



Gemstone Sector Review

Summary Version

In support of Myanmar EITI

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Context

Myanmar is blessed with an abundance of world-renowned precious gemstones, including rubies, sapphires and jadeite. There is no doubt that these finite, non-renewable precious resources are extremely valuable, but the ways in which they are extracted, traded and make their journey from mine to market remain opaque, fuelling stories of corruption, smuggling and abuse.

For decades, under tight military rule, little information regarding Myanmar's natural resource management was available. However, Myanmar is now at a turning point. From 2011, a quasi-civilian government began a process of gradual reforms, including joining the Extractive Industries Transparency Initiative (EITI) in the interest of introducing greater transparency in revenue management and the strengthening of natural resource governance. The EITI is a global standard (being implemented by 51 countries) to promote the open and accountable management of natural resources. An election in late 2015, which was contested by all political parties brought to power a new civilian government led by the National League for Democracy, heralding a new era of opportunity for greater reform and socio-economic development across many critical areas.

It is widely known that natural resources hold an important key to development for any country. If managed well, their exploitation can lead to social and economic development, but if not managed well, can lead to conflict, corruption and greater economic disparity. The EITI provides a framework through which countries can enhance transparency and accountability of their extractive industries in order to promote more effective governance of sector operations and revenue management.

This report is prepared in support of EITI. It is also intended to foster improved understanding of how the gemstone sector works in Myanmar and highlight areas for future strengthening of gems sector management. It has the following objectives:

- To provide a baseline assessment, including identification of the main challenges and opportunities along the gems and jewellery value chain
- To understand how Myanmar can expand EITI coverage of the sector
- To explore the potential for increased value addition in Myanmar
- To identify gaps and opportunities for government revenue management

The report identifies the key institutions, actors, policies, regulations and procedures relating to the gemstone sector in Myanmar. It then outlines the main stages of the gemstone value chain from mine to market, with a focus on EITI, including information on licensing and production. It shows how EITI reporting in the sector can be increased, provides indications of how government can become better at assessing and collecting taxes from operations, and outlines weaknesses in value addition and how these might be addressed. It also contains a number of policy related recommendations for strengthened government management of the sector. The report focuses on jade and coloured gemstones separately, where appropriate.

Key Findings

Definitive figures of the national production value do not exist, but various estimates identify the gems and jade industry to be Myanmar's most valuable non-renewable resource. At the same time a lack of up-to-date geological surveys means that the full potential of gemstone, other minerals or even oil and gas reserves are not known. The world's most valuable rubies are from Myanmar, consistently breaking world records at international auctions. Myanmar is also the world's largest source of high quality jade and is conveniently located next to China, the world's largest market for jade – a stone so highly prized in China that its value continues to soar and regularly fetch higher prices per ounce than gold.

Globally, the coloured gemstones industry is huge and growing, accounting for approximately USD 10-12 billion per year. In 2014, global jewellery market sales amounted to USD 157 billion and analysts predict the global gems and jewellery market to reach a market value of around USD 292 billion by the end of 2019. Gemstones are less subject to global cycles than other mineral resources. In fact, it is more useful to compare gemstones to the global art world, in that gems are luxury items entirely dependent on consumer tastes and trends. The demand for any particular stone is highly subjective, and is based

on an individual's perception of value, beauty and appreciation. This means that the gems industry has not suffered from the downturn in prices, as have other commodities over the past few years.

The significant surge in gemstone excavation in Myanmar over recent years has had two key implications: (i) environmental and social impacts have been exacerbated by increasingly large-scale operations and the introduction of heavy machinery and (ii) inefficient regulatory and management systems have led to dramatic loss of revenue to government.

Around 80% of the world's coloured gemstones are said to come from informal, artisanal and small scale-mining sources in their respective countries of origin. The global gemstone supply chain from mine to market is characterised by its extremely fragmented nature, with many levels of middlemen and traders at each stage of the chain. The sector is also notorious for its high degree of opacity. The potential for very high profits and easy transportability associated with most gemstones attract opportunities for under-reporting, illegal activities and fraudulent practices. In terms of volume, this means that significant volumes of production are not declared. In terms of value, this means that stones may be under-valued when royalties are assessed, and may eventually be sold at a much higher price. These challenges are global, and not unique to Myanmar.

