

OUT OF THE SHADOWS

Who really controls Myanmar's extractives companies? An analysis of Myanmar's first beneficial ownership disclosures.

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EXECUTIVE SUMMARY

On 27 December 2019, Myanmar's government took an important step towards making the country's troubled extractives sector more accountable. The Directorate of Investment and Company Administration (DICA) began publishing information on the beneficial ownership of extractives sector corporations registered in Myanmar. Global Witness, along with other civil society organisations, has long called for greater transparency about who ultimately owns and controls oil, gas and mining companies in Myanmar. In passing this milestone, Myanmar joined a small group of countries that have heeded these calls.¹

Beneficial ownership, as defined by Open Ownership, the organization that created the Beneficial Ownership Data Standard (BODS) to help standardize data collection globally, is the "right to some share of a legal entity's income or assets (ownership) or the right to direct or influence the entity's activities (control)."² This information is key in the fight against corruption, tax evasion and conflicts of interest. Public information on who controls companies helps people to understand who they are doing business with, and helps civil society to hold the powerful to account. Public scrutiny can also act as an important mechanism discouraging companies from publishing poor quality data given the risks of reputational harm for filing inaccurate disclosures.

Beneficial ownership data is particularly valuable in Myanmar, as the economy has long been dominated by a network of companies connected to the current military, members of the former military junta, ethnic armed groups, government-backed militias and well-connected cronies. The flow of profits in these corporate networks often can be obscured by the use of nominees standing in for the politically connected owners who want to keep their names off official documents. These nominees can often be family members but can also be friends and associates. Beneficial

ownership disclosure requirements can cut through some of this fog and have the potential to give the people of Myanmar their first look at who really owns their nation's companies. While some companies may try to hide their true ownership by filing misleading or false information, and others may simply do so in error, such data can still provide valuable clues as to who a company's real owners are.

Beneficial ownership information can also help to expose the business interests of those involved in the conflicts that plague Myanmar's periphery. The plight of the Rohingya Muslims, and the military's role in the widely reported atrocities in Rakhine State, along with abuses committed against ethnic communities in Kachin, Northern Shan, Karen and other ethnic communities has demonstrated the need for a better understanding of those companies connected to the military, in order to hold the military to account more effectively for their actions.³

Similarly, companies with opaque ownership have long played a major role in the jade mines of Kachin State, where jade profits help drive the ongoing conflict. As Global Witness has previously documented, the lucrative jade sector is dominated by military-linked entities, cronies, ethnic armed groups and government-backed militias, who largely evade oversight.⁴ They reap huge profits from an industry whose production in the peak year of 2014 was estimated by Global Witness to be worth over \$30 billion a year.⁵ Even outside this peak year, the sums remain staggering: a 2019 analysis by the Natural Resource Governance Institute estimated the value of jade mined and sold outside this peak year at between \$2-15 billion annually.⁶

While cronies, armed groups, and hidden business interests have enriched themselves, local people in mining areas like Hpakant remain poor. They face the devastating environmental and social consequences of rampant and unregulated extraction, while caught between the armed groups controlling the mining areas.

The reality of these consequences was once again laid bare on 2 July when a landslide in Hpakant buried nearly 200 artisanal miners alive while they hunted for jade in a mining site that Myanmar's government had ordered to close for the monsoon season.⁷ Without knowing the true owners of the companies profiting from Hpakant's lawlessness, it is impossible to fully address the ongoing problems of conflict and governance in Kachin State.

If Myanmar's public beneficial ownership register is to deliver on its promise, however, companies will need to file accurate information. Our analysis reveals that, for a variety of reasons, over one-third of the companies required to submit beneficial ownership information in the first round, filed inadequate or inaccurate disclosures, did not submit any filing at all, or filed late.

DICA will be a key player in helping to remedy some of these problems given its role in collecting this information from companies. The Beneficial Ownership Task Force will also play a vital role in bringing together government representatives, business leaders and members of civil society to establish an effective policy framework and define essential reporting requirements.

Other stakeholders have roles to play as well. The Ministry of Natural Resources and Environmental Conservation, the Ministry of Energy and Electricity, and the licensing bodies each of these ministries oversee – the Myanmar Gems Enterprise, the Department of Mines and the Myanmar Oil and Gas Enterprise (MOGE) – serve an essential function in regulating, incentivizing and enforcing compliance. The Anti-Corruption Commission can investigate entities suspected of corruption, the Attorney General's Office can ensure an integrated legal framework, and the Hluttaw (legislative assembly) can provide the necessary legal framework.

Key findings

A significant number of companies did not file at all or filed late. Of the 162 companies included in the first batch of disclosures, 24 (15%)

completely failed to submit disclosures and 17 more (10%) submitted their filings late.⁸ In the future Myanmar's government, in partnership with champions in the business community, must take measures to ensure compliance, such as withholding operating licences from non-compliant companies, suspending or revoking their licences, or imposing financial penalties such as large fines.

Many filings contained incomplete beneficial ownership information. Three companies failed to list qualifying legal owners as beneficial owners. Five listed corporate owners without providing information on who their beneficial owners were. Three additional companies owned by foreign state-owned enterprises filed inadequate information. In all, 11 of the 162 companies (7%) submitted filings that were incomplete.

Data on politically exposed persons (PEPs) is poor. The Myanmar Extractive Industries Transparency Initiative's (MEITI) Beneficial Ownership Task Force defines PEPs as, "individuals who are or were entrusted with prominent public functions, either domestically or internationally."⁹ Due to their influence and positions, PEPs pose a higher risk of corruption as they can abuse their positions to hide financial flows or curry political favour. Transparency about their roles is therefore vital. Only eight companies (5%) declared that one or more of their beneficial owners should be considered a PEP as per the MEITI Beneficial Ownership Task Force definition.

The prevalence of politically connected business tycoons in Myanmar's economy, and particularly in its extractive sectors, makes the existence of so few PEPs highly unlikely. In Myanmar, having

political connections is perceived to be the norm in some industries.¹⁰

Of the remaining companies, our analysis has identified a further 10 (6%) with political ties that are potentially disclosable. This may be just the tip of the iceberg given previous research Global Witness has done on the extent of military and armed group involvement in mining.

There is no public archive of historic beneficial ownership filings. This may be the first tranche of Myanmar’s beneficial ownership data to be released, but it will not be the last. Almost all companies’ ownership structures will change over time, but there is currently no good way to examine changes in the DICA database. Numerous companies have already updated their filings following the data’s initial publication. There is no record in the database, however, that any changes have been made. Historical data is imperative to allow investigations into connections between companies and individuals,

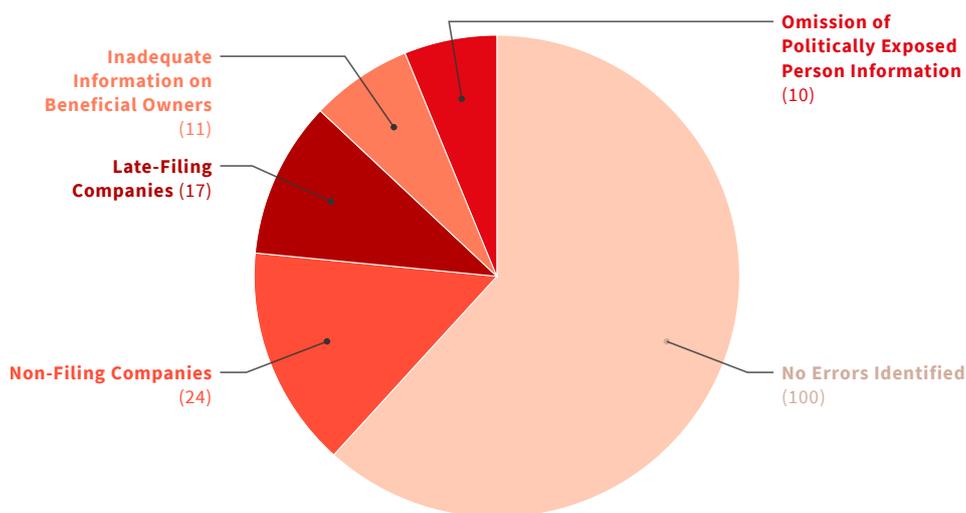
and is a critical feature of any effective beneficial ownership register.

Myanmar’s beneficial ownership disclosure requirements need effective penalties.

Ultimately, a beneficial ownership register is only useful if the data it contains is accurate. If companies have no incentive to fill out their ownership information properly, then DICA will continue to receive incomplete and inaccurate data. The Beneficial Ownership Task Force, DICA and other relevant authorities must clarify what the consequences are for companies that fail to file accurate beneficial ownership information. We recommend that entities failing to do so receive some form of sanction. For companies operating in the extractives sector, they could be barred from receiving or bidding for permits, for example. Appropriate enforcement mechanisms are essential for building and sustaining a high rate of compliance.

BREAKDOWN OF ISSUES WITH BENEFICIAL OWNERSHIP DISCLOSURES

Nearly 40% of companies made disclosures that are potentially inaccurate, made a late filing or failed to make a filing entirely.



Source: Global Witness analysis of beneficial ownership disclosures on DICA



1. BENEFICIAL OWNERSHIP IN MYANMAR

1.1 The current context

Myanmar's move to publish beneficial ownership information is the result of combined pressure from the Extractive Industries Transparency Initiative (EITI) process, domestic civil society demands, international advocacy, and a willingness on the part of some government ministries to improve corporate governance and fight corruption.

In 2019, Myanmar ranked in the bottom third of Transparency International's Corruption Perceptions Index.¹¹ In order to prompt concerted government action to combat money laundering, the Financial Action Task Force (FATF) – an intergovernmental organisation established to tackle illicit finance – placed Myanmar on its “grey list” in the first part of 2020. A FATF report in 2018 had already concluded that the country faced “extremely high levels of proceeds-generating crimes” and was “exposed to a large number of very significant money laundering threats”.¹²

The country's membership of the EITI, a global standard for the good governance of oil, gas and mineral resources, has also been a significant driver of reform.¹³ Myanmar began implementing EITI requirements in 2012. The Myanmar Extractive Industries Transparency Initiative (MEITI) process identified the 162 companies included in the fourth MEITI report as being within the initial scope of the new disclosure regime.

Myanmar developed a Beneficial Ownership Roadmap in 2016, and created the Beneficial Ownership Task Force in 2018.¹⁴ The Task Force includes representatives from across government, including the Internal Revenue Department, the Central Bank and the Financial Information Unit, as well as representatives from civil society and the private sector.¹⁵ It was charged with consulting public and private

stakeholders to develop a framework for determining the existence of beneficial owners and politically exposed persons (PEPs), reviewing the existing national legislative framework for beneficial ownership disclosure, and collecting the first set of data for public release in 2020.

On 2 October 2019, the Office of the President of Myanmar issued notification 104/2019, requiring extractives companies to declare information on their beneficial owners and to state whether these individuals were politically exposed persons, as required by EITI standards.¹⁶ Data would be collected from 28 October to 8 November 2019, and would then be published via the Directorate of Investment and Company Administration (DICA) website.

Presidential Notification 104/2019, and Myanmar's participation in the EITI, only required beneficial ownership declarations from extractive companies. However, DICA went one step further on 15 November 2019 by issuing DICA Directive 17/2019.¹⁷ The directive, which came into effect on 1 January 2020, required “*all* legal persons and legal arrangements [...] to obtain and hold up-to-date information on their beneficial ownership and submit it in a timely manner to DICA and the Internal Revenue Department”, (emphasis added).¹⁸

While Global Witness strongly encourages Myanmar's government to collect this important information from all companies as soon as possible, as we noted in comments submitted to DICA in January 2020, the legal authority for its Directive 17/2019 is unclear.¹⁹ At the time of writing this report, we understand that DICA is only collecting beneficial ownership information from companies in extractive industries, meaning that the legal requirements for companies are based primarily on the authority of Presidential Notification 104/2019.

