authority to regulate the hydrocarbon and mineral sector?**Score:** A B C D E

Comments:

Under the Ministry of Energy, the state owned company, Myanmar Oil and Gas Enterprise (MOGE), oversees the upstream petroleum sector and the downstream petroleum sector is overseen by the Myanmar Petrochemical Enterprise (MPE).

For mineral resources, the Ministry of Mines is the regulator, specifically, the Department of Mines.

References:

Myanmar Mines website, "Department of Mines", .

Ministry of Mines, as of May 5, 2012, "Activities and Investment Opportunities in the Mining Sector in Myanmar", .

Myanmar Mines Law, 1994, Government of Myanmar, .

Myanmar Oil and Gas Enterprise, .

The Myanmar Petrochemical Enterprise (MPE), .

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Disclosure

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Indicator	Score
1.2.006 Information on licensing process	0 
1.2 Contract transparency	0 
1.2.008 Environmental and social impact assessments	0 
1.2 Access to information and legislation	34 

1.2.006 Information on licensing process

1.2.006.a: What information does the government publish on the licensing process before negotiations?

Score: A B C **(D)** E

Comments:

The criteria for the licensing process are published in the announcement for bidding but not made available before bidding begins, nor is the decision making process transparent. Contracts are widely believed to be influenced by politics and both ministries plagued by corruption.

References:

Business Times, May 3, 2012, "Myanmar may launch oil, gas tender in August", .

1.2.006.b: What information does the government publish on the licensing process after negotiations?

Score: A B C **(D)** E

Comments:

Other than announcing winners from the bidding round in interviews (not on government websites), there is no other information provided after the negotiations.

References:

Upstream, Marshall, Steve, May 2, 2012 "Burma round 'set for August'", .

Reuters, Koswanage, Niluksi, January 6, 2012, "Exclusive- Myanmar awards onshore oil, gas blocks", .

The New Light of Myanmar, April 6, 2012, "Production sharing contract signed", pg. 8, .

1.2 Contract transparency

1.2.007: Are all contracts, agreements or negotiated terms for exploration and production, regardless of the way they are granted, disclosed to the public?

Score: A B C **(D)** E

Comments:

Contracts are not publicly disclosed and are only available if they are leaked or through litigation.

References:

Interview with Naing Htoo, Acting Burma Campaigns Director, EarthRights International, February 27, 2012, Chiang Mai, Thailand.

Arakan Oil Watch, March 2012, "Burma's Resource Curse; The case for revenue transparency in the oil and gas sector", .

1.2.008 Environmental and social impact assessments

1.2.008.a: Does legislation require that mining, gas and oil development projects prepare an environmental impact assessment prior to the award of any mineral rights or project implementation?

Score: A **(B)** C

Comments:

The draft Environmental Law, 2012, which was leaked, excluded EIA/SIAs as a requirement although policymakers were discussing it.

References:

Economic and Social Commission for Asia and the Pacific (ESCAP), "Lack of formal requirements for environmental impact assessment in Myanmar", .

1.2.008.b: Are environmental impact assessments for oil, gas and mining projects published by the authority in charge of regulating the sector and is there a consultation process?

Score: A B C **(D)** E

Comments:

Only leaked EIAs/SIAa for projects are available.

References:

Economic and Social Commission for Asia and the Pacific (ESCAP), "Lack of formal requirements for environmental impact assessment in Myanmar", .

Peer Review Comments:

The controversial Myitsone dam project is a good example of how EIAs are utilised in Burma. The Chinese company CPI, who led the project, conducted an EIA with the help of Burmese experts (although it was not legally required to do so). A leaked version of the report revealed recommendations for the project not to go ahead. Development of the dam nonetheless commenced before the EIA was even completed. The official results of the EIA were only published months later after intense media and political pressure, eventually culminating in the suspension of the project.

<http://www.dvb.no/news/critical-report-on-china-backed-dam-smothered/16599>

<http://www.earthrights.org/blog/burma-suspends-controversial-myitsone-dam>

1.2.008.c: Does legislation require that mining, gas and oil development projects prepare a social impact assessment?

Score: A B C

References:

Economic and Social Commission for Asia and the Pacific (ESCAP), "Lack of formal requirements for environmental impact assessment in Myanmar", .

1.2.008.d: Are social impact assessments for oil, gas and mining projects published and is there a consultation process?

Score: A B C D E

Comments:

EIAs/SIAs are not required by law and are not published.

References:

Economic and Social Commission for Asia and the Pacific (ESCAP), "Lack of formal requirements for environmental impact assessment in Myanmar", .

Peer Review Comments:

SIAs are not published by the relevant authority.

1.2 Access to information and legislation

1.2.009: Does the government publish detailed mineral/hydrocarbon resource legislation?

Score: A B C D E

Comments:

The legal framework for oil, gas and mining is very outdated and the Ministry of Energy and Ministry of Mines can also dictate policy. Some of the legal policies still on the books are not available online and in English.

References:

The Republic of the Union of Myanmar, Myanmar Mines Law (1994), .

The Republic of the Union of Myanmar, Myanmar Pearl Law, 1995

The Republic of the Union of Myanmar, State-owned Economic Enterprises Law (SEE Law), 1989, .

The Republic of the Union of Myanmar, Myanmar Foreign Investment Law, 1988 .

The Republic of the Union of Myanmar, the Special Economic Zone Law (2011) (SEZL), governs foreign investments in Special Economic Zones, .

The Republic of the Union of Myanmar, the Dawei Special Economic Zone Law (2011) (DSEZL), governs foreign investments in the Dawei Special Economic Zone, .

Oilfields Act (1918) (no online copy available); The Oilfield Rules 1936 (no online copy available); The Petroleum Act 1934, The Petroleum Rules, 1937 (no online copy available); The Essential Supplies and Services Act 1947, ; The Oilfields (Labour and Welfare) Act 1951; The Petroleum Resources (Development Regulation) Act 1957 (no online copy available); The Law Amending the Petroleum Resources (Development Regulation) Act 1969 (no online copy available); and the Myanmar Petroleum Concession Rules 1962 (no online copy available).

1.2.010: This country has adopted a rule or legislation that provides for disclosure of information in the oil, gas and mineral sectors.

Score: A B C D E

References:


Interview with Naing Htoo, Acting Burma Campaigns Director, EarthRights International, February 27, 2012, Chiang Mai, Thailand.