The key and most influential players in Myanmar's gemstone sector are Myanmar Gems Enterprise (MGE); the Myanmar Gems and Jewellery Entrepreneurs Association (MGJEA); the two main military holding companies – Union of Myanmar Economic Holdings Limited (UMEHL) and Myanmar Economic Corporation (MEC); regional and local authorities; and, Chinese businesses.

An assessment of the institutional and regulatory framework in Myanmar highlights a number of gaps and opportunities. Myanmar Gems Enterprise, one of the leading state-owned enterprises under the Ministry of Natural Resources and Environmental Conservation (MONREC), a combination of the former Ministry of Mines and Ministry of Environmental Conservation and Forestry until April 2016, is responsible for management and oversight of the sector. MGE currently assumes all gemstone related functions, from policy maker, to regulator and inspector as well as owner-operator. While this is not unusual for a country in transition to a more market-oriented economy, it does open up questions about conflicts of interest and the need for reform and clarification of functions. In addition, as with many government agencies, MGE has insufficient technical capacity to perform its duties efficiently, in terms of skills and numbers of skilled staff. The majority of MGE's senior staff are retired military personnel.

The Myanmar Gems and Jewellery Entrepreneurs Association is the main industry body for the gemstone sector. It has 10,000 members, 65% of which represent the jade sub-sector and 35% of which represent coloured stones. Members include all gemstone permit and license holders. MGJEA collaborates closely with MGE and plays a central role in the annual Gems Emporium and other trading fora.

There are two main types of gemstone license in Myanmar:

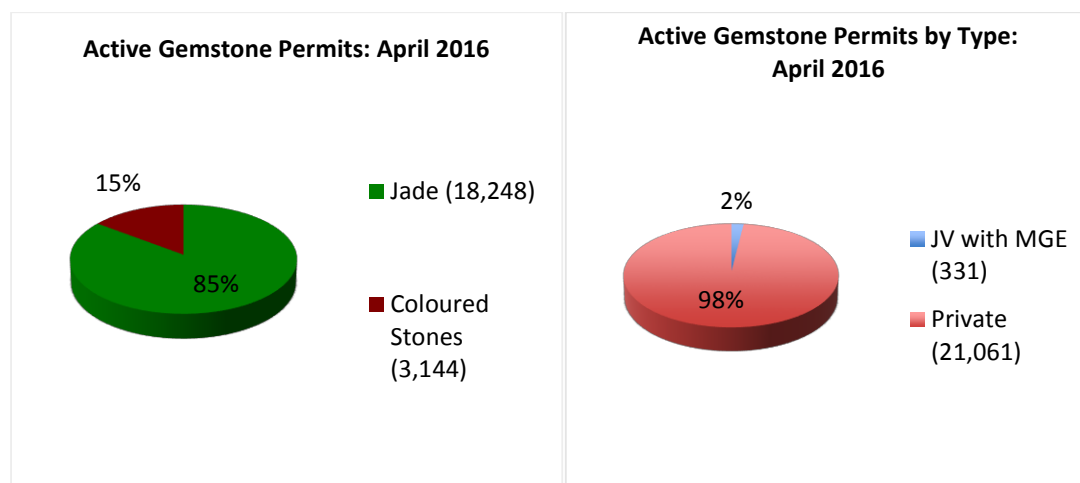
- Gemstone production permit (for exploration, production, trading, processing and retail)
- Gemstone trading license (for trading, processing and retail)

As at April 2016 there were 21,392 production permits distributed among 1,475 companies, as well as 2,000 trading licenses. Private companies held 98% of production permits, while 2% represented joint venture partnerships between private companies and MGE.

The absence of systematic, transparent procedures for allocating permits together with the extremely high potential profits to be made from gems, mean that licensing and control of the gem-producing areas is especially problematic. This has also led to opacity in terms of who is really benefitting from the gems sector which is perceived to be concentrated in the hands of a few.

A further consideration is the lack of reliable geological information. Insufficient geological survey data means there is little understanding of actual reserves or potential yield of known or possible reserves.