As such, this report focuses on disclosures by extractives companies made in accordance with the October 2019 Presidential Notification

(104/2019). In what follows, we reveal significant problems with beneficial ownership disclosures published by DICA. However, the framework that DICA and the Beneficial Ownership Task Force have developed is laudable in its scope. We particularly commend the decision to make Myanmar’s beneficial ownership register accessible to the public and to publish the information in an open data format via DICA’s website. MEITI’s definitions of a beneficial owner and a PEP, discussed below, are strong by international standards. Full and effective implementation of the MEITI-defined beneficial ownership framework would place Myanmar at the vanguard of the international movement for beneficial ownership transparency.

1.2 Who qualifies as a beneficial owner?

The October 2019 Presidential Notification (104/2019) states that the definition of beneficial owner to be applied for disclosure purposes is that developed by the Beneficial Ownership Task

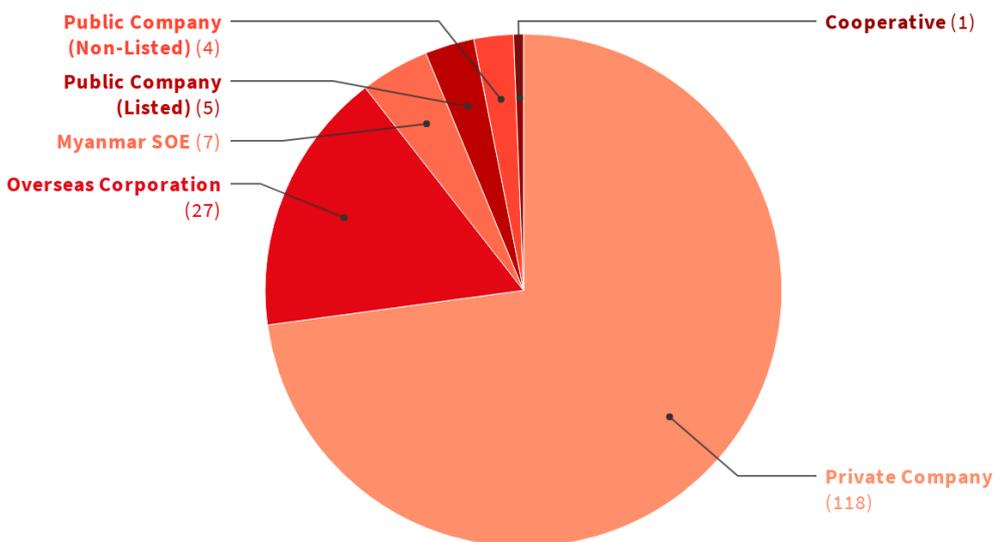
Force. The Task Force defines a “beneficial owner” as any natural person who:

- > “holds, directly or indirectly, 5% and above of the shares in [a] public or private company or corporate entity
- > holds, directly or indirectly, 5% and above of the voting rights in [a] public or private company or corporate entity
- > holds the right, directly or indirectly, to appoint or remove a majority of [a] board of directors of the public or private company or corporate entity.
- > has the right to exercise, or actually exercises, significant influence or control over [a] public or private company or corporate entity.”²⁰

According to this definition, a beneficial owner could, in some cases, be a shareholding entity if it is either a state-owned enterprise or a publicly listed company. This is the definition that companies were expected to comply with, and

BENEFICIAL OWNERSHIP SCOPE BY COMPANY TYPE

162 extractive-industry companies were included in the initial scope for BO disclosure.



Source: MEITI Beneficial Ownership Taskforce



was included in the declaration worksheet that companies were provided to aid them in preparing their filings.

1.3 Overview of the first batch of disclosures

MEITI has already analysed issues in this first set of disclosures.²¹ Its report of January 2020 focused on assessing the *completeness* of filings and *quality* of data submitted, as well as identifying which companies filed no information at all. Important lessons can be gleaned from the MEITI report.

What the MEITI analysis leaves largely untouched is the critical matter of the *truthfulness* and *accuracy* of the disclosures themselves. A filing may contain all requested information, but if this information is inaccurate or misleading, it is of no value for accountability and undermines the beneficial ownership framework itself.

Lessons can also be learned from other countries that have beneficial ownership registers. In the United Kingdom, for example, a lack of verification has led to a large amount of unreliable data in the beneficial ownership register maintained by Companies House.²² This, combined with a lack of enforcement, has threatened to undermine the credibility of the database.²³ The Myanmar government has an opportunity to learn from these mistakes. If it establishes the necessary enforcement mechanisms and administrative capacity, and engages with criticism from civil society, it could create a world-class register of the real owners of companies that fosters reliable and lasting accountability.

This report focuses on how some specific companies covered by the new regulations fail to provide accurate or complete information on their beneficial ownership. We set out recommendations for enhancing the disclosure framework to raise the rate of compliance and improve the quality of beneficial ownership data in Myanmar.

We have identified **four** critical areas where beneficial ownership filings to DICA appear to be non-compliant, false or inaccurate. These are:

- > lack of filing;
- > inaccurate PEP disclosure;
- > reporting of a company rather than a natural person as a beneficial owner; and
- > discrepancies between statements of legal and beneficial ownership.

If beneficial ownership data is to make a real contribution to improving Myanmar society, then these shortcomings all need urgent attention so that they can be remedied in time for the next set of filings.

2. FAILURE TO FILE BENEFICIAL OWNERSHIP INFORMATION AND LACK OF A HISTORICAL RECORD

2.1 Failure to file beneficial ownership disclosures

Of the 162 companies within the scope of initial disclosure, 41 failed to make beneficial ownership filings within the initial timescale. Of those, 17 have since made disclosures, leaving 24 companies that had submitted no information by the time of publication of this report.²⁴

The list of non-submitting companies includes Myanmar Economic Corporation Limited (MEC Ltd), a privately held subsidiary of Myanmar Economic Corporation (MEC), which is controlled by the Myanmar armed forces, known as the Tatmadaw. MEC is one of Myanmar's largest conglomerates, operating in a diverse range of sectors including telecommunications, mining and manufacturing; MEC Ltd itself also makes it onto the list of top commercial taxpayers.²⁵ MEC is reported to be fully owned by the Ministry of Defence via the Quartermaster General's Office.²⁶ According to a report published by the United Nations Human Rights Council, MEC Ltd.'s board includes high-level military officials, including the chiefs of staff of each service branch.²⁷ However,

little is known about what happens to its revenues. The people of Myanmar deserve to know who actually controls a company that plays an important role in numerous industries and generates significant revenues.

A small set of companies filed information after DICA's original deadline had passed. This list includes one of Myanmar's largest privately-owned companies: Max (Myanmar) Manufacturing Company Limited, owned by the tycoon Zaw Zaw as part of his Max Myanmar Group. Zaw Zaw had close ties to members of the military, especially the grandson of Than Shwe, the former head of Myanmar's military junta. These connections allegedly enabled him to acquire the only licence granted by the military junta for importing used cars and motorcycles.²⁸ Zaw Zaw's companies were also heavily involved in constructing Naypyidaw, which became Myanmar's administrative capital in 2006.²⁹

While we applaud the fact that some companies are now filing their beneficial ownership disclosures, if companies are allowed to make new filings outside of the allocated timeframes, it will limit the incentive for them to comply with DICA-imposed deadlines. We believe there should be consequences for companies that fail to submit their beneficial ownership disclosures on time and, as discussed below, a clear indication of late filing on their disclosure.

2.2 Lack of a historical record

Our initial analysis of the beneficial ownership disclosures revealed another problem: the lack of a historical record for a company's beneficial ownership. Simply put, DICA does not track changes to beneficial ownership information over time. This manifests itself in two ways. First, DICA does not provide information about changes in the database over time – that is, information about when companies are added to or removed from the database, or whether a company submitted its disclosure late.³⁰ Second, it is not possible to track changes over time within a specific record – if a company adds or removes a

beneficial owner, or if the company's shareholding information changes, there is no way for an observer to track this. We have found that companies have already changed their previously submitted information.

As this was the first time that companies had to make disclosures, it is possible that some organisations did not initially understand all of the requirements, and were subsequently moving to amend or correct their submissions. It is also possible that some records may have been amended, however, so as to take information out of the public domain. It is impossible to tell without public historical data when such information changes. It is essential that a record of changes to the beneficial owners of a company is maintained and kept public. This audit trail may prove critical to holding a company to account for past actions by making clear who controlled a company at the relevant time.

The Beneficial Ownership Data Standard (BODS) – an initiative to create a global standard for beneficial ownership data – puts forward an effective solution to this by suggesting that registers capture “statements” of beneficial ownership that can then be logged as taking place at a specific time. We recommend that DICA bring their data model in line with BODS in order to make historical information on beneficial ownership publicly available.³¹

The confusion about historical information is further compounded by a lack of clarity on when companies are expected to notify DICA of updates to their beneficial ownership records. The Beneficial Ownership Task Force and DICA should set out clearly when companies are expected to disclose updates and also publish a schedule for when a new round of data will be collected from companies and published on the DICA website. Ultimately, beneficial ownership filings should be treated like any other corporate filing, such as annual returns, and logged as such in Myanmar's companies register, MyCO, with information on the original document source and the date filed.

Case studies

The following examples illustrate the problems arising from the lack of a historical record:

Ayar Yadanar Company Limited (120166751) and Ayeyar Yadanar Gems & Jewellery Company Limited (102323033): In the initial release of beneficial ownership information, a company called Ayar Yadanar Company Limited was included, declaring that it had three beneficial owners and was engaged in jade mining.³² According to its MyCO submission, the company was registered on 5 July 2019.³³ However, the company no longer appears on DICA's beneficial ownership web interface.

A similarly named company, Ayeyar Yadanar Gems & Jewellery Company, has since appeared in the beneficial ownership register.³⁴ According to its MyCO filing, Ayeyar Yadanar was registered in 1996.³⁵ While the two companies have different company numbers and different corporate officers, they had declared the same three beneficial owners: Kyaw Swar Oo, Sai Sam, and Yan Kyain Pi @ Soe Win, suggesting that they are connected.

It is unclear why Ayar Yadanar Company Limited's filing was removed. Given the similarity between the company names and the shared ownership it is possible that DICA was confused as to which company was within the scope of the fourth MEITI report. In any case, this removal of information without explanation sets a worrying precedent for DICA. As we explain in section 3.2 below, both Ayar Yadanar Company Limited and Ayeyar Yadanar Gems & Jewellery Company (102323033) may have undisclosed ties to the United Wa State Army (UWSA) and Zaw Bo Khant, vice-chairman of the Myanmar Gems and Jewellery Entrepreneurs Association.

In its 2015 report, *Lords of Jade*, Global Witness alleged Zaw Bo Khant was the front man for US-indicted drug lord and UWSA financier, Wei Hsueh Kang.³⁶ The possible links to an armed group underlines how important it is that DICA retain a

public historical record of beneficial ownership filings. The danger of allowing records to be removed without any public audit trail is that it is impossible to properly investigate or verify information.

Chaow Brothers Gemstone Enterprise Limited (150335590), Shining Star Light Gems & Jewellery Co. Ltd. (193310389), Phyto Pyae Sone Gems Company Limited (116916096), First Resources Company Limited (101585220), Shwe Byain Phyu Gems Company Limited (112483462), and Kyaw Naing & Brothers Gems Company Limited (151554474): None of these companies provided information about their beneficial owners in their initial filings, even though all six had legal owners who potentially qualified as beneficial owners due to the size of their holdings. All six have since updated their submissions.