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Legal Framework and Practices

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Indicator	Score
1.3 Legal Framework and Practices	0 

1.3 Legal Framework and Practices

1.3.011: The authority in charge of awarding licenses or contracts for mineral or hydrocarbon production is independent of the state owned company (SOC) or other operating companies.

Score: A B C

Comments:

The Ministry of Energy, through the Energy Planning Department, awards licenses and the Myanmar Oil and Gas Enterprise is under the Ministry of Energy. Any foreign company wishing to exploit oil and gas resources must enter into a Production Sharing Contract with Myanmar Oil and Gas Enterprise.

According to the Myanmar Mines Law, the Planning and Work Inspection Department of the Ministry of Mines will receive requests for permits for "(a) prospecting, exploration or small scale production of industrial mineral; [and] (b) prospecting, exploration or small scale production of stone", is underneath the Ministry of Mines along with the six state-owned enterprises: No.[1] Mining Enterprise; No.[2] Mining Enterprise; No.[3] Mining Enterprise; Myanmar Gems Enterprise; Myanmar Salt and Marine Chemical Enterprise; Myanmar Pearl Enterprise.

References:

"Ministry of Energy, www.energy.gov.mm/. Myanma Oil and Gas Enterprise, ""four basic responsibilities "" , #4, .

The Government of the Republic of the Union of Myanmar, July 8, 2011, "Invitation for Bids to Conduct Petroleum Operations in Myanmar Onshore Areas - 2011", .

Ministry of Mines, .

Myanmar Mines Law, 1994, < http://www.blc-burma.org/html/myanmar%20law/lr_e_ml94_08.html>."

1.3.012: Is the licensing process intended to be open and competitive to all qualified companies?

Score: A B C D E

Comments:

The oil and gas sector is known by many to be very corrupt as is any other business sector in the country. Many of the local contractors like Asia World, are notoriously corrupted.

According to a U.S. government report, "bureaucratic red tape, arbitrary regulation changes, and endemic government corruption, however, continue to pose serious obstacles for all potential investors."

References:

Htoo Maung Tin, "Corruption Scandal in Burma: The Canadian Connection", 23 March 2012, .

Mizzima News, January 9, 2012, "Burma to call for offshore energy bids", .

Democratic Voice of Burma, Hindstrom, Hanna, March 22, 2012, "Burma faces heightened 'resource curse': report", .

Arakan Oil Watch, October 2008, "Blocking Freedom", .

Crisis Group, September 2010, "China's Burma Strategy", .

"Doing Business in Burma: 2012 Country Commercial Guide for U.S. Companies", .

1.3.013: Does the licensing process or legislation impose limits to discretionary powers of the authority in charge of awarding licenses or contracts?

Score: A B C **D** E

Comments:

According to a U.S. government report, many government offices have the power to arbitrarily announce policy changes. The report cites a case with the Ministry of Finance and Revenue announcing a notification for levying tax on profits gained by transferring assets of companies conducting business in oil and gas sector (see report cited, page 26). The report added, "opaque and arbitrary policymaking, including frequent, unannounced and unwritten policy changes" were among the market challenges for investors.

Under the Mines Law (1994), the Ministry is granted a lot of freedom to "issue such rules and procedures as may be necessary" and "the Ministry or the Department may issue such orders and directives as may be necessary."

References:

"Doing Business in Burma: 2012 Country Commercial Guide for U.S. Companies", .

Myanmar Mines Law, 1994, < http://www.blc-burma.org/html/myanmar%20law/lr_e_ml94_08.html>.

1.3.014: Does the legislative branch have any oversight role regarding contracts and licenses in the oil, gas and mining sector?

Score: A B C D **E**

Comments:

It is very unclear what if any reporting the Ministry of Energy and Ministry of Mines is doing in Parliament. The State-owned Economic Enterprises Law, 1989, does not mention the reporting requirements for SEEs. However, the People's Assembly, has a committee called the Resources and Environmental Conservation Committee, which would likely have some oversight role, although this is unconfirmed.

References:

The State-owned Economic Enterprises Law, 1989, .

1.3.015: Is there a due process to appeal licensing decisions?

Score: A **B** C

Comments:

According to a U.S. Government report, "All existing regulations, including those covering foreign investment, import-export procedures, licensing, and foreign exchange, are subject to change with no advance or written notice by the GOB. The country's decision-makers appear strongly influenced by their desire to support state-owned enterprises and the needs of the military-controlled Myanmar Economic Corporation and Myanmar Economic Holdings, Ltd.". In previous years, groups have highlighted the link between arms deals or general defense support and granting of gas and oil contracts; "Burma's Military Chief-of-Staff, General Thura Shwe Mann, was reportedly meeting with the leader of the Indian Army's Eastern Command, Lieutenant-General Arvind Sharma, to discuss joint counter-insurgency training exercises. The meeting coincided with the announcement that India had signed a new deal to acquire exploration rights to Burma's offshore gas fields." see Himal South Asian, Kim, February 2007, "Oil in the eyes", . The Shwe Gas Project demonstrated lack of due process when Burma suddenly decided to sell the natural gas to China instead of India, see International Peace Research Institute, Oslo (PRIO), Tønnesson, Stein and Kolås, Åshild, April 2006, "Energy Security in Asia: China, India, Oil and Peace: Report to the Norwegian Ministry of Foreign Affairs", .

References:

United States Department of Commerce, U.S. Commercial Service, 2012, "Doing Business in Burma: 2012 Country Commercial Guide for U.S. Companies", .

International Peace Research Institute, Oslo (PRIO), Tønnesson, Stein and Kolås, Åshild, April 2006, "Energy Security in Asia: China, India, Oil and Peace: Report to the Norwegian Ministry of Foreign Affairs", .

1.3.016: Is there a legal or regulatory requirement to disclose all beneficial ownership in oil, gas and mining companies or projects?

Score: A B C

Comments:

Publicly available information regarding the oil and gas sector is very limited and leaked or court released documents must be used in some cases.

References:

Interview with Naing Htoo, Acting Burma Campaigns Director, EarthRights International, February 27, 2012, Chiang Mai, Thailand.

Email interview with Joseph Allchin, freelance journalist, February 26, 2012.

United States Department of Commerce, U.S. Commercial Service, 2012, "Doing Business in Burma: 2012 Country Commercial Guide for U.S. Companies", .

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Context

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Indicator	Score
2.1	Context
2.1	Context

2.1.017: Does the government receive in-kind payments instead of financial payments from resource companies?