This raises the risks of investing in the sector, and together with poor governance structures and perceived political volatility, does not make Myanmar an attractive option for responsible investors. Despite this, permits to extract Myanmar's gems can officially still only be granted to Myanmar nationals.



There are significant weaknesses in production monitoring and compliance, with government only able to effectively monitor its joint venture partnerships. This leaves 98% of permits essentially without oversight and permit-holders free to choose how they produce, what they declare, and whether or not this goes through formal channels. The tax and regulatory system is onerous and complex, with few incentives for open disclosure and with little enforcement or monitoring.

Most gem producers use a combination of formal and informal processes for trading their stones, but the three main channels used are as follows:

1. Formal declaration of production, payment of royalties and taxes accordingly, and sale through Gems Emporium. This is considered the least attractive option - from the perspective of operators' profitability - and is estimated to represent approximately 10-20% of total production.
2. Formal declaration, payment of royalties and taxes accordingly, and sale/export directly to buyers. This is considered the second most attractive option and is estimated to represent approximately 10-20% of total production.
3. No formal declaration, no formal royalty and tax payments, and sale/export directly to buyers. This is considered the most attractive option and is estimated to represent approximately 60-80% of total production, although the distinction between formal and informal processes is often blurred.

Based on research, available data, and interviews with a range of stakeholders for the purpose of this report, it is estimated that 60-80% of gemstones produced in Myanmar are not declared and therefore bypass the formal system. This represents potentially huge lost revenues to government.

Amendments to the 1995 Gemstone Law were approved by Parliament of the outgoing government in January 2016, and include some important changes. For example, with regard to licensing, four categories of production permit will now be issued: large, medium, small-scale and very small/subsistence permits. Whereas previously all production permits were issued for 3 years, now large-scale permits will be issued for 10 years, medium scale for 5 years, small-scale for 3 years and very small/subsistence for 1 year. Large and medium-scale permits will be issued by MGE on a joint venture basis whereas small-scale and very small scale permits will be issued by local state or division 'scrutinising and permit bodies'. However, the amended law remains vague and unclear in many areas. It is anticipated that the forthcoming rules and regulations, being drafted by MGE, will provide some clarification.

Environmental and social impact management are major concerns in the sector. In Hpakant, the main jade-producing area in the country, numerous landslides at unregulated waste dumps have killed hundreds of subsistence 'handpicker' miners during 2015-2016. The significant and seemingly unregulated scaling-up of gemstone mining activities across all gem-producing areas in recent years has had devastating impacts on the local environment and biodiversity. Local people complain of a lack of access to jobs and other economic opportunities, among other issues. There are widespread reports of increasing foreign ownership and control of the sector, despite foreigners being prohibited by law from obtaining production permits.

The recently approved Environmental Impact Assessment (EIA) Procedures provide for strengthened environmental and social safeguards across the gemstone-mining sector. However, the government's capacity to enforce compliance remains a concern.

Most of Myanmar's higher value gemstones leave the country in rough, for cutting, polishing, treatment, carving and other processing outside of Myanmar. Some of these stones return to be made into jewellery in-country. However, it is commonly perceived that the facilities, skills, and technology are better outside of Myanmar, e.g. in Thailand, Hong Kong or China, hence offering greater returns for those in the trade. With China now taking the No.1 position in terms of global jewellery production, and with its ever-increasing appetite for rough gemstones, the challenges for value addition in Myanmar increase.

Global consumers are increasingly demanding - and expecting - greater transparency, responsibility, and due concern for the environment and local communities embodied in their products. While this represents a major challenge for Myanmar under current circumstances, it also represents a significant opportunity. With the coming into power of the new government, and as a primary source of some of the best gemstones on earth, Myanmar is uniquely positioned to begin to address some of the challenges outlined in this report.

Given the huge amount of unaccounted production, the potential revenue gain to government is very large. However at the same time poor management and low capacity means that strengthening will take time.

The greatest challenges and opportunities for reform are found in the following areas, (i) institutional strengthening, (ii) legal and regulatory framework, (iii) production/export monitoring and valuation, (iv) geoscience data management, (v) environmental and social impact management, (vi) value and job creation.

