

# Myanmar EITI Implementation: Progress and Implications for Companies

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# Myanmar EITI Implementation: Progress and Implications for Companies

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- Myanmar EITI - Progress
- Implications of EITI for Companies
- Benefits of EITI for Companies

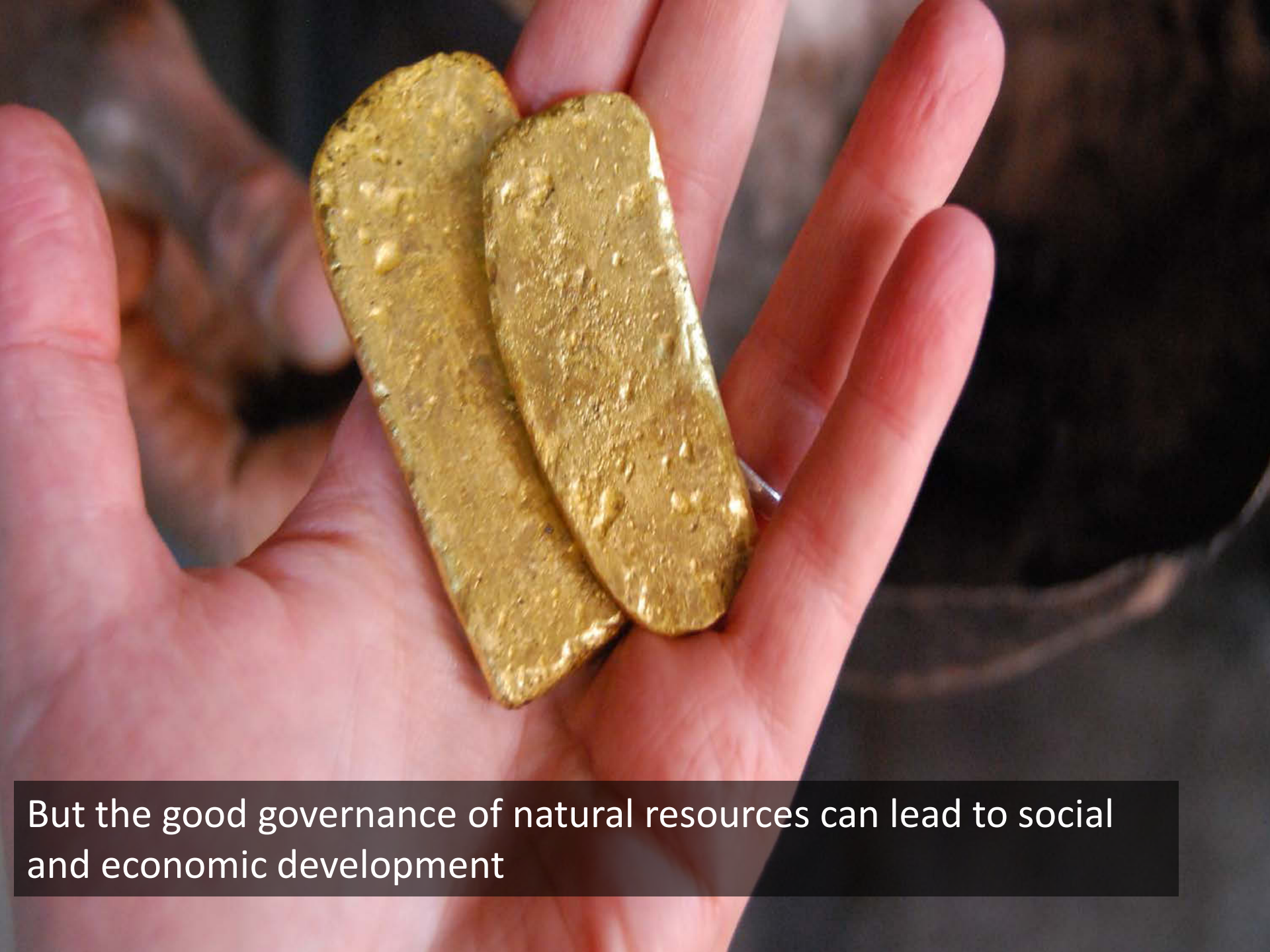


Countries with the richest wealth of resources are also often the poorest – known as the ‘resource curse’



If not managed well, the extractive sector can contribute to corruption, conflict and poverty





But the good governance of natural resources can lead to social and economic development


A close-up photograph of a person's hands holding a large, irregularly shaped rock. The rock has a rough, porous texture and is covered in various colors, including shades of brown, yellow, and blue. The person's hands are dark-skinned and are positioned on either side of the rock, supporting it. The background is blurred, showing a colorful pattern, possibly a piece of fabric or a wall. The overall lighting is soft and natural.