Shining Star Light Gems and Kyaw Naing & Brothers both updated their attestation dates to March 2020, showing they filed a new disclosure after the deadline. However, Chaow Brothers and Phyto Pyae Sone's attestations were both dated 5 November 2019; First Resources Company's attestation is dated 7 November 2019; and Shwe Byain Phyu Gems Company's attestation is dated 8 November 2019. This obscures the fact that they were all updated after the filing deadline.³⁷

3. OMISSION OF INFORMATION ON POLITICALLY EXPOSED PERSONS

One of the most serious failings of the first set of disclosures by Myanmar companies to DICA is that a substantial number of companies fail to accurately identify their beneficial owners as politically exposed persons (PEPs). Point 6 of the October 2019 Presidential Notification (104/2019) states that the definition of a PEP is that developed by the Beneficial Ownership Task Force.³⁸ In line with the EITI standard, the Task Force defines a PEP as "individuals who are or were entrusted with prominent public functions" as well as their family members and "close

associates”.³⁹ It also sets out a number of categories of PEP, which include politicians, members of the armed forces and leaders of ethnic armed groups.

One difficulty is that the DICA Directive (17/2019) – meant to apply to all companies in Myanmar and not just those covered by EITI – defines PEP more ambiguously without giving specific categories, such as “ethnic armed group leaders” or “key influencers”, as included in the Beneficial Ownership Task Force’s definition. Going forward, the DICA Directive (17/2019) and the Task Force definition should be harmonised, giving precedence to the latter so that companies outside the scope of EITI know clearly what is expected of them.

PEP identification is an important part of the beneficial ownership disclosure process, and this is especially true in Myanmar. A wide swath of Myanmar’s business community has strong ties to the military. After the junta gave up some central control of the economy in the 1990s, the military state apparatus retained influence through control of procurement and investment by awarding lucrative contracts to favoured companies.⁴⁰ The junta created two military-owned conglomerates, Myanmar Economic Corporation and Myanmar Economic Holdings Limited, to support its own business interests in the changing economy.⁴¹ It also oversaw the emergence of a class of allied tycoons, who often served as proxies for military interests.

These military-linked tycoons used their close connections to military leaders to build vast business empires in highly profitable sectors of the economy, including the extractive industries covered by the beneficial ownership disclosure requirements.⁴² Identifying PEPs can help the people of Myanmar understand where businesses may be relying on political connections to gain favourable access to important industries. It can also help investors conduct due diligence and is an important tool in the fight against corruption.

As of 6 July 2020, eight companies had declared that they had at least one beneficial owner who qualifies as a PEP. However, we have identified at least ten additional companies whose beneficial owners have or had close ties to high-ranking present or former military officials, or leaders of ethnic armed groups and should thus qualify as PEPs. This is a non-exhaustive list and likely to be the tip of the iceberg given previous reports on the extent of military and ethnic armed group interests in the mining sector.

3.1 Close ties to high-ranking military officials

Previous Global Witness investigations have shown the extent of involvement of high-ranking military officials and their close allies in Myanmar’s jade and gems sector.⁴³ It is surprising then that only eight companies from a pool of over 162 in the extractives sector declared that they have PEPs as beneficial owners.

Correctly identifying the involvement of military officials and their allies in the extractives sector, and in Myanmar’s economy more broadly, is of vital importance to the country’s future. Conflicts in Kachin and Shan State are at least partially driven by competition over natural resources. Pushing armed groups out of the extractive industries is necessary to break this conflict-resource nexus.⁴⁴ Without information to help identify companies that are connected to the military, international efforts to isolate the Tatmadaw and hold them accountable may be less effective.

Case studies

Myanma Economic Holdings Public Company Limited (MEHL) (156387282):⁴⁵ In its submission, MEHL declared three beneficial owners, each of whom apparently controls 33% of direct voting rights in the company. These three people are:

- > Lieutenant General Hsan Oo, Adjutant General (MEHL chairman), rights acquired 11 September 2014;

-
- > Major General Khin Maung Than, Director for Military Procurement (MEHL managing director), rights acquired 23 January 2017; and
 - > Brigadier General Kyaw Myo Win (retired) (MEHL director), rights acquired 18 September 2017.

None of the three beneficial owners are listed as PEPs, despite clearly qualifying due to their status as current and former high-ranking military officials. While it is openly acknowledged that MEHL is controlled by current and former military personnel, the company's failure to correctly declare the PEP status of these individuals, and other concerns about its submission highlighted below, threaten to undermine the credibility of the register.

There are further problems with MEHL's beneficial ownership disclosure. First, MEHL's declaration states that "Myanma Economic Holdings Public Company Limited" is its legal owner, controlling a 100% stake – thus essentially declaring that the company owns itself and

shedding no light on its beneficial ownership structure.

MEHL's beneficial ownership is still shrouded in secrecy and Myanmar citizens know little about who its shareholders actually are. Before 2016, shares were split between Type A shares held by the Ministry of Defence and Directorate of Procurement, and Type B shares held by current and former military members, and other military-related entities.⁴⁶ However MEHL reportedly planned to transfer all of its Type A shares to Type B shareholders after registering as a public company in 2016, in effect moving its ownership from the military as an organisation to individual members within the military.⁴⁷

Given that MEHL maintains ownership and controlling interests in some of the largest businesses in the country, such as Myanmar Brewery and Myawaddy Bank, it is vital to know who actually owns this company. Is it broadly held by members of the Tatmadaw, or does a smaller group of senior military officials control



Photo credit: © Minzayar – Some of the jade mines in Hpakant, Kachin State are run by companies with ties to military officials

most of the shares? Without an accurate ownership report, it is impossible to know.

Furthermore, what is known about MEHL's governance structure suggests that additional individuals may qualify as beneficial owners through a different route. In addition to direct control through shareholdings, the Beneficial Ownership Task Force definition also includes individuals who have "the right to exercise, or actually exercise, significant influence or control over the public or private company or corporate entity."⁴⁸ This definition potentially applies to a number of other military officers who have close ties to the company.

According to the United Nations Independent International Fact-Finding Mission on Myanmar (September 2019), there are nine additional directors of MEHL on top of its three declared beneficial owners. Among them are the chiefs of staff for each of Myanmar's military services, the Inspector General, and the Judge Advocate General.⁴⁹ The company also has a seven-member "Patron Group" chaired by Commander-in-Chief Min Aung Hlaing and co-chaired by the deputy commander-in-chief, and includes the commanders of each of the military services.⁵⁰

It is unclear what role these additional directors and the Patron Group play in MEHL's ownership and decision-making. However, given that the Patron Group includes the superiors in the military chain of command of MEHL's declared beneficial owners, it is likely that they play at least some role. Their beneficial ownership disclosure should clarify this. Given the lack of any PEP declaration, and potentially missing beneficial ownership information, MEHL's disclosure appears to be both incomplete and inaccurate.

Htoo International Industry Group Company Limited (131415710): Htoo International is a good example of the Burmese military-business nexus. The company has also failed to correctly identify one of its beneficial owners as a PEP. Its

beneficial owner, Tay Za, fits the MEITI definition of a PEP both as a "close associate" of prominent public officials and as a "key influencer" himself. MEITI defines a key influencer as someone "who can influence politically, economically and socially", a definition that certainly applies to one of Myanmar's most important businessmen.

Tay Za established the Htoo Group in 1990 as a logging company. Throughout the 1990s and 2000s, the Htoo Group grew into one of Myanmar's largest conglomerates reportedly through Tay Za's close relationship with the head of the military junta, Than Shwe.⁵¹

In 2007, the US State Department referred to him as "Burma's number one crony businessman" for his alleged role in helping the junta evade US sanctions and import military equipment from Russia.⁵² In 2008, the US Treasury added Tay Za, his family members, and his businesses to the Specially Designated Nationals (SDN) List.⁵³ The sanctions against him were removed in 2016, but his ties to the military allegedly remain, with the UN fact-finding mission naming the Htoo Group as "among the largest crony companies in Myanmar" in its report on the Tatmadaw's economic interests.⁵⁴

In spite of these alleged ties and Tay Za's well-documented status as a key player in Myanmar's economy, Htoo International Industry Group Company Limited does not list Tay Za as a PEP. If such an important and well-connected tycoon does not feel compelled to disclose his politically exposed position, it is likely that less prominent PEPs will feel emboldened to hide their PEP status as well.

When approached by Global Witness for comment, Htoo International Director Kyaw Soe Win denied that Tay Za should be classified as a PEP, citing the fact that he has never served in government. The company did not respond when asked to clarify why he did not meet the criteria for PEP as defined by the Beneficial Ownership Task Force, which includes not only present and

former politicians but also their “close associates”.

Kyaing International Gems Company Limited

(106577293): Kyaing International is another company that has failed to correctly identify at least one of its beneficial owners as a PEP. The company, which in 2013 held three jade licences in Kachin State that have since expired, has declared two beneficial owners.⁵⁵ However, one of those beneficial owners, who was not identified as a PEP, is Kyaing San Shwe, son of Than Shwe, the former head of the military junta. As an immediate family member of a former head of state, Kyaing San Shwe clearly meets the MEITI definition of a PEP.⁵⁶

Nilar Yoma Gems Company Limited

(163055198): Nilar Yoma is owned by another prominent tycoon and ally of the military, Aung Ko Win, as part of the KBZ Group of companies.⁵⁷ Nilar Yoma’s parent company, KBZ Group, is one of Myanmar’s largest conglomerates. Its banking arm alone was the largest taxpayer in Myanmar from 2012 to 2017.⁵⁸ Aung Ko Win got his start in ruby and sapphire mining in the 1990s, and has been a major player in the jade and gems industry ever since.⁵⁹ A Global Witness investigation in 2015 showed that KBZ was involved in jade mining in the Hpakant region in partnership with Myanma Economic Holdings Company Limited.⁶⁰

According to its DICA MyCO filing, Nilar Yoma has applied for liquidation, with the process beginning in August 2019.⁶¹ However, Nilar Yoma’s filing still demonstrates a failure to correctly declare PEPs. Aung Ko Win is one of the country’s most prominent businessmen, with close ties to the military elite. He was a close associate of former Eastern Commander General Maung Aye and, as such, should be listed as a PEP.⁶²

Kyaw Naing & Brothers Gems Company

Limited (151554474): According to its DICA filing, Kyaw Naing & Brothers Gems Company

Limited was registered in 1999 in Yangon, and is engaged in mining, quarrying and retail trade. As of 2015, the company controlled 188 private licences and two joint venture licences to mine jade in Kachin State.⁶³ In its initial filing, the company declared no beneficial owners, even though three of its six listed legal owners control more than the 5% beneficial ownership reporting threshold. The company corrected this error with a late filing, and now lists all three of these people as beneficial owners.

The disclosure still may not be fully complete, however. One of the beneficial owners, Sai Chin, was a director at the Rural Development Bank for at least one year at the same time as former Lieutenant General Ohn Myint.⁶⁴ Ohn Myint was placed on sanctions lists by the European Union⁶⁵ and Australia⁶⁶ for his role as Tatmadaw Northern Commander in Kachin State, although he was removed from both lists in 2012 as Myanmar’s reform programme moved forward. Ohn Myint also served in multiple ministerial positions under the 2011-16 Thein Sein government and as a representative for Hpakant township for Thein Sein’s Union Solidarity and Development Party. Khin Maung Kyaw, the brother-in-law of current Tatmadaw Commander-in-Chief Min Aung Hlaing, was also a major shareholder and chairman of the Rural Development Bank as of 2014.⁶⁷ Given these past connections to two important military figures through the Rural Development Bank, questions are raised as to whether Sai Chin should be listed as a PEP.