Score: A B C

Comments:

According to EarthRights International, "Energy Insecurity", the Yedana project generated US \$4.599 "in-kind" as gas.

From a leaked 2007 contract, the government of Burma and China National Petroleum Corporation, Burma has an option to receive in-kind payments in lieu of cash payments but it is not known if this is standard in all contracts or whether the government exercises this option and when.

References:

EarthRights International, July 2010, Energy Insecurity:How Total, Chevron, and PTTEP Contribute to Human Rights Violations, Financial Secrecy, and Nuclear Proliferation in Burma (Myanmar)", .

2.1.018: If the government or state owned companies sell physical commodities (oil, gas or minerals) from in-kind payments or own production, is there information about how these commodities are marketed?

Score: A B C D E

Comments:

There is no information about how the commodities are marketed. The website for the Myanmar Petroleum Products Enterprise is very general and does not mention any marketing plans or specifics about its work. It is the sole official distributor of petroleum products in the country (although a well known black market exists parallel to it) and the enterprise operates 4 Main Fuel Terminals, 25 Sub Fuel Terminals, 10 Aviation (Terminals/ Sub Terminals/ Filling Stations), 12 Fuel Filling Stations and 1 LPG Filling Station.

The Ministry of Energy was in control of all the former petrol stations until Fuel Oil Importers and Distributors Association (FOIDA) was formed on Jan. 23 2010 and Tay Za, a co-founder of that commission, was also awarded a contract to operate state-owned gas stations in Upper Burma, see The Irrawaddy, January 27, 2010, "Burmese Tycoon Takes Over Fuel Imports and Sales", .

References:

Ministry of Energy, "Petroleum Products Marketing Sub-sector: Myanma Petroleum Products Enterprise (MPPE)", .

The Irrawaddy, January 27, 2010, "Burmese Tycoon Takes Over Fuel Imports and Sales", .

Peer Review Comments:

<http://www.altsean.org/Reports/Economy2011.php>

2.1.019: What authority actually collects payments from resource companies?

Score: A B C D **E**

Comments:

It is difficult to account for all the revenue the government is receiving, even less to track where it is going. Publicly available information is either nonexistent or very limited and contracts which contain specific information about payments are not publicly available. Payments have included signing bonuses, in-kind payments, production bonuses, royalties, and taxes to name a few. Loans and money to carry out development projects have also been paid by companies.

Myanmar's national budget for 2012/2013 fiscal year was only scrutinized by the parliament for the first time in decades last year, see The Irrawaddy, January 27, 2012, "Burma's Parliament Back in Session, Budget is Top Priority", .

According to tax policies, state-owned enterprises are exempt from taxes on their profits according to a Decree from the Internal Revenue Department, see Myanmar Decree 41/2010 on With Holding Tax (not available online), see The Irrawaddy, Wai Moe, January 7, 2011, "Military Firms Excluded From Tax Evasion Law", .

The Ministry of Finance and Revenue

Myanma Oil and Gas Enterprise has a stake in a oil and gas Production Sharing Agreements and like the mining industry, it is clear that it is receiving revenue from projects as dictated by the Production Sharing Contracts.

In past years Burma's exchange rate which was used by all state-owned enterprises, was a large source of corruption because the official exchange rate was pegged at the exchange rate US\$1 to 6.4 kyats when the black market rate was US\$1 to 800 kyat.

Now the currency exchange rate has been move to a managed float of its exchange rate as of April 1, 2012 but it is unclear if this will indeed reduce corruption, see Reuters, Raybould, Alan, March 28, 2012, "Myanmar's central bank says currency to float from April", .

References:

Myanmar Decree 41/2010 on With Holding Tax (not available online), see The Irrawaddy, Wai Moe, January 7, 2011, "Military Firms Excluded From Tax Evasion Law", .

EarthRights International, March 2011, Situation Briefer No. 1, "The Burma-China Pipelines: Human Rights Violations, Applicable Law, and Revenue Secrecy."

Arakan Oil Watch, "Burma's Resource Curse: The case for revenue transparency in the oil and gas sector", 2012, .











Reuters, Raybould, Alan, March 28, 2012, "Myanmar's central bank says currency to float from April", .

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Disclosure

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Indicator		Score
2.2A.020	Does the Ministry of Finance publish periodical information on revenue generation?	0 
2.2A.020.j	Does the Ministry of Finance publish information on disaggregated revenue streams?	0 
2.2A	Quality of reports	0 
2.2B.020	Does the Ministry of the extractive sector publish information on revenue generation?	0 
2.2B.020.j	Does the Ministry of the extractive sector publish information on disaggregated revenue streams?	0 
2.2B	Quality of reports	0 
2.2C.020	Does a Regulatory Agency publish information on revenue generation?	N/A
2.2C.020.j	Does a Regulatory Agency publish information on disaggregated revenue streams?	N/A
2.2C	Quality of reports	N/A
2.2D.020	Does the Central Bank publish information on revenue generation?	N/A
2.2D.020.j	Does the Central Bank publish information on disaggregated revenue streams?	N/A
2.2D	Quality of reports	N/A
2.2E.020	Does any other government agency or entity publish information on revenue generation?	14 
2.2E.020.j	Does any other government agency or entity publish information on disaggregated revenue streams?	0 
2.2E	Quality of reports	33 
2.2	Public sector balance	0 

2.2A.020 Does the Ministry of Finance publish periodical information on revenue generation?

2.2A.020.a: Reserves

Score: A B C **(D)** E

Comments:

No public reports are available on the Ministry of Finance and Revenue's website. Even the highest

levels of government (Parliament) have limited access to national financial information-- only last year did they begin scrutinizing the national budget and the revenue streams were not even disaggregated. From the website and those of the department's underneath the Ministry of Finance and Revenue, it does not appear that they produce information specific to the extractive industries.

References:

Myanmar Ministry of Finance and Revenue, .

2.2A.020.b: Production volumes

Score: A B C D E

References:

Ministry of Finance and Revenue, .

The Irrawaddy, March 13, 2012, "Floating Toward Honesty: How Burma's Bent Finances Can go Straight", .

2.2A.020.c: Information on prices

Score: A B C D E

References:

Ministry of Finance and Revenue, .

The Irrawaddy, March 13, 2012, "Floating Toward Honesty: How Burma's Bent Finances Can go Straight", .

2.2A.020.d: Value of resource exports

Score: A B C D E

References:

Ministry of Finance and Revenue, .