A country's natural resources belong to all its people.



More openness around how a country manages its natural resource wealth is necessary to ensure that these resources can benefit all citizens.





Citizens should have the right to see how their government is managing these resources.



PIPELINE FACILITIES PROTECTED UNDER LAW  
SEVERE PUNISHMENT ON PIPELINE DESTRUCTION

Myanmar-China Gas Pipeline Project  
Tel: 02-24980



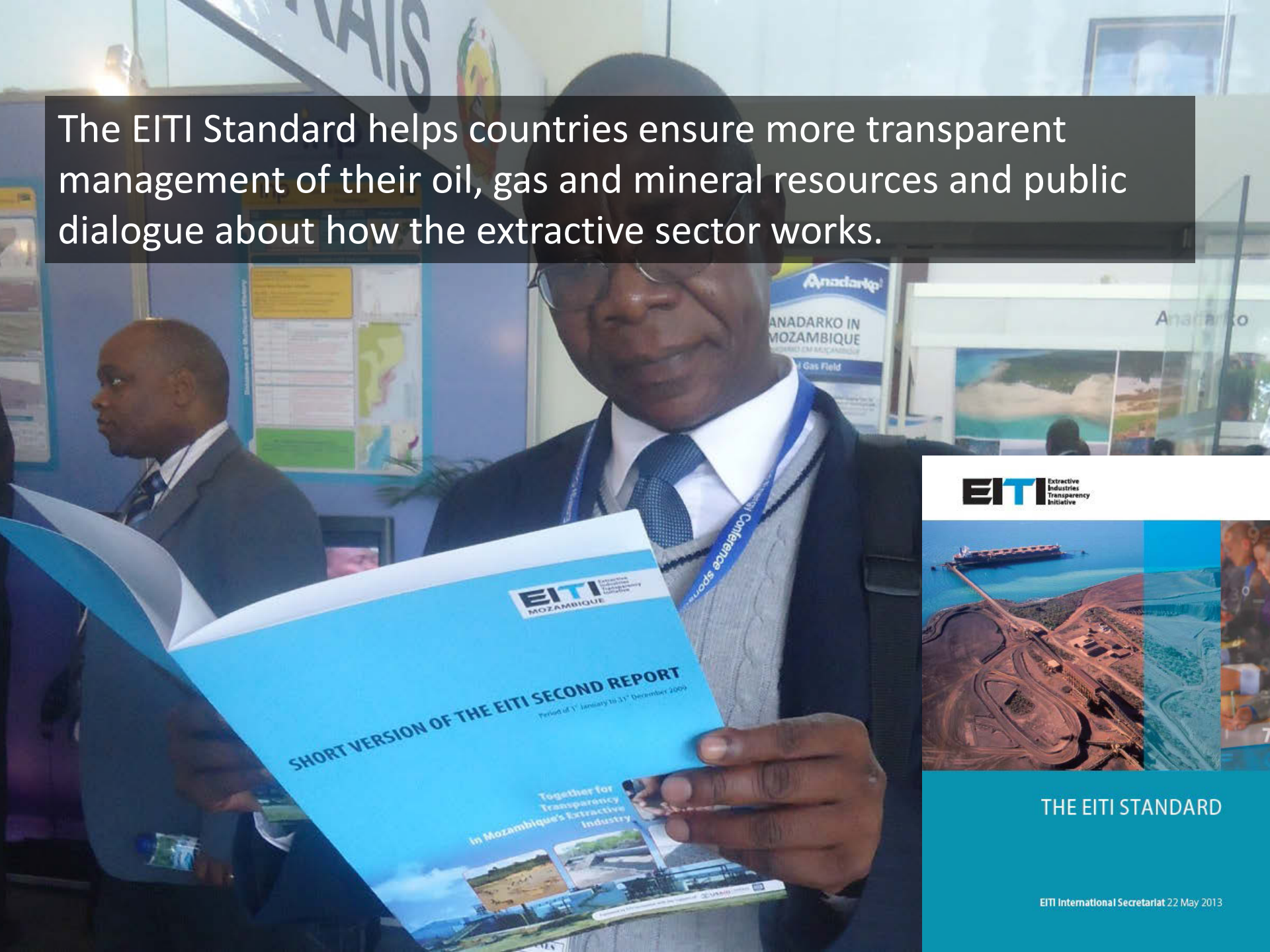
However, in too many countries this information is not publicly available





EITI has become *the* global transparency framework for the extractive sector

The EITI Standard helps countries ensure more transparent management of their oil, gas and mineral resources and public dialogue about how the extractive sector works.