In a response to Global Witness’ allegations, a representative of Kyaw Naing & Brothers Gems Company Limited acknowledged that Sai Chin was “familiar” with former Lieutenant General Ohn Myint. However, the company denied that Sai Chin should be considered a PEP given that, at the time of association, Ohn Myint was no longer “participating [in] any military, Political Organizations”.

However, this is inconsistent with the Beneficial Ownership Task Force’s definition of a PEP noted

at the beginning of this section. This specifies that PEPs are people who “are *or were* entrusted with prominent public functions” (emphasis added), suggesting that it does not matter that Ohn Myint is a retired general, just that he was in fact a general.

3.2 Companies linked to ethnic armed groups and militias

The Beneficial Ownership Task Force definition of a PEP clearly includes members of ethnic armed groups. It includes ethnic armed group leaders, whether they are signatories of the Nationwide Ceasefire Agreement or not, and includes all executive committee members and military officers of the rank of lieutenant colonel or higher.⁶⁸ Companies in the current batch of disclosures that did not disclose these ethnic armed group links are thus in breach of the October 2019 Presidential Notification (104/2019). Transparency about business interests of ethnic armed groups is a critical step towards untangling Myanmar’s economy – and especially its mining industry – from protracted conflict.

Importantly for the future of beneficial ownership disclosure in Myanmar, neither the country’s 2014 anti-money laundering law nor the DICA Directive (17/2019) explicitly include ethnic armed group leaders as PEPs, in contrast to the Beneficial Ownership Task Force definition. As noted in our recommendations, in Global Witness’ view it is important that these definitions be harmonized, with the more thorough Task Force definition taking precedence.

Both ethnic armed groups and Tatmadaw-aligned militias are frequently involved in extractive industries, further fuelling conflict. The role of the Kachin Independence Organization (KIO) in managing and profiting from the jade trade in Kachin State is well known, but some less known, military-aligned ethnic militias are also involved in resource extraction in Myanmar’s northeast.⁶⁹ The Tatmadaw has long engaged in “ceasefire capitalism”. This has allowed ethnic

militias to establish businesses and exploit resources in their territory in exchange for signing ceasefires and, over the past decade, converting to Border Guard Forces (BGF) within the Tatmadaw chain of command.⁷⁰

Some of these BGF-controlled areas have been increasingly implicated in Myanmar’s booming illicit economies, from illegal mining to drug production, as exemplified by the recent seizure of huge amounts of methamphetamines from labs in Kutkai Township in Shan State.⁷¹ The area is controlled by the Tatmadaw-aligned Kaungkha Militia, also known as the Kachin Defence Army.⁷² Legitimately owned businesses may be used to launder the revenues earned through illicit activities in conflict areas, and beneficial ownership disclosure is critical to investigating the network of companies that may operate in cooperation with ethnic militias.

The current set of disclosures already contains valuable information for journalists and civil society groups, shining a light on potential conflicts of interest in the governance of the mining sector. **Ruby Dragon Jade & Gems Company Limited (177490903)** disclosed U Nay Win Tun as one of its beneficial owners and correctly flagged him as a PEP. He is the former head of “special economic affairs” for the Pa-O National Organisation (PNO).⁷³ Ruby Dragon has allegedly maintained close ties with the military since the PNO’s armed wing signed a ceasefire in 1991. In 2002, Ruby Dragon donated the largest block of jade ever discovered to the government, reportedly as a gesture of good will.⁷⁴ As of 2015, Ruby Dragon held 22 jade-mining licences in Kachin State,⁷⁵ although the company has historically been involved in jade and ruby mining across both Kachin and Shan States.⁷⁶ Nay Win Tun was also elected as a representative of the Amoytha Hluttaw, the upper house of Myanmar’s parliament, where he served as chair of the committee in charge of natural resources and environmental conservation. His role as a parliamentarian creating rules for an industry

that he is a major player in clearly raises conflict-of-interest concerns.⁷⁷

Case studies

Based on our analysis, the following companies should have declared at least one of their beneficial owners as a PEP by virtue of their alleged connection to ethnic armed groups:

Ayar Yadanar Company Limited (120166751) and Ayeyar Yadanar Gems & Jewellery

Company Limited (102323033): Ayar Yadanar Company Limited and Ayeyar Yadanar Gems & Jewellery are companies that are closely related to each other. While they have different company numbers and directors, they have the same three declared beneficial owners: Kyaw Swar Oo, Sai Sam, and Yankyain Pi @ Soe Win. Evidence collected by Global Witness from interviews and company records suggests that Yankyain Pi @ Soe Win has close business ties with Zaw Bo Khant. Zaw Bo Khant is a key associate of Wei Hsueh Kang, who was sanctioned by the US as an alleged narcotics kingpin, and is a United Wa State Army (UWSA) financier. Zaw Bo Khant is also a member of the Beneficial Ownership Task Force as a corporate representative of the Myanmar Gems and Jewellery Entrepreneurs Association.⁷⁸ Given that the Beneficial Ownership Task Force definition of a PEP includes ethnic armed actors and their associates, Yankyain Pi @ Soe Win should be identified as such.

In its 2015 report, Global Witness reported that Zaw Bo Khant's company at that time – the since-dissolved Myanmar Takaung Gems – was a front company for Wei Hsueh Kang, an alleged drug lord and ex-head of financial affairs for the UWSA. In fact, Zaw Bo Khant himself was a director of Ayeyar Yadanar Gems & Jewellery until at least 2017.⁷⁹ He directed Ayeyar Yadanar Gems & Jewellery alongside a man named Soe Win. Company records show that this Soe Win and Yankyain Pi @ Soe Win, the listed beneficial owner of Ayeyar Yadanar Gems & Jewellery, have nearly identical national registration card (NRC)

numbers. This suggests that these two individuals may in fact be the same person, and that the difference between their filings could be an administrative error.⁸⁰

Yankyain Pi @ Soe Win has also been a co-director with Zaw Bo Khant at another company, the Imperial Palace Hotel Company Limited. According to historic DICA records collected and archived by Open Corporates, the two overlapped between 2012 and 2017.⁸¹

Yan Kyain Pi @ Soe Win also appears to have ties to another UWSA-connected individual, Li Myint. Li Myint was a managing director of Hong Pang Group and a target of US sanctions for his alleged role in UWSA drug running.⁸² In a written response to Global Witness, he has previously confirmed his role in overseeing jade mining operations on plots owned by Ayeyar Yadanar and Yar Za Htar Ne Gems at a time when Yan Kyain Pi @ Soe Win was a director of Ayeyar Yadanar. However, he denied any further connection to Zaw Bo Khant and the UWSA.⁸³

During Global Witness's 2015 investigation, Zaw Bo Khant denied any ongoing relationship with Wei Hsueh Kang. In a meeting with Global Witness during the investigation he claimed never to have worked for Hong Pang Group, before being reminded that he had previously been the company's public spokesman.⁸⁴ He also initially denied in correspondence with Global Witness that he or his company had any relation with Ayeyar Yadanar Company Limited, Yar Za Htar Ne Gems (the next case study), or Li Myint, before stating in an interview with local newspaper *The Voice* that he "gives major jade-mining sub-contracts to Li Myint" in Hpakant.⁸⁵ The full exchange can be found in the *Global Witness* report *Lords of Jade*.

Yar Za Htar Ne Gems Company Limited

(102310144): Yar Za Htar Ne Gems has three beneficial owners: Aike Chwin, Kyaw Myint, and Sai Lone, all of whom should be listed as PEPs according to the Beneficial Ownership Task Force

definition. Our 2015 reporting showed that Myanmar Takaung Gems worked closely with Yar Za Htar Ne Gems at the time, and that Zaw Bo Khant acted as a company representative as well.⁸⁶ Further, as stated above, Li Myint also admitted to running the jade mining operations in Hpakant on plots owned by Yar Za Htar Ne Gems.⁸⁷

In the case of Yar Za Htar Ne, all three beneficial owners were company directors at the same time that Zaw Bo Khant was a corporate representative and Li Myint ran the jade operations.⁸⁸ Further, Sai Lone was, and remains, a director for Imperial Palace Hotel Company, further cementing the evidence of a relationship between Yar Za Htar Ne, Ayeyar Yadanar, and Zaw Bo Khant.⁸⁹ Sai Lone should be listed as a PEP as well, given these close connections to Zaw Bo Khant.

Wai Aung Gabar Gems Company Limited (153250650) and Wai Family Gems Company Limited (102870808): Wai Aung Gabar Gems, which held 51 jade mining licences in Kachin State in 2015, is another company allegedly linked to Wa ethnic armed forces, as is Wai Family Gems, which held 33 jade and seven gem mining licences in Kachin and Shan States.⁹⁰ The two companies, which each have five legal and beneficial owners, share three of them: U Sai Shung Twee, Daw Yu Yu San, and Daw Nway Nway Hlaing. One of the beneficial owners, U Sai Shung Twee, was listed as a director of the Mineral Development Public Company Limited in 2019.⁹¹ Zaw Bo Khant was also listed as a director of the company at that time.⁹² In its 2015 report, Global Witness also revealed claims by numerous jade businessmen that Wai Aung Gabar Gems was also controlled by the Wa, though both Zaw Bo Khant and the companies implicated denied this at the time.⁹³ With these alleged ties to an ethnic armed group, it is arguable that one or more of the three beneficial owners should have been listed as PEPs.

When reached for comment, one of Wai Aung Gabar Gems' directors confirmed that Wai Aung Gabar Gems is an affiliate of Wai Family Gems. However, Wai Aung Gabar Gems denied any connection between the company, its affiliates or its beneficial owners, and Zaw Bo Khant, Li Myint, or the UWSA. The company also stated that U Sai Shung's holdings in Mineral Development Public Company were minimal, that he was not involved in the company's affairs in any way, and that he did not interact with Zaw Bo Khant in his official capacity as a shareholder.

Kachin Nationals Development and Progress (Gems) Company Ltd (112066055): The Kachin Nationals Development and Progress (Gems) Company controlled 22 jade mining licenses and one gem mining license in Kachin and Shan States in 2015.⁹⁴ The company appears to have ties to a militia organisation, as one of its beneficial owners is named Ma Htu Naw. A man named Ma Htu Naw is also the leader of the Kachin Defence Army (KDA),⁹⁵ which split from the Kachin Independence Organisation in 1990 and signed a ceasefire agreement with the Tatmadaw in 1991.⁹⁶ The Kachin Nationals Development and Progress (Gems) Company was established in 1995 as business opportunities in the post-ceasefire world flourished. It would be an odd coincidence if these were two different men with the same name. If they are the same person, however, Ma Htu Naw should be listed as a PEP for his role as the head of a Tatmadaw-aligned militia.

The Kachin Nationals Development and Progress (Gems) Company and the KDA both have chequered histories. The company was implicated in unlicensed mining in Hpakant in an area where a landslide from an informal tailings dump killed over 50 people in April 2019.⁹⁷ The KDA is based in Kutkai Township in Shan State, which has become the centre of Myanmar's boom in methamphetamine production.⁹⁸ During a raid in Kutkai Township in March 2020, the military seized nearly \$200 million worth of meth tablets and other production materials from labs located

in KDA territory.⁹⁹ Later that month, the military disarmed the group and detained its leadership in retaliation for their alleged role in drug-trafficking.¹⁰⁰

4. INADEQUATE INFORMATION ON BENEFICIAL OWNERS

4.1 Failure to list qualifying legal owners as beneficial owners

Another weakness in the current set of beneficial ownership disclosures is that several companies make inconsistent statements of legal ownership and beneficial ownership. Legal owners, or shareholders, can be declared as part of beneficial ownership submissions, for example, where they list information such as the equity percentage a given individual holds in the company. DICA could automate the validation of submissions to check for these types of inconsistencies. Filers could then be prompted to review inconsistencies if they attempt to submit filings containing these issues. This would reduce the need for DICA to review poor quality submissions manually.