2.2A.020.e: Estimates of investment in exploration and development

Score: A B C D E

References:

Ministry of Finance and Revenue, .

2.2A.020.f: Production costs

Score: A B C D E

References:

Ministry of Finance and Revenue, .

2.2A.020.g: Names of companies operating in country

Score: A B C D E

References:

Ministry of Finance and Revenue, .

2.2A.020.h: Production data by company and/or block

Score: A B C D E

References:

Ministry of Finance and Revenue, .

2.2A.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C D E

References:

Ministry of Finance and Revenue, .

2.2A.020.j Does the Ministry of Finance publish information on disaggregated revenue streams?

2.2A.020.j1: Production streams value

Score: A B C D E

References:

Ministry of Finance and Revenue, .

2.2A.020.j2: Government s share in PSC

Score: A B C D E

References:

Ministry of Finance and Revenue, .

2.2A.020.j3: Royalties

Score: A B C D E

References:

Ministry of Finance and Revenue, .

2.2A.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C D E

References:Ministry of Finance and Revenue, .

2.2A.020.j5: DividendsScore: A B C D E**References:**Ministry of Finance and Revenue, .

2.2A.020.j6: BonusesScore: A B C D E**References:**Ministry of Finance and Revenue, .

2.2A.020.j7: License feesScore: A B C D E**References:**Ministry of Finance and Revenue, .

2.2A.020.j8: Acreage feesScore: A B C D E**References:**Ministry of Finance and Revenue, .

2.2A.020.j9: Other (Explain in 'comments' box.)Score: A B C D E**References:**

Ministry of Finance and Revenue, .

2.2A Quality of reports

2.2A.021: Are periodical reports containing information on revenue generation published by the Ministry of Finance understandable?Score: A B C D E**References:**

Ministry of Finance and Revenue, .

2.2A.022: How often are the periodical reports containing information on revenue generation published by the Ministry of Finance?

Score: A B C D E

References:

Ministry of Finance and Revenue, .

2.2B.020 Does the Ministry of the extractive sector publish information on revenue generation?**2.2B.020.a: Reserves**

Score: A B C D E

Comments:

The country is notorious for its weak financial transparency. The Ministry of Energy does not publish regular reports and like other Ministries, provides limited information regarding the sector through sporadic PowerPoint Presentations.

References:

PowerPoint presentation, Presented by U Nay Aung, Ministry of Energy, Myanmar, 2008, "Common Practice of Monthly Energy Data Collection in Myanmar", .

PowerPoint Presentation, Myanma Oil and Gas Enterprise, July 2011.

2.2B.020.b: Production volumes

Score: A B C D E

References:

Ministry of Energy, www.energy.gov.mm/.

2.2B.020.c: Information on prices

Score: A B C D E

References:

Ministry of Energy, .

2.2B.020.d: Value of resource exports

Score: A B C D E

References:

Ministry of Energy, .

2.2B.020.e: Estimates of investment in exploration and development

Score: A B C D E

References:

Ministry of Energy, .

2.2B.020.f: Production costs

Score: A B C D E

Comments:

One PowerPoint Presentation by the Myanmar Oil and Gas Enterprise includes production costs for selected projects but this information is aggregate. Generally, this information is not regularly and comprehensively published by the Ministry of Energy.

References:

Ministry of Energy, .

2.2B.020.g: Names of companies operating in country

Score: A B C D E

Comments:

The Ministry of Energy does not publish this information on the website, and contracts and Production Sharing Agreements are kept secrets. The Myanmar Oil and Gas Enterprise occasionally publishes PowerPoint Presentations that include specific information about previous projects, like the parties involved, yet, this is not consistent and not always comprehensive, especially when it comes to subcontractors.

References:

PowerPoint Presentation, Myanmar Oil and Gas Enterprise, July 2011.

2.2B.020.h: Production data by company and/or block

Score: A B C D E

References:

Ministry of Energy, .

2.2B.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C D E

References:

Ministry of Energy, .

2.2B.020.j Does the Ministry of the extractive sector publish information on disaggregated revenue streams?

2.2B.020.j1: Production streams value

Score: A B C D E

References:

Ministry of Energy, .

2.2B.020.j2: Government s share in PSC

Score: A B C D E

Comments:

Production Sharing Contracts are not available to the public.

References:

Ministry of Energy, .

2.2B.020.j3: Royalties

Score: A B C D E

References:

Ministry of Energy, .

2.2B.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C D E

References:

Ministry of Energy, .

2.2B.020.j5: Dividends

Score: A B C D E

References:

Ministry of Energy, .

2.2B.020.j6: Bonuses

Score: A B C D E

References:

Ministry of Energy, .

2.2B.020.j7: License fees

Score: A B C D E

References:

Ministry of Energy, .

2.2B.020.j8: Acreage fees

Score: A B C D E

References:

Ministry of Energy, .

2.2B.020.j9: Other (Explain in 'comments' box.)

Score: A B C D E

References:

Ministry of Energy, .

2.2B Quality of reports

2.2B.021: Are periodical reports containing information on revenue generation published by the Ministry of the extractive sector understandable?

Score: A B C D E

References:

Ministry of Energy, .

2.2B.022: How often are the periodical reports containing information on revenue generation published by the Ministry of the extractive sector?

Score: A B C D E

References:

Ministry of Energy, .

2.2C.020 Does a Regulatory Agency publish information on revenue generation?

2.2C.020.a: Reserves

Score: A B C D E

Comments:

The regulatory agency is the Ministry of Energy and no public reports exist.

References:

Ministry of Energy, .

2.2C.020.b: Production volumes

Score: A B C D E

References:

Ministry of Energy, .

2.2C.020.c: Information on prices

Score: A B C D E

References:

Ministry of Energy, .

2.2C.020.d: Value of resource exports

Score: A B C D E

References:

Ministry of Energy, .

2.2C.020.e: Estimates of investment in exploration and development

Score: A B C D E

References:

Ministry of Energy, .

2.2C.020.f: Production costs

Score: A B C D E

References:

Ministry of Energy, .

2.2C.020.g: Names of companies operating in country

Score: A B C D E

References:

Ministry of Energy, .

2.2C.020.h: Production data by company and/or block

Score: A B C D E

References:

Ministry of Energy, .

2.2C.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C D E

References:

Ministry of Energy, .

2.2C.020.j Does a Regulatory Agency publish information on disaggregated revenue streams?

2.2C.020.j1: Production streams value

Score: A B C D E

References:

Ministry of Energy, .