This report provides a number of recommendations where governance and transparency across key policy areas can be improved and where value can be added. A table of key recommendations is attached, but the top ten recommendations are as follows:

1. MEITI MSG to submit request for '**Adapted Implementation**' of EITI to EITI Board as soon as possible with regard to the scope of gemstone sector coverage in the second MEITI report
2. MEITI MSG to consider **inclusion of all production permit and trading license holders, and all gemstone sector revenue streams**, in scope of scoping study for second MEITI report
3. Establishment of an inter-ministerial **Gemstone Permit Review Committee** to review all current permits/contracts and permit allocation procedures, assess compliance against a set of agreed parameters and take action as appropriate. The mandate of this committee could also be broader.
4. Development of a **National Gemstone Sector Strategy** to provide strategic framework for the responsible development of the sector. This would also include a public consultation process and possibly a national conference
5. A review of the **legal and regulatory framework** to be carried out, including all contracts, to ensure in line with good practice international standards on responsibility and transparency
6. Establishment of a national '**Grievance Mechanism**' accessible to all communities and stakeholders with a clear mandate and accountability structure

7. Capacity development/support for strengthened **environmental and social management** – support to MONREC (MGE and Environmental Conservation Department (ECD) for EIA Procedures implementation
8. A review of current **production monitoring and valuation** procedures, followed by capacity development/support to MGE/MONREC for strengthened **inspection, production monitoring and valuation** procedures
9. Assessment of **value and job creation** from gemstone industry (including mapping, mining, cutting, polishing of gemstones as well as jewellery making)
10. **Comprehensive Geological Surveys** of main gem-producing areas to be carried out, to understand potential reserves

Addressing the recommendations in this report can help bring Myanmar into line with good practice international standards while at the same time strengthening institutions, implementing management systems, capturing 'lost' revenues, building skills and capacity, enhancing value addition, providing jobs and contributing to economic development.

The new government faces myriad challenges across many sectors, and expectations for change are high. However, with patience and small steps forward, it is possible for Myanmar to become a global leader in responsible gemstone production, carefully managing the exploitation and transformation of its extremely valuable precious resources for the benefit of its future generations.

Summary Table of Recommendations

	Key Recommendations
EITI	<ul style="list-style-type: none"> • MEITI MSG to submit request to EITI Board for ‘Adapted Implementation’ of EITI with regard to the scope of gemstone sector coverage in the second MEITI report, as soon as possible • MSG to consider inclusion of all production permit and trading license holders, and all gemstone sector revenue streams, in scope of scoping study for second MEITI report • Government to nominate MGE representative to MEITI MSG • MGJEA to nominate representative for MEITI MSG • MONREC and MGE to review confidentiality provisions in gemstone contracts as soon as possible, and prepare any necessary legal/regulatory mechanisms or EITI disclosure obligations for gemstone producers to overcome contractual barriers to disclosure • MSG to undertake a study on status of ASM gemstone mining in Myanmar • MSG to agree and propose a way to enter into dialogue with UMEHL and MEC, to begin engagement with them around EITI issues and to understand the current involvement of these two companies in the sector • MSG to engage with MONREC, MGE as well as DICA as soon as possible, to begin developing a roadmap for disclosure of Beneficial Ownership information during 2016. MSG could consider requiring some companies (e.g. over an agreed threshold) to disclose information about Beneficial Ownership for the second EITI report. • MGE (and MONREC) to prepare information regarding all gemstone production permits that were allocated during the 2014-2015 period in time for second EITI report • MSG to ensure all available data on gemstone exports is collated in time for scoping study • Information on MGE’s accounts, including ‘Other Accounts’, should be made publicly available.
Institutional Strengthening	<ul style="list-style-type: none"> • Government to consider clarifying and separating MGE’s policy and regulatory functions from its owner and operator functions • A review MGE’s governance structure, revenue management systems and procedures to be carried out • Government to consider establishment of a separate Gemstone Regulatory Authority/Agency, which could be an independent or quasi-independent body responsible for regulatory enforcement and oversight • A review of Gems Emporium governance practices and procedures to be carried out • A review of government gemstone committees – objectives, functions, governance and composition – to be carried out • MGE to begin preparing required information for the minerals cadastre, in electronic/computerised format