**EITI** Extractive Industries Transparency Initiative



THE EITI STANDARD



# EITI Global Context

# EITI Global Context

- Increasing global trend towards greater transparency and accountability
- Mandatory disclosure of extractive industry related financial transactions now increasing globally
- Growing number of extractive industry-related corporate governance reporting frameworks around the world
  - US - Securities and Exchange Commission (SEC) Rules: Dodd-Frank Act (2010)
  - EU - Transparency and Accountability Directives (2013)
  - Canada – Extractive Sector Transparency Measures Act (2014)
  - Switzerland and Norway – currently developing legislation

# Dodd-Frank Act (US)

- US Congress passed the *Dodd-Frank Wall Street Reform and Consumer Protection Act* in 2010
- Section 1504 (Cardin-Lugar Amendment) requires US registered companies to publicly report all payments over USD 100,000 made to host governments for the extraction of oil, gas, or minerals on an annual basis to SEC
- Reporting will be required on a disaggregated, country-by-country and project-by-project basis
- Industry opposed Section 1504 - American Petroleum Institute filed lawsuit against SEC
- SEC has been requested to re-issue rules issued in 2012 that govern Dodd-Frank before the Law can come into effect
- Final rules now being discussed and negotiated to put disclosure requirement into effect (pending lawsuit outcome)





# EU Transparency and Accounting Directives



- April 2013 EU Member States, Parliament and Commission agreed to adopt new transparency rules for oil, gas, mining and forestry companies
- November 2013 EU Transparency Directive formally entered into force
- Includes all extractive companies listed on EU stock exchanges
- Companies required to report all payments over EUR 100,000 they make to governments on a **project-by-project and country-by-country basis**
- EU member states obliged to transpose into national law by autumn 2015

# EU Directives into National Law

- In 2014 UK, France and Germany began transposing EU Directives into national legislation
- December 2014 UK legislation passed - Statutory Instrument 3209  
**“Reports on Payments to Governments Regulations 2014”**

## *Article 5 (1)*

*For each financial year, companies must report the following information:*

- a) “the government to which each payment has been made, including the country of that government;*
- b) the total amount of payments made to each government;*
- c) the total amount per type of payment made to each government;*  
*and*
- d) where those payments have been attributed to a specific project, the total amount per type of payment made for each such project and the total amount of payments for each such project.”*

- Companies will start reporting from 2015 onwards
- All these frameworks complement and support EITI

What is EITI?