2.2C.020.j2: Government s share in PSC

Score: A B C D E

References:

Ministry of Energy, .

2.2C.020.j3: Royalties

Score: A B C D E

References:

Ministry of Energy, .

2.2C.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C D E

References:

Ministry of Energy, .

2.2C.020.j5: Dividends

Score: A B C D E

References:

Ministry of Energy, .

2.2C.020.j6: Bonuses

Score: A B C D E

References:Ministry of Energy, .

2.2C.020.j7: License feesScore: A B C D E**References:**Ministry of Energy, .

2.2C.020.j8: Acreage feesScore: A B C D E**References:**Ministry of Energy, .

2.2C.020.j9: Other (Explain in 'comments' box.)Score: A B C D E**References:**Ministry of Energy, .

2.2C Quality of reports

2.2C.021: Are periodical reports containing information on revenue generation published by the Regulatory Agency understandable?Score: A B C D E**References:**Ministry of Energy, .

2.2C.022: How often are the periodical reports containing information on revenue generation published by the Regulatory Agency?Score: A B C D E**References:**Ministry of Energy, .

2.2D.020 Does the Central Bank publish information on revenue generation?

2.2D.020.a: Reserves

Score: A B C D E

Comments:

According to the Central Bank of Myanmar Law (1990), the annual report (not explicitly the financial statements) will be made public at the discretion of the Ministry of Planning and Finance; "23. (a) The accounts of the Central Bank shall be audited by the Auditor General; (b) The Central Bank shall prepare financial statements at the end of each year. The Central Bank shall submit its annual report to the Government through the Ministry together with its balance sheet and profit and loss statement certified by the Auditor General within 6 months after the end of the year; (c) After submitting the annual report under sub-section (b), the Central Bank shall publish it in the manner prescribed by the Ministry, for public information."

Although the Central Bank's website features two Annual Reports from 2006-2007 and 2008-2009, they are not available online.

References:

Central Bank of Myanmar Law (1990), .

Central Bank of Myanmar, .

2.2D.020.b: Production volumes

Score: A B C D E

References:

Central Bank of Myanmar, .

2.2D.020.c: Information on prices

Score: A B C D E

References:

Central Bank of Myanmar, .

2.2D.020.d: Value of resource exports

Score: A B C D E

References:

Central Bank of Myanmar, .

2.2D.020.e: Estimates of investment in exploration and development

Score: A B C D E

References:

Central Bank of Myanmar, .

2.2D.020.f: Production costs

Score: A B C D E

References:

Central Bank of Myanmar, .

2.2D.020.g: Names of companies operating in country

Score: A B C D E

References:

Central Bank of Myanmar, .

2.2D.020.h: Production data by company and/or block

Score: A B C D E

References:

Central Bank of Myanmar, .

2.2D.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C D E

References:

Central Bank of Myanmar, .

Peer Review Comments:

This information is not published.

2.2D.020.j Does the Central Bank publish information on disaggregated revenue streams?

2.2D.020.j1: Production streams value

Score: A B C D E

References:

Central Bank of Myanmar, .

2.2D.020.j2: Government s share in PSC

Score: A B C D E

References:

Central Bank of Myanmar, .

2.2D.020.j3: Royalties

Score: A B C D E

References:

Central Bank of Myanmar, .

2.2D.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C D E

References:

Central Bank of Myanmar, .

2.2D.020.j5: Dividends

Score: A B C D E

References:

Central Bank of Myanmar, .

2.2D.020.j6: Bonuses

Score: A B C D E

References:

Central Bank of Myanmar, .

2.2D.020.j7: License fees

Score: A B C D E

References:

Central Bank of Myanmar, .

Peer Review Comments:

This information is not published.

2.2D.020.j8: Acreage fees

Score: A B C D E

References:

Central Bank of Myanmar, .

2.2D.020.j9: Other (Explain in 'comments' box.)

Score: A B C D E

Comments:

The Central Bank does not publish any substantial information for the public.

References:

Central Bank of Myanmar, .

2.2D Quality of reports

2.2D.021: Are periodical reports containing information on revenue generation published by the Central Bank understandable?

Score: A B C D E

References:

Central Bank of Myanmar, .

2.2D.022: How often are the periodical reports containing information on revenue generation published by the Central Bank?

Score: A B C D E

References:

Central Bank of Myanmar, .

Peer Review Comments:

The last published report is listed as 2009-2010.

2.2E.020 Does any other government agency or entity publish information on revenue generation?

2.2E.020.a: Reserves

Score: A B C D E

Comments:

The Central Statistical Organization can be assessed here as 'another government agency'.

References:

N/A

2.2E.020.b: Production volumes

Score: A B C D E

Comments:

Selected Monthly Indicators are available on the Central Statistical Organization database online.

References:

Central Statistical Organization, "Table 8. Production of Selected Commodities of the State Economic Enterprises (cont'd)", .

Peer Review Comments:

The CSO website was not fully available at the time of my review, only cached versions of select pages

(including table 8).

2.2E.020.c: Information on prices

Score: A B C D E

Comments:

The Central Statistical Organization publishes prices on selected commodities (petroleum products are not included).

References:

Central Statistical Organization, "Table 15. Retail Prices on Selected Commodities", .

2.2E.020.d: Value of resource exports

Score: A B C D E

Comments:

Only gas is reported (not petroleum or other petroleum products).

References:

Central Statistical Organization, "Table 6. Export of Principal Commodities" .

2.2E.020.e: Estimates of investment in exploration and development

Score: A B C D E

Comments:

There is no published information about estimates of investment in exploration and development.

References:

Central Statistical Organization, .

2.2E.020.f: Production costs

Score: A B C D E

Comments:

None of the relevant ministries and government agencies appear to publish this information.

References:

Central Statistical Organization, .

2.2E.020.g: Names of companies operating in country

Score: A B C D E

Comments:

None of the relevant ministries and government agencies publish this information for the public in a comprehensive manner.

References:

Central Statistical Organization, .

2.2E.020.h: Production data by company and/or block

Score: A B C D E

Comments:

None of the relevant ministries and government agencies publish this information for the public in a comprehensive manner.

References:

Central Statistical Organization, .

2.2E.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C D E

Comments:

None of the relevant ministries and government agencies publish this information for the public in a comprehensive manner.

References:

Central Statistical Organization, .

2.2E.020.j Does any other government agency or entity publish information on disaggregated revenue streams?