In our initial analysis, we identified eight private companies whose legal ownership statements contradicted their beneficial ownership filings, although five of those companies submitted updated filings after the reporting deadline to correct this error.¹⁰¹ Of the remaining three companies, one declared that it had no beneficial owner at all, while the other two appear to have only declared some, but not all, of their beneficial owners. It is unlikely that a privately held Myanmar company has no beneficial owners, given that this would imply that the company had an unusually large number of shareholders. All three of these companies have legal owners with ownership levels above 5%, meaning those legal owners should very likely have been listed as beneficial owners themselves, or as intermediaries for another beneficial owner if they are nominee shareholders.

As noted in the recent Beneficial Ownership Task Force analysis, this could simply represent a misunderstanding of the definition of beneficial ownership and confusion about the new legislation.¹⁰² The fact that several companies fail to declare legal owners as beneficial owners may also point to a specific misunderstanding of the ownership threshold for beneficial ownership.

Case studies

DICA needs to follow up with companies in order to verify whether the disclosures highlighted below are correct. If they are based on a misunderstanding, DICA should ask the company to resubmit.

Sai Laung Hein Mining Company Limited

(101020169): According to its DICA filing on MyCO, Sai Laung Hein was registered in 2003 and conducts “mining of metals ores” and “other mining and quarrying” activities. It is engaged in manganese mining.¹⁰³ The company’s beneficial ownership filing lists three legal owners, all of whom surpass the 5% threshold for beneficial ownership disclosure, but the company claims that it has no beneficial owners.

Shwe Gaung Gaung Gems Company Limited

(173478178): According to its registration record in DICA’s MyCO database, Shwe Gaung Gaung was registered in 1996 in Yangon and is engaged in “other mining and quarrying.” As of 2015, Shwe Gaung Gaung controlled 38 private mining licences, all of them for jade in Kachin State.¹⁰⁴

The company has six officers, all of whom have ownership stakes. Of these six direct legal owners, four have ownership stakes that surpass DICA’s 5% threshold for beneficial ownership. Shwe Gaung Gaung’s filing confirms that it has four beneficial owners, but only includes information on one of the four owners, U Chit Lwin. The other three legal owners owning more than 5% of the company’s shares, who likely qualify as beneficial owners but are not included in the filing, are: Daw Hmaw Hmaw, U Aung Thwin Lay, and U Than Htay @ U Maung Maung.

Myanmar Andaman Pearl Company

(104651240): According to its registration filing in DICA's MyCO database, Myanmar Andaman Pearl was registered in 1998 in Yangon.¹⁰⁵ It operates pearl farms in the Mergui Archipelago, Tanintharyi Region.¹⁰⁶ According to its beneficial ownership filing, the company has six legal owners, five of whom meet the 5% ownership threshold to qualify as beneficial owners. However, only four of the five qualifying legal owners are listed as beneficial owners; Khin Le Le Naing is not listed, in spite of holding an 18.5% legal ownership stake in the company.

4.2 Failure to identify beneficial owners of corporate legal owners

There appears to be particular confusion among some of the companies ultimately controlled by either a publicly listed company or a state-owned enterprise as to whether they are required to submit beneficial ownership information. Several companies with corporate legal owners do not identify the beneficial owners of these companies, as they are required to do. The MEITI beneficial ownership declaration form that companies submitted is unequivocal on this.

Where companies are controlled by publicly listed entities or state-owned enterprises, these must be given as the beneficial owners. Companies to which this applies must supply additional information, such as the parent ministry of the state-owned enterprise or the stock exchange where the company is listed, with relevant hyperlinks.¹⁰⁷ It is critical that Myanmar's government enforce this requirement as the use of corporate legal owners can be a strategy for concealing who really controls a company, especially if that company is not itself subject to beneficial ownership disclosure.

As part of an automated validation process, the DICA web form should prompt a user to review filings that contain no beneficial ownership information. Company representatives responsible for filing could then choose to continue to submit filings after being prompted

to review their filing. Confirming submission would be the correct course of action if there really was no natural person, state-owned enterprise or publicly listed company that met the DICA or MEITI criteria. This could be a simple technical way to reduce the number of poor-quality filings without requiring a manual review process.

Out of the 162 companies that were required to make beneficial ownership disclosures, and excluding the seven companies that are themselves Myanmar state-owned enterprises and had different reporting requirements, eight companies initially provided legal ownership information that listed a different company (or companies) as its legal owner without providing details on the ultimate natural-person beneficial owner. Three of these companies have since submitted updated information after the reporting deadline, leaving five companies with potentially inaccurate filings.¹⁰⁸

Case studies

Myanmar Imperial Jade (176227869), Kayah State Mineral Production (111611327) and Myanmar Ruby Enterprise (100941821): The initial disclosures of these three companies shared the same shortcoming. All three companies are wholly owned subsidiaries of Myanma Economic Holdings Limited, a major military-owned conglomerate that also discloses beneficial ownership information on DICA. The three companies listed MEHL as their primary legal owner but did not initially disclose beneficial ownership information. These companies should at the very least have had the MEHL beneficial owners listed as their beneficial owners.

After making their initial filings, both Kayah State Mineral Production and Myanmar Ruby Enterprise submitted revised filings that included MEHL's beneficial owners as their own. They also provided updated filing dates of 10 March 2020. Myanmar Imperial Jade, however, had made no

such updates to its disclosure at the time of publication.

The situation with these three companies should serve as a warning to DICA. If a major conglomerate like MEHL is allowed to provide inaccurate beneficial ownership information, the filings of all its subsidiaries may also be inadequate.

Myanmar Wanbao Mining Copper Limited (157050907): According to its DICA beneficial ownership filing, Myanmar Wanbao Mining Copper is owned by two Chinese companies: Wanbao Mining (Hong Kong) Copper Limited (99.9999%) and Wanbao Mining (Hong Kong) Limited (0.0001%), both of which are private companies. This disclosure is problematic, as both Wanbao Mining Copper and Wanbao Mining are likely to have beneficial owners of their own, and these should be listed as the beneficial owners of Myanmar Wanbao Mining Copper Limited.

According to Chinese corporate registry records, Wanbao Mining is a wholly owned subsidiary of China North Industries Group Corporation Limited (中国兵器工业集团有限公司), also called NORINCO.¹⁰⁹ NORINCO is a Chinese defence contractor that was the target of US sanctions for selling arms to Iran in the early 2000s.¹¹⁰ However, no mention of Myanmar Wanbao Mining Copper's ties to this defence contractor exists in its beneficial ownership filing.

According to Myanmar Wanbao Mining Copper's website, the company was established in 2011 with the sole purpose of running the Letpadaung Copper Mine in Sagaing Region. In 2013, Myanmar Wanbao Mining Copper signed an agreement with Myanmar's government to share profits from the mine. The agreement gave 51% of the benefits to the Myanmar government via the state-owned Mining Enterprise #1 (ME1). The remaining 49% was split between Myanmar Wanbao Mining Copper and its business partner MEHL.¹¹¹ Myanmar Wanbao Mining Copper's association

with MEHL – and therefore with members of the military – underscores the importance of filing accurate beneficial ownership information.

The Letpadaung Copper Mine has been plagued by accusations of environmental destruction and human rights abuse since Myanmar Wanbao Mining Copper took over the project in 2011.¹¹² Villagers have said their land was seized and that chemicals from the mine have contaminated the land around nearby villages.¹¹³ Myanmar Wanbao Mining did not respond to a request for comment, although its website notes that it has corporate social responsibility plans that will provide education to surrounding villagers and that 2% of profits from the mine will be reinvested in the local community.¹¹⁴

Myanmar Yang Tse Copper Limited (104368301): Myanmar Yang Tse Copper Limited lists its legal owners as two Hong Kong-based companies: Wanbao Mining (Hong Kong) Limited and Yang Tse Mining Limited. This is the same Wanbao Mining company that owns Myanmar Wanbao Mining Copper Limited. Myanmar Yang Tse Copper Limited also fails to give any information on beneficial owners. DICA should request that this company identifies the relevant beneficial owners of its parent companies and amend its disclosure.

UNOCAL Myanmar Offshore Company Limited (Yangon Branch): UNOCAL falls into the category of companies that have declared no beneficial owners and have listed only a corporation as a legal owner. The company declares Chevron Global Ventures as its sole legal owner but lists no beneficial owner. Neither does it provide any of the required stock exchange information for Chevron Global Ventures, if the publicly traded Chevron Oil Company is in fact its beneficial owner.

Nippon Oil Exploration (Myanmar) Limited (Yangon Branch): Like UNOCAL, Nippon Oil Limited fails to provide details of its beneficial ownership. The company lists two Japanese

public companies and a Japanese state-owned enterprise as its legal owners, and it is likely that these companies are Nippon Oil's true beneficial owners. However, the company did not declare them to be beneficial owners, or provide any details about them, and so this cannot be confirmed.

4.3 Problems with state-owned enterprises declared as beneficial owners

At least three companies made unclear and inconsistent statements relating to beneficial owners that are state-owned enterprises. It is important that DICA seeks clarification from these companies, given the value of this information for Myanmar citizens and the citizens of the countries whose state-owned enterprises reportedly have a stake.

Case studies

Cornerstone Resources (Myanmar) Ltd. (117328058): Cornerstone Resources is a mining company that was registered in 2000, according to its filing on MyCO. As of 2018 the company owned a zinc mine in Long Keng and a zinc refinery in Lashio.¹¹⁵

The company discloses that it has a single beneficial owner. However, that beneficial owner is listed as "SOE", with no additional information identifying the country of the state-owned enterprise or even its name. Cornerstone has also disclosed that its beneficial owners control the company through direct share ownership, with no intermediaries. This is inconsistent with its listed legal ownership, however. The company disclosed a single legal owner: S Cornerstone Resource (Myanmar) Ltd, a private company. The company cannot have a state-owned enterprise beneficial owner with a 100% direct ownership stake while also listing its 100% legal owner as the private company S Cornerstone Resource (Myanmar) Ltd.

Other public reports suggest that Cornerstone's filing may be incomplete and missing at least one

owner. According to filings from 2018 on the Australian Stock Exchange made by the publicly listed company Myanmar Metals, which operates the Bawdwin Mine in Shan State, Yandal Investments has a minority stake in Cornerstone Resources.¹¹⁶ Yandal also has an 11.5% stake in Myanmar Metals according to the latter's website.¹¹⁷

PC Myanmar (Hong Kong) Limited (Yangon Branch) (166259592) and Petronas Carigali Myanmar Inc. (Branch Office) (167068618):

These two companies have both disclosed the Malaysian Ministry of Finance as their ultimate beneficial owner. Both companies claim in their filings that they are affiliated to ministries in Afghanistan, which is possibly a data entry error, given that their declared beneficial owner is the Malaysian Ministry of Finance.

Additionally, both companies' listings have the same inconsistency as Cornerstone Resources'. They claim that the Malaysian Ministry of Finance is their beneficial owner through direct control of 100% of shares, but neither company lists a Malaysian state-owned enterprise as its legal owner. Instead they both claim a single legal owner: themselves. Petronas Carigali has declared that it is 100% owned by Petronas Carigali, which in this filing is listed as a Liberian state-owned enterprise. PC Myanmar's disclosure is the same, with its sole legal owner listed as PC Myanmar (Hong Kong), named as a Hong Kong-based state-owned enterprise.