	Key Recommendations
	<ul style="list-style-type: none"> Capacity needs assessment of MGE to be carried out and capacity development/ technical assistance/ training options identified and prioritised.
Legal and Regulatory Framework	<ul style="list-style-type: none"> MONREC to establish an inter-ministerial Gemstone Permit Review Committee to review all current permits/contracts and permit allocation procedures, assess compliance against a set of agreed parameters and take action as appropriate. The committee should ensure that any new contracts are awarded on terms that include necessary measures for EITI disclosure, anti-corruption, and environmental and social safeguards. The mandate of the committee could also be broader, e.g. oversight of both legal and regulatory assessment, and development of National Gemstone Sector Strategy (below) A systematic assessment of the legal and regulatory framework (amended 2016 Gemstone Law and draft Rules and Regulations) and fiscal regime against good practice international standards should be carried out as soon as possible to determine gaps in gemstone sector governance, transparency and accountability (including e.g. production management, environmental and social safeguards, revenue collection etc.). This should include options for strengthening and developing appropriate systems and procedures (e.g. royalty collection after sale) where necessary. The assessment could include collation and publication of all applicable existing laws, rules, regulations and procedures to make it easier to see what the framework is and have everything together in one place Development of a National Gemstone Sector Strategy to provide strategic framework for the responsible development of the sector over coming years. This should include a public consultation process and possibly a national conference A review of the current prohibition on foreign engagement in sector to be considered – to include an assessment of options Training, awareness raising and capacity development be delivered/offered to gemstone producers as well as MGE officials on issues of responsible gemstone production, international good practice standards, and environmental and social impact management.
Production/Export Monitoring and Valuation	<ul style="list-style-type: none"> A review of official production monitoring and valuation procedures to be carried out, to understand opportunities for improvement Provision of capacity development and support to MONREC/MGE for strengthened inspection, valuation, production and export monitoring procedures Customs Department representatives to work closely with other relevant departments (MGE, MONREC, IRD, etc.) to strengthen border monitoring and controls with respect to gemstone smuggling. Provision of technical assistance to Customs and other relevant departments to build capacity and provide appropriate support to carry out this function effectively A review of existing export policies and procedures to be carried out, and options for establishment of specific export procedures adapted to gemstones, or simplified procedures for small or informal traders to be considered Myanmar to continue to ensure clear, fair and transparent terms of trade with China, and consider options for collaborative approach

	Key Recommendations
	<p>to addressing illegal /informal cross-border smuggling</p> <ul style="list-style-type: none"> • The viability of a jade (or coloured stones) traceability or certification mechanism for Myanmar to be formally assessed in 3-5 years after institutional and governance reforms are well underway.
Geoscience Data and Management	<ul style="list-style-type: none"> • Comprehensive Geological Surveys to be carried out at main gem-producing areas to better understand potential reserves – these may require technical assistance as necessary.
Environmental and Social Impact Management	<ul style="list-style-type: none"> • Establish a ‘Grievance mechanism’/ ‘Mining Sector Ombudsman’ for transparent and accountable treatment of reported grievances, accessible to all communities and stakeholders with a clear mandate and accountability structure • MONREC/MGE to review the use of explosives in gemstone mining, and options for addressing the supply and management of explosives be considered • Capacity development and support to MONREC (in particular MGE and Environmental Conservation Department) for EIA Procedures implementation and strengthened environmental and social impact management • MONREC to commence IEE and EIA implementation for existing permit holders • Pilot project for responsibly sourced Myanmar gemstones - requiring close collaboration with MGJEA, MGE and civil society. The pilot project will involve a few gemstone producers working towards an agreed set of responsibility criteria and benefitting from facilitated access to international jewellery markets.
Value and Job Creation	<ul style="list-style-type: none"> • Further research required to assess and evaluate lapidary/cutting and polishing, gemstone treatment processes, lab testing and certification and jewellery production options, to understand the potential value added that improvements and higher quality standards could bring to the domestic market. A Jewellery Sector Strategy could be developed, which could fit within the larger ‘National Gemstone Sector Strategy’ • Establishment of a School of Mines and Gemstones • A collaborative training programme to be developed with MGJEA for gemstone producers – on responsible gemstone production, EITI, good practice international standards, and environmental and social impact management. The training programme could be rolled out by MGJEA during 2017-2018.