2.2E.020.j1: Production streams value

Score: A B C D E

Comments:

None of the relevant ministries and government agencies publish this information for the public in a comprehensive manner.

References:

Central Statistical Organization, .

2.2E.020.j2: Government s share in PSC

Score: A B C D E

Comments:

Production Sharing Contracts are secret.

References:

EarthRights International, July 2010, "Energy Insecurity: How Total, Chevron, and PTTEP Contribute to Human Rights Violations, Financial Secrecy, and Nuclear Proliferation in Burma (Myanmar)." .

2.2E.020.j3: Royalties

Score: A B C **(D)** E

Comments:

Specific information like royalties is not published.

References:

EarthRights International, July 2010, "Energy Insecurity: How Total, Chevron, and PTTEP Contribute to Human Rights Violations, Financial Secrecy, and Nuclear Proliferation in Burma (Myanmar)." .

2.2E.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C **(D)** E

Comments:

Specific information like special taxes is not published.

References:

EarthRights International, July 2010, "Energy Insecurity: How Total, Chevron, and PTTEP Contribute to Human Rights Violations, Financial Secrecy, and Nuclear Proliferation in Burma (Myanmar)." .

2.2E.020.j5: Dividends

Score: A B C **(D)** E

Comments:

Specific information like dividends is not published.

References:

EarthRights International, July 2010, "Energy Insecurity: How Total, Chevron, and PTTEP Contribute to Human Rights Violations, Financial Secrecy, and Nuclear Proliferation in Burma (Myanmar)." .

2.2E.020.j6: Bonuses

Score: A B C **(D)** E

Comments:

Specific information like bonuses is not published.

References:

EarthRights International, July 2010, "Energy Insecurity: How Total, Chevron, and PTTEP Contribute to Human Rights Violations, Financial Secrecy, and Nuclear Proliferation in Burma (Myanmar)." .

2.2E.020.j7: License fees

Score: A B C **(D)** E

Comments:

Specific information like license fees is not published.

References:

EarthRights International, July 2010, "Energy Insecurity: How Total, Chevron, and PTTEP Contribute to Human Rights Violations, Financial Secrecy, and Nuclear Proliferation in Burma (Myanmar)." .

2.2E.020.j8: Acreage fees

Score: A B C D E

Comments:

Specific information like acreage fees is not published.

References:

EarthRights International, July 2010, "Energy Insecurity: How Total, Chevron, and PTTEP Contribute to Human Rights Violations, Financial Secrecy, and Nuclear Proliferation in Burma (Myanmar)." .

2.2E.020.j9: Other (Explain in 'comments' box.)

Score: A B C D E

Comments:

No other relevant information is published.

References:

EarthRights International, July 2010, "Energy Insecurity: How Total, Chevron, and PTTEP Contribute to Human Rights Violations, Financial Secrecy, and Nuclear Proliferation in Burma (Myanmar)." .

2.2E Quality of reports

2.2E.021: Are periodical reports containing information on revenue generation published by any other government agency or entity understandable?

Score: A B C D E

Comments:

While the Central Statistical Organization does publish some limited economic figures, they are not comprehensive and lack explanation, references or comparisons or methodology.

References:

Central Statistical Organization, .

2.2E.022: How often are the periodical reports containing information on revenue generation published by the any other governmental agency or entity?

Score: A B C D E

Comments:

Regular reports from the Central Statistical Organization (other than the 2009 Statistical Year Book for sale) are not available to the public.

References:

Central Statistical Organization, .

2.2 Public sector balance

2.2.023: Does the government include the SOC financial balance (its assets and liabilities) within the public sector balance or overall balance of general government in reports to the legislature?

Score: A B C **(D)** E

Comments:

Oil and gas revenues are widely believed to be largely excluded from the national budget. Many civil society groups believe the revenues are stored in off shore bank accounts and controlled by government cronies.

References:

EarthRights International, May 2011, "The True Cost of Chevron: An Alternative Annual Report", .

"Burma's Resource Curse: the case for revenue transparency in the oil and gas sector",
http://www.burmalibrary.org/docs13/Burmas_Resource_Curse-briefer%28en%29-red.pdf

2.2.024: Does the government include projections of transactions, accounts of actual spending by the natural resource funds, and their assets and liabilities, within the public sector balance or overall balance of general government in reports to the legislature?

Score: A B C D **(E)**

Comments:

There is no natural resource fund.

References:

EarthRights International, May 2011, "The True Cost of Chevron: An Alternative Annual Report", .

"Burma's Resource Curse: the case for revenue transparency in the oil and gas sector",
http://www.burmalibrary.org/docs13/Burmas_Resource_Curse-briefer%28en%29-red.pdf

2.2.025: Does the government provide information on the non resource fiscal balance in its budget proposal?

Score: A B **(C)**

Comments:

The national and state budget is made by the Budget Department under the Ministry of Finance and Revenue and does not publish any information on its website.

References:

Budget Department, http://www.myanmar.com/finance/dept_bud_01.html


The Irrawaddy, March 13, 2012, "Floating Toward Honesty: How Burma's Bent Finances Can go Straight", .

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Legal Framework and Practices

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Indicator	Score
2.3 Legal Framework and Practices	0 

2.3 Legal Framework and Practices

2.3.026: In the legal framework, what government agencies have authority to collect taxes and payments from resource companies?

Score: A B C D **E**

Comments:

At least one source states that all gas revenues are received by Myanma Oil and Gas Enterprise and that the net earnings are not transferred to the national budget. and this revenue is not although, there is "State Budget Law, 1989" which supposedly empowers the Internal Revenue Department to collect taxes for SOCs, an English version online is not available. The Ministry of Energy and Ministry of Mines websites does not mention what if any agencies they regulate are collecting taxes and payments.

References:

Nehru, Vikram. "Myanmar's Five Economic Priorities", Carnegie Endowment, April 23, 2012. , .

Ministry of Energy, .

Thai Chamber of Commerce, "Tax System in Myanmar",

Peer Review Comments:

According to the Ministry of Mine's website: "Surface Rent is payable to the General Administration Department". Section 115 of the Myanmar Mines Rules stipulates that dead rent and royalties should be paid to the Ministry or Department as specified in the relevant permit. In other words, payment regimes are negotiated on a case by case basis and remain undisclosed to the public.

http://www.mining.com.mm/imis/Mines/fiscal_regimes.asp

<http://myanmarmining.150m.com/25.htm>

2.3.027: Are all resource related revenues, including those collected by state owned companies, regulatory agencies, ministries, special funds or by the tax authority placed in the national treasury?