5. HIDING OUT OF SCOPE

We have detailed above the problems with submissions made by companies *within the scope* of DICA's first beneficial ownership disclosure regime. This scope was determined to be all companies included in the fourth MEITI Report, covering the financial year 2016-2017. Of course, this excluded many extractives companies, who were not required to file beneficial ownership disclosures at all.

For the oil and gas extraction and transportation sectors, and the pearl sector, all registered companies (56) were included.¹¹⁸ For the minerals and gemstones sectors, however, MEITI applied a materiality threshold based on the size of payments that a company made to three government agencies during the financial year 2016-2017.

In the minerals sector, 31 companies were included because they made payments greater than MMK 0.2 billion to the Ministry of Natural Resources and Environmental Conservation, MMK 0.5 billion to the Internal Revenue Department, and MMK 0.1 billion to the Myanmar Customs Department. These 31 companies represented 69% of the total revenue received by government entities from the minerals sector.¹¹⁹

For the gems and jade sector, the relevant payment thresholds were MMK 1 billion to the Ministry of Natural Resources and Environmental Conservation, MMK 0.5 billion to the Internal Revenue Department, and MMK 1 billion to the Myanmar Customs Department. Eighty-four gem and jade companies, representing 78% of government revenue from the sector, were included.¹²⁰

In consequence, many gems, jade and minerals companies were excluded from the scope of the fourth MEITI Report and hence from DICA's first set of disclosures. Excluding low-revenue companies may not seem like a big omission, but in Myanmar it is – because there are a large number of such companies, because of the high levels of illicit activity and underpayment of taxes, and because of the critical importance of these actors to untangling conflicts of interest and connections to armed conflict.

In the fifth MEITI Report, released in March 2020 and covering the financial year 2017-18, the Ministry of Natural Resources and Environmental Conservation reported that there were 2,609 companies in the gems and jade sector.¹²¹ Of these, only 188 companies, representing 80% of

sectoral government revenue, were included within the scope of the fifth MEITI Report.¹²² This level of information was not included in the fourth MEITI report, but assuming the number of gems and jade companies did not jump dramatically in one year, this means that well over 2,000 companies in the gems and jade sector alone were excluded from the scope of DICA's first beneficial ownership disclosure regime.

There are three main reasons why DICA should stop using the materiality thresholds applied by MEITI to define which companies are required to disclose their beneficial ownership.

First, company revenues can be highly volatile from year to year. Myanmar CNMC Nickel Company Limited was the largest taxpayer in the third MEITI report but was completely excluded from the fourth MEITI report. Having annual revenue thresholds means missing out on important companies such as this.

Second, having a revenue threshold for reporting may encourage companies to under-report revenues and engage in tax evasion, a practice that is already rife in Myanmar's mining sector.¹²³ This encouragement to misrepresent revenue information further exacerbates Myanmar's broader problems with tax collection and economic data quality.

Finally, the revenue threshold simply excludes too many companies, including several gemstone companies known to be affiliated with former military officials and ethnic armed groups. This includes companies such as former Minister for Livestock, Fisheries, and Rural Development Ohn Myint's Myanmar Wingate Gems. The leader of the Tatmadaw-aligned Rawang People's Militia Force is reportedly a shareholder of the Malikha Gemstone Company, one of the companies licensed to mine in a jade block where the devastating landslide killed more than 50 people in 2019.¹²⁴ Are the heads of these militias the beneficial owners of these companies? And if not, who is? Without full beneficial ownership data

from all companies, the people of Myanmar will struggle to know the answer to these questions.

6. RECOMMENDATIONS

For DICA

Implement a technical fix to automatically check for inconsistencies in online filings and prompt users to correct them. This report has highlighted several irregularities in beneficial ownership disclosures that could easily be detected automatically at the point of entry online. For instance, if a company attempts to submit a filing that lists legal owners that meet the 5% beneficial ownership threshold, but then also declares no beneficial owners, it could be prompted to review its form. Other parts of a filing that could require online validation include obliging companies with a state-owned enterprise owner to provide details, or obliging a company that discloses that it has multiple beneficial owners to provide information on that number of people. Checks in both of these areas could have prevented many companies examined above from making inaccurate filings.

As the Beneficial Ownership Task Force develops requirements for the next round of data collection, it should include this technical improvement as a requirement. Implementing this kind of automated validation will reduce the amount of manual work required to review filings, freeing DICA to focus on more substantive issues of non-compliance. Validation checks will also generally improve the quality of the data received by DICA and fix some of the problems with formatting of NRC and phone numbers highlighted by the Beneficial Ownership Task Force analysis referred to in section 3.2.

Synchronise bulk data files with updates available via the web interface. We commend DICA's decision to publish snapshots of beneficial ownership data in the open data formats JSON and CSV. However, it appears that these bulk data files are not being updated in line with what is available via the web interface. We recommend

that DICA refresh these snapshots at regular intervals, with a clear indication of the time period the snapshot pertains to in the metadata of the files.

Collect and publish beneficial ownership data at regular intervals and require companies to update changes to their ownership in a timely manner. Companies should be required to submit an annual statement confirming their beneficial ownership status. Companies whose ownership status has not changed could submit a simple form certifying that their ownership information remains the same. Companies that do have changes in their ownership status should be required to submit a change of ownership disclosure within 14 days of the change, a timeframe in line with international standards used in the United Kingdom, for example. They could then provide detailed information in their annual beneficial ownership disclosure. DICA should publish these changes transparently via the DICA web interface and within the bulk data files, as recommended above, as soon as is technically feasible.

Improve the process for self-declaring PEPs so that companies are guided through the relevant criteria for each beneficial owner. As we have shown above, many companies with significant links to the military and ethnic armed groups do not correctly declare the PEP status of their beneficial owners. To avoid any misunderstanding about who meets the PEP criteria, we suggest that the Beneficial Ownership Task Force and DICA adjust the web form so that for each beneficial owner the user is prompted to answer a yes-or-no question about each PEP criterion. The responsible authority in Myanmar would then designate beneficial owners as PEPs based on their answers. A single yes should then be sufficient to designate the relevant beneficial owner as a PEP.

Establish ways that civil society groups and accountability actors such as journalists can flag problems with beneficial ownership

filings. Myanmar civil society groups play a vital role in identifying problems and falsehoods in beneficial ownership data. DICA should establish reporting mechanisms so that discrepancies in specific filings can easily be flagged, for instance by clicking a button on the declaration on the DICA website. In the long run DICA should then investigate flagged filings and take necessary remedial action, such as requiring re-submission. In the near-term this will be useful for helping DICA and the Beneficial Ownership Task Force track submission compliance.

Implement a system to track changes in beneficial ownership submissions over time.

The question of historical traceability became an issue within months of the original disclosure deadline. Companies should have to submit an official filing to change their beneficial ownership and this should be retained and publicly listed in much the same way that other corporate filing is on DICA's MyCO site.

The updates should then be reflected on the DICA page summarising the beneficial ownership information for the company, clearly showing not just who the beneficial owners are at present, but who they were in the past. We recommend that DICA aligns its model for storing and publishing beneficial ownership data with the Beneficial Ownership Data Standard to more easily represent these changes over time.¹²⁵

For other Myanmar government ministries and state-owned enterprises

Consider beneficial ownership disclosure compliance as a condition of licensing and suspend active licences for companies that do not file accurate information. Non-filing companies, or companies that fail to disclose true beneficial owners or PEPs, should have any oil, gas and mining licences suspended and should be ineligible to bid for future licences until they correct the deficiencies in their disclosures. This information should be used across the whole of Myanmar's government, meaning that the Ministry of Natural Resources and Environmental

Conservation, and the Ministry of Electricity and Energy, and the state-owned enterprises under their control, such as Myanmar Gems Enterprise and Myanmar Oil and Gas Enterprise, will need to use the data collected by DICA when granting and reviewing licence allocations.

As Myanmar's government looks to restart licensing within the gemstone sector, and proceeds with other mineral and oil and gas licensing, it should make full and accurate compliance with beneficial ownership disclosure requirements a prerequisite for bidding on a licence in any extractive industry, regardless of whether the company is within the scope of the DICA regime in place at the time of application.

For the Beneficial Ownership Task Force

Expand the scope of companies required to disclose their beneficial ownership status. The initial set of disclosures included only the 162 companies within the scope of the fourth MEITI Report. Myanmar's government should expand the scope of disclosure rules to require all extractive companies registered in Myanmar to disclose beneficial ownership information, and should ultimately require beneficial ownership disclosure from all companies operating in the country. This should begin with the next round of disclosures scheduled for collection in the autumn of 2020.

Engage closely with companies to ensure that timelines and reporting requirements are clear.

DICA, relevant business associations and all agencies involved in collecting beneficial ownership information, should develop a clear schedule for when beneficial ownership information will be collected. This schedule should be communicated clearly to companies well in advance of relevant deadlines. When reached for comment about why their filing was submitted late, one company contacted by Global Witness claimed that they had never received an official notification from DICA

informing them that they had to provide beneficial ownership information.

In order to ensure that companies understand the disclosure requirements, DICA should conduct additional training with corporate representatives to answer any questions that the corporate officers signing attestations may have. Business associations should also play a key role in supporting companies in adapting to the new framework. Trainings like these can help improve submission compliance, as companies attending trainings are more likely to make filings.

Institute sanctions for non-compliant companies. Companies that file inaccurate disclosures, or that do not submit any information at all, must face consequences. Directors, shareholders and beneficial owners of sanctioned companies should be prevented from registering new companies until deficiencies in the original filings are addressed, to prevent them from using new companies to get around any licensing suspensions.

As Myanmar's beneficial ownership disclosure rules are new and some companies may not be fully aware of the reporting requirements, companies should be given the opportunity to correct the mistakes identified above before enforcement action is taken. This accommodation should be of a limited nature and phased out in future rounds of disclosures. The Beneficial Ownership Task Force should begin planning on how to implement these sanctions immediately.

Harmonize and clarify Myanmar's multiple PEP definitions to ensure consistency throughout Myanmar law. We recommend clarifying the requirements around PEP reporting. Presidential Notification (104/2019) requires companies to declare PEPs in line with the definition agreed by the Beneficial Ownership Task Force. This definition of PEPs is broad, and includes the family members of PEPs, national NGO committee members, leaders of ethnic armed

groups, and a category called "key influencers". However, DICA Directive (17/2019), which first required beneficial ownership disclosure, provides a much vaguer definition that focuses on members of government, political party leaders and state-owned enterprise directors. There is also a third definition laid out in Myanmar's 2014 Anti-Money Laundering Law, which provides a general definition that only includes people who have been "entrusted with public functions", as well as their families. These differences in definitions could create confusion and give companies room to avoid fully disclosing their PEPs, as well as generating confusion for companies who have to make filings under multiple different disclosure regimes.

The Beneficial Ownership Task Force's definition has been developed in consultation with key government, private sector and civil society groups, and is by far the most detailed definition, considering the specificities of Myanmar's political landscape. Ultimately, Myanmar should develop a single definition of a PEP that is applicable across companies and parts of government, and the more thorough definition agreed by the Beneficial Ownership Task Force should be the foundation of this.

Develop a plan to improve verification of beneficial ownership disclosures. To promote compliance with reporting requirements, DICA should develop a plan for auditing and verifying disclosures. Throughout this report we have revealed companies whose beneficial ownership disclosures either contain clear inaccuracies or require further investigation. DICA should identify what resources it needs to conduct audits of company submissions, prioritising the largest companies with the highest risks of corruption and conflicts of interest. Ultimate responsibility for auditing disclosures may fall elsewhere within Myanmar's government than with DICA itself; however, it is vital that Myanmar begin planning to put such verification processes in place as soon as possible.