Score: A B C **D** E

Comments:

It is very unclear where natural resource taxes and payments are going although many suspect a lot of the revenues has been stolen by officials and cronies. At least one source states that all gas revenues are received by Myanma Oil and Gas Enterprise and that the net earnings are not transferred to the national budget.

References:

EarthRights International, "The True Cost of Chevron (May 2011) An Alternative Annual Report", 2011, .

2.3.028: Are government officials with a role in the oversight of the oil, gas or mining sector required to disclose information about their financial interest in any extractive activity or projects?

Score: A B C

Comments:

There is no known disclosure rules relating to oil and gas. The Mines Law does not explicitly states disclosure requirements for government officials about their financial interest in any extractive activity or projects. Similarly, the Ministry of Energy, which sets the policy for the oil and gas sector has not publicized any policy on this. The sector is believed to be very affected by corruption. It is claimed that many of state owned enterprises are chaired by current or former military generals.

References:

Mines Law 1994, http://www.blc-burma.org/html/myanmar%20law/lr_e_ml94_08.html, Ministry of Energy, <http://www.energy.gov.mm/ministryofenergy.htm>

2.3.029: Is there independent external validation of internal controls of agencies in charge of receiving payments from resource companies with the objective of providing assurances of integrity of public funds and sound financial management?

Score: A B C D E

Comments:

It is unclear which, if any, external organization other than the Auditor General is independently validating natural resource payments. It is likely, that no such organization exists and at least one recent NGO report claims this to be the case. Additionally, there is a "Special Fund Law" for defense funding which cannot be audited.

According to a non governmental organization, the Auditor General has, according to the law, the authority to "look over whether State Law and Order Regulation Restoration Council, the Government, Ministry, and Government Department, has proven to be useful for public interest; audit whether revenue regulated in budget assumption has been fully realized, audit whether funds given for expenditure in the budget assumption has been utilized effectively". However, these reports are not publicly accessible. The procedures for audits is unknown.

References:

Auditor General Law, 1988, .

"Burma's Resource Curse: the case for revenue transparency in the oil and gas sector", http://www.burmalibrary.org/docs13/Burmas_Resource_Curse-briefer%28en%29-red.pdf

2.3.030: Does the national audit office (or similar independent organization) report regularly to the legislature on its findings, including an objective analysis of agencies in charge of managing resource revenues, and are these reports published?

Score: A B C D E

Comments:

No information is available on the frequency of the Auditor General to the Parliament and no reports are accessible online.

References:

"Office of the Auditor General of the Union, The Republic of the Union of Myanmar", Aseansai, Asean Supreme Audit Institutions, .

"Myanmar ministries accused of corruption", Robinson, Gwen, Financial Times, March, 15, 2012, <http://www.ft.com/cms/s/0/1a78c348-6e92-11e1-a82d-00144feab49a.html#axzz1th3BPUMZ>,
Corruption Scandal in Burma: The Canadian Connection,<http://www.irrawaddy.org/archives/1126>,"Burma's Resource Curse: the case for revenue transparency in the oil and gas sector", http://www.burmalibrary.org/docs13/Burmas_Resource_Curse-briefer%28en%29-red.pdf

2.3.031: Does a Parliamentary committee scrutinize reports on resource related revenues and, if so, when does this occur?

Score: A B C D **(E)**

Comments:

It is very unclear what if any Parliamentarian committee is scrutinizing any information regarding revenues. While the government has a large role in the oil and gas sector through its state-owned enterprises, the legal system is very opaque.

References:

United States Department of Commerce,U.S. Commercial Service, 2012, "Doing Business in Burma: 2012 Country Commercial Guide for U.S. Companies", .

Peer Review Comments:

There is a parliamentary committee called the "Resources and Environmental Conservation Committee", which is reported to have an interest in revenue transparency. However it is unclear what, if any, authority they have.

2.3.032: Is this country an EITI candidate or compliant country?

Score: A B C **(D)** E

References:

EarthRights International, March 2011, "The Burma-China Pipelines:Human Rights Violations, Applicable Law, and Revenue Secrecy", .

Peer Review Comments:


Local sources say there is some nascent support for EITI at the parliamentary and/or advisory level. However this has yet to translate into concrete action and is likely to face substantial opposition from vested interests in the military dominated parliament.

<http://www.mmtimes.com/2011/business/601/biz60107.html>

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Indicator		Score
3.1.1	Context	100 

3.1.1 Context

3.1.1.033: Is there a state-owned company? If so, what is its role in the extractive sector?

Score: A B C D E

Comments:

The Ministry of Energy oversees the sector, including the state-owned enterprise, Myanma Oil and Gas Enterprise, which partners with foreign companies for onshore and offshore exploitation of oil and gas.

The mining sector has six state-owned enterprises that also operate with production sharing contracts.

References:

Ministry of Energy, .

Ministry of Mines, .

3.1.1.034: How is government ownership of resource companies structured in this country?

Score: A B C D E

Comments:

Under the Ministry of Energy there are three State-owned enterprises, one of which-- Myanmar Oil and Gas Enterprise, cooperates with foreign companies through Production Sharing Agreements. The mining sector has six state-owned enterprises that also operate with production sharing contracts.

References:

Ministry of Energy, .

Ministry of Mines, .

3.1.1.035: Is there more than one state-owned company (SOC) operating in the extractive sector?

Score: A B C

Comments:

Under the Ministry of Energy there are three State-owned enterprises, one of which-- Myanmar Oil and Gas Enterprise, cooperates with foreign companies through Production Sharing Agreements. The mining sector has six state-owned enterprises that also operate with production sharing contracts.

References:

Ministry of Energy, .

Ministry of Mines, .

3.1.1.036: Do the roles and responsibilities of the SOC include provision of subsidies or social expenditures (quasi-fiscal activities)?

Score: A B C

Comments:

Quasi-fiscal activities of the state-owned companies are unknown from official sources.

References:






Ministry of Energy, .

Ministry of Mines, .

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Indicator		Score
3.2.1	Comprehensive reports	0 
3.2.2.038	Does the SOC publish information on revenue generation?	18 
3.2.3.038.j	Disaggregated Revenue Streams	0 
3.2.4	Quality of reports	0 
3.2.5.043	Audited reports	0 

3.2.1 Comprehensive reports

3.2.1.037: Does the SOC publish comprehensive reports with information about its operations and subsidiaries?