APPENDIX

A. Non-filing and late-filing companies

| Company Name | Company Type | Submission Status |
|---|----------------------|-------------------|
| AGGA YADANAR MIN YARZAR JADE GEMS & JEWELLERY COMPANY LIMITED | Private Company | No Submission |
| ANDAMAN TRANSPORTATION LTD. (YANGON BRANCH) | Overseas Corporation | No Submission |
| BA WA TET LAN GEMS COMPANY LIMITED | Private Company | No Submission |
| BASHNEFT INTERNATIONAL B.V (MYANMAR BRANCH) | Overseas Corporation | No Submission |
| CANCRI (GEMS & JEWELLEY) COMPANY LIMITED | Private Company | No Submission |
| CFG ENERGY PTE. LTD. (MYANMAR BRANCH) | Overseas Corporation | No Submission |
| CHINNERY ASSETS LIMITED (MYANMAR BRANCH) | Overseas Corporation | No Submission |
| JADE AYER INTERNATIONAL CO., LTD. | Private Company | No Submission |
| KOREA GAS CORPORATION | Overseas Corporation | No Submission |
| KYAUK SEINN NANDAW GEMS & JEWELLERY COMPANY LIMITED | Private Company | No Submission |
| LONG BYIT JEWELLERY COMPANY LIMITED | Private Company | No Submission |
| MYANMAR ECONOMIC CORPORATION LIMITED | Private Company | No Submission |
| MYANMAR FIRST GEMS & JEWELLERY CO., LTD | Private Company | No Submission |
| OIL INDIA LIMITED (MYANMAR BRANCH) | Overseas Corporation | No Submission |
| PANG HUKU DUWA COMPANY LIMITED | Private Company | No Submission |
| PETROVIETNAM DRILLING & WELL SERVICE CORPORATION (BRANCH OFFICE) | Overseas Corporation | No Submission |
| PYI SONE AUNG MINING COMPANY LIMITED | Private Company | No Submission |
| SHAN YOMA CEMENT COMPANY LIMITED | Private Company | No Submission |
| SOUTH-EAST ASIA GAS PIPELINE COMPANY LIMITED (GREAT OCEAN BRANCH) | Overseas Corporation | No Submission |
| SUPER SEINN GEMS & JEWELLERY COMPANY LIMITED | Private Company | No Submission |

| Company Name | Company Type | Submission Status |
|--|-------------------------|-------------------|
| TAP ENERGY (M-7) PTE. LTD. (MYANMAR BRANCH) | Overseas Corporation | No Submission |
| THIHA THANT HEIN MINING COMPANY LIMITED | Private Company | No Submission |
| TRG PTE. LTD. | Overseas Corporation | No Submission |
| YADANAR SIN THIRI GEMS COMPANY LIMITED | Private Company | No Submission |
| ANNAWAR PEARL COMPANY LIMITED | Private Company | Submitted Late |
| GAIL (INDIA) LIMITED. | Publicly Listed Company | Submitted Late |
| KYAUK SEINN SUN SHWIN JADE GEMS & JEWELLERY COMPANY LIMITED | Private Company | Submitted Late |
| KYAUK SEINN WINGABAR JADE GEMS & JEWELLERY COMPANY LIMITED | Private Company | Submitted Late |
| MANDALAY GOLDEN FRIEND MINING CO., LTD. | Private Company | Submitted Late |
| MAX (MYANMAR) MANUFACTURING COMPANY LIMITED | Private Company | Submitted Late |
| ME2 | SOE | Submitted Late |
| NGWE YI PALE MINING COMPANY LIMITED | Private Company | Submitted Late |
| PARAMI ENERGY SERVICES COMPANY LIMITED | Private Company | Submitted Late |
| SEIN THURA SAN GEMS COMPANY LIMITED | Private Company | Submitted Late |
| SHWE TAUNG MINING COMPANY LIMITED | Private Company | Submitted Late |
| TUN NAING AUNG GEMS COMPANY LIMITED | Private Company | Submitted Late |
| WUNTHO RESOURCES COMPANY LIMITED | Private Company | Submitted Late |
| PC MYANMAR (HONG KONG) LIMITED (YANGON BRANCH) | Overseas Corporation | Submitted Late |
| PETRONAS CARIGALI MYANMAR INC. (BRANCH OFFICE) | Overseas Corporation | Submitted Late |
| TANINTHAYI PIPELINE CO.,LTD. (MYANMAR BRANCH) | Overseas Corporation | Submitted Late |
| TUN THWIN MINING COMPANY LIMITED | Private Company | Submitted Late |

ENDNOTES

- ¹ See a map of countries that now make beneficial ownership data public, accessible here: <https://www.openownership.org/map/>
- ² “Primer – What is Beneficial Ownership?”, *Beneficial Ownership Data Standard*, accessible here: <https://standard.openownership.org/en/latest/primer/whatisbo.html> (accessed June 2020).
- ³ See *The economic interests of the Myanmar military*, United Nations Human Rights Council, Independent International Fact-Finding Mission on Myanmar, 5 August 2019, accessible here: <https://www.ohchr.org/EN/HRBodies/HRC/MyanmarFFM/Pages/Index.aspx>
- ⁴ Previous Global Witness reports on the jade mining industry include: *Jade: Myanmar’s ‘Big State Secret’* (2015) and *Lords of Jade* (2015).
- ⁵ *Jade: Myanmar’s ‘Big State Secret’*, Global Witness, 23 October 2015, p.6.
- ⁶ Shortell, Paul, *Losing Luster: Addressing Tax Evasion in Myanmar’s Jade and Gemstone Industry*, Natural Resources Governance Institute, 11 February 2019, p. 35.
- ⁷ Mann, Zarni, “Landslide Kills at Least 126 at Northern Myanmar Jade Mine”, *The Irrawaddy*, 2 July 2020, accessible here: <https://www.irrawaddy.com/news/burma/landslide-kills-least-126-northern-myanmar-jade-mine.html>.
- Ko Ko, Kyaw, “Investigators visit site of Hpakant mining disaster”, *The Myanmar Times*, 5 July 2020, accessible here: <https://www.mmtimes.com/news/investigators-visit-site-hpakant-mining-disaster.html>.
- ⁸ The full list of non-compliant and late-filing companies can be found in Appendix A to this report. We also note that DICA’s BO database has 163 records, but Myanmar Economic Corporation was included twice because it is active in both the “mining” and “jade & gems” industries. Thus, there are 162 companies. Assessment of company filings accurate as at 6 July 2020.
- ⁹ “Beneficial Ownership Declaration Form”, DICA, accessible here: https://bo.dica.gov.mm/sites/bo.dica.gov.mm/files/Beneficial_Ownership_Declaration_Downloadable_form_ENG_20191227.pdf (accessed March 2020).
- ¹⁰ Jones, Lee. “The Political Economy of Myanmar’s Transition”, *Journal of Contemporary Asia*, Vol. 44 No. 1. 2014, p.148-149; Rutherford, Isabel, “The Great Burmese Fire Sale”, *Foreign Policy*, 29 October 2015.
- ¹¹ “Myanmar Country Data”, *Transparency International*, accessed May 2020.
- ¹² Allard, Tom, “Myanmar put on money-laundering watchlist”, *Reuters*, 21 February 2020.
- ¹³ Ministry of Planning and Finance Order 60/2018, “Formation of Beneficial Ownership Task Force for Extractive Industries”, *Union of the Republic of Myanmar*, 30 June 2018.
- ¹⁴ “Draft Beneficial Ownership Roadmap of Myanmar”, *EITI*, accessible here: https://eiti.org/files/documents/bo_roadmap_-_myanmar.pdf.
- ¹⁵ Ministry of Planning and Finance Order 60/2018.
- ¹⁶ “Presidential Notification 104/2019”, *Union of the Republic of Myanmar, Office of the President*, 2 October 2019.
- ¹⁷ Chau, Thompson. “Confusion over Myanmar’s new beneficial ownership rules”, *Myanmar Times*, 31 January 2020.
- ¹⁸ “Directive on Disclosure of Beneficial Ownership Information”, *Republic of the Union of Myanmar, Ministry of Investment and Foreign Economic Relations, Directorate of Investment and Company Administration*, Directive No. 17/2019, 15 November 2019.
- ¹⁹ “Comment in Response to DICA ‘Request for Suggestion on the Transparency of the Company’”, *Global Witness*, 30 January 2020.
- ²⁰ “Beneficial Ownership Declaration Form”, DICA, accessible here: https://bo.dica.gov.mm/sites/bo.dica.gov.mm/files/Beneficial_Ownership_Declaration_Downloadable_form_ENG_20191227.pdf (accessed March 2020), see section 2.7

²¹ “Review of the First MEITI Beneficial Ownership Disclosure”, *MEITI*, January 2020.

²² “The Companies We Keep”, *Global Witness*, July 2018, accessible here: <https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/anonymous-company-owners/companies-we-keep/>.

²³ “Rules to curb UK money laundering widely flouted”, *Financial Times*, 14 February 2019, accessible here: <https://ft.com/content/7e823936-2863-11e9-88a4-c32129756dd8>.

²⁴ A full list of non-submitting and late-submitting companies can be found in Appendix A of this report.

²⁵ See for example Dagon Beverages (a subsidiary of MEC according to its website) in 2016-17, as discussed in “Top Taxpayers Honored for Contribution to Nation”, *The Irrawaddy*, 7 March 2018, accessible here: <https://www.irrawaddy.com/news/top-taxpayers-honored-contribution-nation.html>.

²⁶ *The economic interests of the Myanmar military*, United Nations Human Rights Council, Independent International Fact-Finding Mission on Myanmar, 5 August 2019, p.21.

²⁷ *Ibid*.

²⁸ Rutherford, Isabel, “The Great Burmese Fire Sale”, *Foreign Policy*, 29 October 2015.

²⁹ *Ibid*; Kinetz, Erika, “How a Myanmar tycoon is profiting from change”, *The Myanmar Times*, 3 June 2013.

³⁰ As of 1 June 2020, the raw data in CSV or JSON formats has not been updated to reflect the current state of the DICA website, which includes the updates and deletions discussed later in this report.

³¹ “Data Schema – Key Concepts”, *Beneficial Ownership Data Standard*, accessible here: <https://standard.openownership.org/en/0.2.0/schema/concepts.html> (accessed May 2020).

³² As at 1 June 2020, Ayar Yadanar’s filing was still available in the bulk data as these files have not been updated, accessible here: <https://bo.dica.gov.mm/sites/bo.dica.gov.mm/files/bo-disclosures-2019.zip>.

³³ Ayar Yadanar Company Limited filing in MyCO, accessed March 2020.

³⁴ Ayeyar Yadanar Gems and Jewellery Company Limited BO filing with DICA, accessed April 2020.

³⁵ Ayeyar Yadanar Gems and Jewellery Company Limited filing in MyCO, accessed April 2020.

³⁶ See *Lords of Jade*, Global Witness, 2015.

³⁷ Beneficial ownership filings for all six companies with DICA, accessed April 2020.

³⁸ See point 6 of “Presidential Notification 104/2019”, *Republic of the Union of Myanmar, Office of the President*, 2 October 2019.

³⁹ See annex 2 of “Beneficial Ownership Declaration Form”, *DICA*, accessible here: https://bo.dica.gov.mm/sites/bo.dica.gov.mm/files/Beneficial_Ownership_Declaration_Downloadable_form_ENG_20191227.pdf (accessed March 2020).

⁴⁰ Jones, Lee. “The Political Economy of Myanmar’s Transition”, *Journal of Contemporary Asia*, Vol. 44 No. 1. 2014, p.148-149; Rutherford, “The Great Burmese Fire Sale”, *Foreign Policy*, 29 October 2015.

⁴¹ *The economic interests of the Myanmar military*, United Nations Human Rights Council, p.19; Peel, Michael, “Myanmar: the military-commercial complex”, *Financial Times*, 1 February 2017.

⁴² Woods, Kevin, “Ceasefire Capitalism: military-private partnerships, resource concessions and military-state building in the Burma-China borderlands”, *Journal of Peasant Studies*, Vol. 38 No. 4, 2011, p.747-770.

⁴³ *Lords of Jade and Jade: Myanmar’s ‘Big State Secret’*, Global Witness, 2015.

⁴⁴ Woods, Kevin, “Natural Resource Governance Reform and the Peace Process in Myanmar”, *Forest Trends*, 18 October 2019, p11, accessible here: <https://www.forest-trends.org/publications/natural-resource-governance-reform-and-peace-process-in-myanmar/>.

⁴⁵ Myanma Economic Holdings Public Company Limited, BO filing with DICA, accessed March 2020.

⁴⁶ Hammond, Clare, “Military-owned MEHL applies to become public company”, *Myanmar Times*, 1 April 2016.

⁴⁷ Ibid.

⁴⁸ “Directive on Disclosure of Beneficial Ownership Information”, 15 November 2019.

⁴⁹ *The economic interests of the Myanmar military*, United Nations Human Rights Council, pp.70-71.

⁵⁰ Ibid, p.20.

⁵¹ Htoon, Kyaw Lin, “The return of Tay Za”, *Frontier Myanmar*, 20 October 2017.

⁵² “The Burmese Regime’s Number One Crony: Tay Za”, US Embassy Cable via *Wikileaks*, 3 April 2007. Accessible here: https://wikileaks.org/plusd/cables/07RANGOON328_a.html.

⁵³ “Treasury Action Targets Financial Network of Burmese Tycoon and Regime Henchman Tay Za”, *US Treasury Press Release*, 2 May 2008.

⁵⁴ *The economic interests of the Myanmar military*, United Nations Human Rights Council, p.28.

⁵⁵ “Mining License Explorer”, *Open Jade Data*, accessed April, 2020. 2013-2014 data shows three licences, while future years show no licences.

⁵⁶ *Jade: Myanmar’s ‘Big State Secret’*, Global Witness, 2015, p.42.

⁵⁷ “About KBZ Group of Companies”, *KBZ Group of Companies*, accessed April 2020.

⁵⁸ Thiha, “KBZ is The Biggest Tax Payer for Six Years Running”, *Consult Myanmar*, 1 February 2018.

⁵⁹ Szep, Jason and Marshall, Andrew R.C., “Special Report: An image makeover for Myanmar Inc.”, *Reuters*, 13 April 2012.

⁶⁰ *Jade: Myanmar’s ‘Big State Secret’*, Global Witness, 2015, p.59.

⁶¹ Nilar Yoma Gems Company Limited, company filing on MyCO, accessed March 2020.

⁶² Szep, Jason and Marshall, Andrew R.C., “Special Report: An image makeover for Myanmar Inc.”, *Reuters*, 13 April 2012.

⁶³ “Mining License Explorer.” *Open Jade Data*, accessed April 2020. Count includes licenses listed

for both “Kyaw Naing & Brothers Gems” (183 licenses) and “Kyaw Naing & Brothers” (7 licenses) for financial year 2014-2015.

⁶⁴ Historic DICA data extracted by OpenCorporates on 7 March 2019, accessible here: <https://opencorporates.com/companies/mm/331-1996-1997/events>.

⁶⁵ “Commission Regulation (EC) No 667/2005 on renewing the restrictive measures in respect of Burma/Myanmar”, *Official Journal of the European Union*, L108, 29 April 2005.

⁶⁶ Australian Government, “Autonomous Sanctions (Designated and Declared Persons – Burma) List 2012”, *Australian Government Federal Register of Legislation*, F2012L00474, 25 January 2012.

⁶⁷ “Heavyweights: The Definitive List”, *Myanmar Times*, 14 July 2014.

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⁷¹ “Sea of meth as Myanmar army smashes three drug labs”, *Frontier Myanmar*, 7 March 2020.

⁷² Weng, Lawi, “Myanmar Army Seizes Shan State Militia Chiefs Over Drugs Bust”, *The Irrawaddy*, 26 March 2020.

⁷³ *Jade: Myanmar’s ‘Big State Secret’*, Global Witness, 2015, p.67.

⁷⁴ *Jade: Myanmar’s ‘Big State Secret’*, Global Witness, 2015, p.68.

⁷⁵ “Mining License Explorer”, *Open Jade Data*, accessed April 2020.

⁷⁶ Moe, Wai, “Nay Win Tun: Burma’s Gem Stone Tycoon”, *The Irrawaddy*, 31 October 2007.

⁷⁷ *Jade: Myanmar's 'Big State Secret'*, Global Witness, 2015, p.67.

⁷⁸ 'Beneficial Ownership Task Force nominations', July 2018.

⁷⁹ *Jade: Myanmar's 'Big State Secret'*, Global Witness, 2015, p.65. Historic DICA data extracted by OpenCorporates on 12 July 2017, accessible here: <https://opencorporates.com/companies/mm/1532-1996-1997/events>

⁸⁰ The two NRC numbers are 13/TAKHANA(NAING)007015 and 13/KAKHANA(N)007015.

⁸¹ Data extracted by OpenCorporates, accessible here: <https://opencorporates.com/companies/mm/3003-2012-2013/events>

⁸² United States Department of the Treasury, Office of Foreign Assets Control, "Additional Designations, Foreign Narcotics Kingpin Designation Act", *Federal Register*, 73 FR 70697, 21 November 2008.

⁸³ *Lords of Jade*, Global Witness, 2015, p.26.

⁸⁴ *Ibid*, p.15-16.

⁸⁵ *Ibid*, p.25.

⁸⁶ *Jade: Myanmar's 'Big State Secret'*, Global Witness, 2015, p.64.

⁸⁷ "*Lords of Jade*, Global Witness, 2015, p.26.

⁸⁸ Historic DICA data extracted by OpenCorporates on 7 November 2017.

⁸⁹ Data extracted by OpenCorporates, accessible here: <https://opencorporates.com/companies/mm/3003-2012-2013/events>

⁹⁰ "Mining License Explorer", *Open Jade Data*, accessed April 2020. Licenses for Wai Aung Gabar Gems Company Limited are labeled as "Wai Aung Gabar" (50 licenses) and "Wai Aung Kabar" (1 license) in the database.

⁹¹ Historic DICA data extracted by OpenCorporates on 9 March 2019.

⁹² *Lords of Jade*, Global Witness, 2015, pp.4-5.

⁹³ *Ibid*, p18. In this report Global Witness used the spelling variant "Wai Aung Kabar".

⁹⁴ "Mining License Explorer", *Open Jade Data*, accessed April 2020.

⁹⁵ Minorities at Risk Project, Chronology for Kachins in Burma, 2004, available at: <https://www.refworld.org/docid/469f387014.html>.

⁹⁶ "Kachin News Group: KDA transformed to militia groups by Burma junta", *BurmaNet News*, 21 January 2010.

⁹⁷ Hammond, Clare and Mon, Ye, "The jade mining crisis", *Frontier Myanmar*, 3 June 2019.

⁹⁸ "Fire and Ice: Conflict and Drugs in Myanmar's Shan State", *International Crisis Group*, 8 January 2019.

⁹⁹ Nyein, Nyein, "Myanmar Touts \$200M in Drug Seizures in Military-Backed Militia Territory", *The Irrawaddy*, 11 March 2020.

¹⁰⁰ Thar, Kan, "Myanmar Army Seizes Drugs, Detains Leaders in Raid on KIA Offshoot Group", *Radio Free Asia*, 26 March 2020.

¹⁰¹ As discussed in Section 2.2, the companies were as follows: Chaow Brothers Gemstone Enterprise Limited, Shining Star Light Gems & Jewellery Co. Ltd., and Phyo Pyae Sone Gems Company Limited do not have further issues with their filings discussed in this report; Kyaw Naing & Brothers Gems Company Limited, and Shwe Byain Phyu Gems Company Limited are discussed further in Sections 3.1 and 3.3, respectively.

¹⁰² "Review of the First MEITI Beneficial Ownership Disclosure", *MEITI*, January 2020, p.11.

¹⁰³ "Exploration", *Georesources Group of Companies*, accessed April 2020.

¹⁰⁴ "Mining License Explorer", *Open Jade Data*, accessed April 2020.

¹⁰⁵ Andaman Pearl Company Limited, Company filing with MyCO, accessed March 2020.

¹⁰⁶ Myanmar Andaman Pearl Company, profile on LinkedIn, accessed May 2020.

¹⁰⁷ "Beneficial Ownership Declaration Form", DICA, accessible here: https://bo.dica.gov.mm/sites/bo.dica.gov.mm/files/Beneficial_Ownership_Declaration_Downloadable

[form_ENG_20191227.pdf](#) (accessed March 2020), p.4.

¹⁰⁸ The three companies are Kayah State Mineral Production and Myanmar Ruby Enterprise, discussed below, as well as Moattama Gas Transportation Co., Ltd.

¹⁰⁹ “万宝矿产有限公司” 企查查, “Wanbao Mining Limited Company”, *Qi Chacha*, (accessed April 2020).

¹¹⁰ “US punishes firms in Iran and China”, *BBC News*, 23 May 2003.

¹¹¹ “About Us – Myanmar Wanbao”, *Myanmar Wanbao*, accessed April 2020.

¹¹² “Myanmar: Suspend copper mine linked to ongoing human rights abuses”, *Amnesty International*, 10 February 2017.

¹¹³ Slow, Oliver, Win Zar Ni Aung and Ei Ei Mon, “Left behind by the Letpadaung copper mine”, *Frontier Myanmar*, 5 June 2019.

¹¹⁴ “Our CSR – Our CSR Projects”, *Myanmar Wanbao*. Accessible here: <https://www.myanmarwanbao.com.mm/en/our-csr/community-social-development-projects.html> (accessed May 2020).

¹¹⁵ “Zinc-Myanmar: The New Frontier”, Top End Minerals Investor Presentation, accessed April 2020.

¹¹⁶ Company filing accessible here: <https://www.asx.com.au/asxpdf/20181127/pdf/440nknnmr43ch4.pdf>

¹¹⁷ Shareholding information accurate as of January 31, 2020. Accessible here: <https://myanmarmetals.com.au/investors/shareholders/> (accessed May 2020)

¹¹⁸ “Fourth Myanmar EITI Report”, *MEITI*, 30 March 2019.

¹¹⁹ *Ibid.*

¹²⁰ *Ibid.*

¹²¹ “Fifth Myanmar EITI Report”, *MEITI*, March 2020, p.170.

¹²² *Ibid.*, p.174.

¹²³ Shortell, Paul. "Losing Luster: Addressing Tax Evasion in Myanmar's Jade and Gemstone Industry", *Natural Resources Governance Institute*, 11 February 2019.

¹²⁴ Hammond, Clare and Mon, Ye. "The jade mining crisis", *Frontier Myanmar*, 3 June 2019.

¹²⁵ “Data Schema – Key Concepts”, *Beneficial Ownership Data Standard*, accessible here: <https://standard.openownership.org/en/0.2.0/schema/concepts.html> (accessed May 2020).