Score: A B C D E

References:

Ministry of Energy, www.energy.gov.mm/, Ministry of Mines, <http://missions.itu.int/~myanmar/e-com/MINES/MINES/myanmar.com/Ministry/Mines/index.html>

3.2.2.038 Does the SOC publish information on revenue generation?

3.2.2.038.a: Reserves

Score: A B C D E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

Peer Review Comments:

The Myanmar Oil & Gas Enterprise (MOGE) publishes ad-hoc PowerPoint presentations geared for investors, which outline some information on reserves, project costs, companies operating in the country, production data and volumes. However, they are not comprehensive or consistently produced.

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.2.038.b: Production volumes

Score: A B C D E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

Peer Review Comments:

The Myanmar Oil & Gas Enterprise (MOGE) publishes ad-hoc PowerPoint presentations geared for investors, which outline some information on reserves, project costs, companies operating in the country, production data and volumes. However, they are not comprehensive or consistently produced.

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.2.038.c: Information on prices

Score: A B C **(D)** E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.2.038.d: Value of resource exports

Score: A B C **(D)** E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.2.038.e: Estimates of investment in exploration and development

Score: A B C **(D)** E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.2.038.f: Production costs

Score: A B **(C)** D E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

Peer Review Comments:

The Myanmar Oil & Gas Enterprise (MOGE) publishes ad-hoc PowerPoint presentations geared for investors, which outline some information on reserves, project costs, companies operating in the country, production data and volumes. However, they are not comprehensive or consistently produced.

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.2.038.g: Names of companies operating in country

Score: A B **(C)** D E

Comments:

Comprehensive and regular information about the companies involved in extractive industry projects are not published by the state-owned enterprises.

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

Peer Review Comments:

The Myanmar Oil & Gas Enterprise (MOGE) publishes ad-hoc PowerPoint presentations geared for investors, which outline some information on reserves, project costs, companies operating in the country, production data and volumes. However, they are not comprehensive or consistently produced.

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.2.038.h: Production data by company and/or block

Score: A B C D E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

Peer Review Comments:

The Myanmar Oil & Gas Enterprise (MOGE) publishes ad-hoc PowerPoint presentations geared for investors, which outline some information on reserves, project costs, companies operating in the country, production data and volumes. However, they are not comprehensive or consistently produced.

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.2.038.i: Quasi fiscal activities

Score: A B C D E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.3.038.j Disaggregated Revenue Streams

3.2.3.038.j1: Production streams value

Score: A B C D E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.3.038.j2: Government s share in PSC

Score: A B C D E

Comments:

Comprehensive and regularly updated information is not published.

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.3.038.j3: Royalties

Score: A B C D E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.3.038.j4: Special taxes

Score: A B C D E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.3.038.j5: Dividends

Score: A B C D E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.3.038.j6: Bonuses

Score: A B C D E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.3.038.j7: License fees

Score: A B C D E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.3.038.j8: Acreage fees

Score: A B C D E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.3.038.j9: Other (Describe below)

Score: A B C D E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.4 Quality of reports

3.2.4.039: Are the reports published by the state owned company understandable?

Score: A B C **(D)** E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

Peer Review Comments:

The PowerPoint presentations produced are geared for investors, not civil society. They are not comprehensive or useful from a disclosure perspective.

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

3.2.4.040: How often are the reports or statistical databases containing information on revenue generation published by the state owned company?

Score: A B C **(D)** E

References:

<http://www.myanmar-business.org/2011/11/presentation-by-myanmar-oil-gas.html>

Peer Review Comments:

The PowerPoint presentations are produced on an ad-hoc basis.

3.2.4.041: If the SOC is involved with quasi fiscal activities, does it publish information about them?

Score: A B **(C)**

Comments:

The quasi fiscal activities the SOCs are conducting are unknown and cannot be verified by official sources.

References:

Ministry of Energy, , Ministry of Mines,.

3.2.4.042: If there are joint ventures, does the SOC (or government) publish information on its share of costs and revenues deriving from its equity participation in joint ventures?

Score: A **(B)** C

Comments:

The SOCs do not publish this in a comprehensive, regular or disaggregated manner.

References:

The quasi fiscal activities the SOCs are conducting are unknown and cannot be verified by official sources.

3.2.5.043 Audited reports

3.2.5.043.a: Is the SOC subject to annual audits conducted by an independent external auditor to ensure that the financial statements represent the financial position and performance of the company?

Score: A B C **(D)** E

Comments:

No information is available about audits of SOCs.

References:

Ministry of Energy, . Ministry of Energy, .

Ministry of Mines, .

3.2.5.043.b: Are SOC audited reports published?

Score: A B C D **(E)**

Comments:

If the SOC for oil and gas, and mining are indeed audited, these documents are internal. However, it is very likely that the SOC in the extractive industries are not audited at all.

References:

Ministry of Energy, .

Ministry of Mines, .

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Indicator	Score
3.3.1 Legal Framework and Practice	0 ■

3.3.1 Legal Framework and Practice

3.3.1.044: Does the SOC have a legal obligation to publish financial reports?

Score: A B C

Comments:

For oil and gas projects, there is no legislation regarding requirements to publish financial reports.

References:

Ministry of Energy, .

Ministry of Mines, .

Peer Review Comments:

There are no reporting requirements for state owned mining companies either.

3.3.1.045: Does the SOC follow internationally recognized accounting standards?

Score: A B C

Comments:

It is unclear what accounting standards are used by the SOCs.

References:

Ministry of Energy, .

Ministry of Mines, .

3.3.1.046: Do SOC audits include consolidated accounts that cover all of the SOC subsidiaries?

Score: A B C

Comments:

No information regarding audits of SOC are publically available.

References:

Ministry of Energy, .

Ministry of Mines, .

3.3.1.047: Are officials of the SOC required to disclose information about their financial interest in any oil, gas or mining projects?

Score: A B C

Comments:

There appears to be no information regarding the requirement that official of the SOC must disclose their financial interests in extractive industry projects.

References:

Ministry of Energy, .

Ministry of Mines, .

3.3.1.048: Does the SOC publish information on the composition of its Board of Directors?

Score: A B C

References:

Ministry of Energy, .

Ministry of Mines, .

3.3.1.049: Does the SOC publish information about the rules governing decision making by the Board of Directors?

Score: A B C

References:

Ministry of Energy, .

Ministry of Mines, .

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