# What is EITI

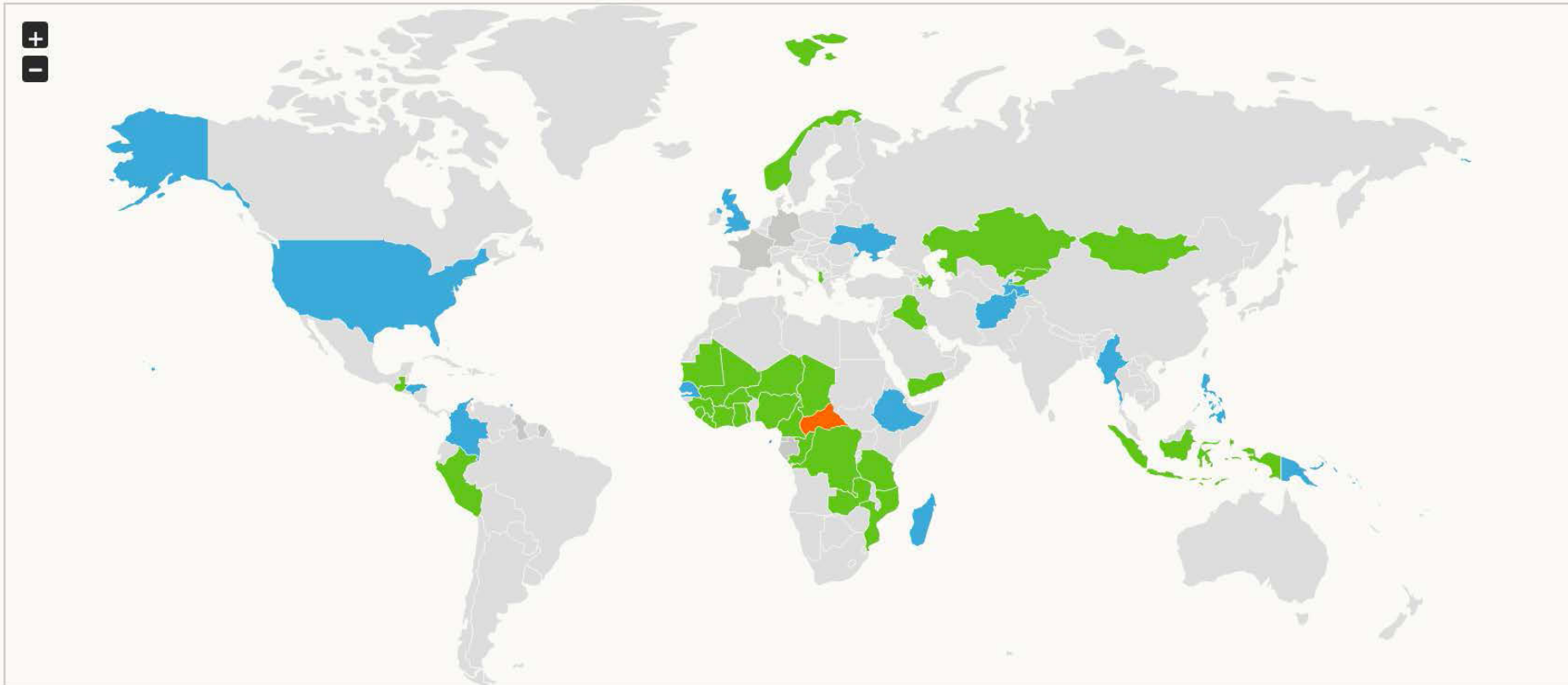
- International standard for transparency in extractive industries – 48 countries including Myanmar, UK and US in 2014 (and growing)
- Government, companies and civil society work together
- EITI Standard = 7 Requirements a country must meet to be compliant
- Overseen by International EITI Board (governments, companies and civil society)
- Facilitated and supported by EITI International Secretariat (based in Oslo)
- Government signs up to EITI – appoints lead Ministry and senior individuals for EITI responsibility

# What is EITI

- National EITI process implemented by a Multi-Stakeholder Group (MSG)
- MSG includes government, companies and civil society
- MSG supported and facilitated by National Secretariat (within lead Ministry)
- MSG must work together to implement the 7 Requirements – transposed as activities in an agreed MSG ‘Work plan’
- 2013 EITI Standard replaced previous narrower version
- EITI now more a platform for reforms, not just about revenue transparency

# EITI Globally

## EITI Countries



**EITI Candidate Country** - implementing EITI, not yet meeting all requirements

**EITI Compliant Country** - meeting all requirements in the EITI standard

**Other**

**Suspended** - Compliant/Candidate status is temporarily suspended

# EITI Standard: 7 Requirements

The EITI requires:

1. Effective oversight by the multi-stakeholder group
2. Timely publication of EITI Reports
3. EITI Reports that include contextual information about the extractive industries
4. The production of comprehensive EITI Reports that include full government disclosure of extractive industry revenues, and disclosure of all material payments to government by oil, gas and mining companies
5. A credible assurance process applying international standards
6. EITI Reports that are comprehensible, actively promoted, publicly accessible, and contribute to public debate
7. The multi-stakeholder group to take steps to act on lessons learned and review the outcomes and impact of EITI implementation



# What is EITI

- Essence of EITI = annual **EITI Report**
- Report is produced for MSG by an external '**Independent Administrator**' (usually an accountancy/consultancy firm)
- EITI Report must include:
  - **Reconciliation** of company payments to government/government revenues from companies – according to agreed scope
  - **Contextual information** about extractive industries and key resource governance issues (EITI Standard: Requirement 3)
- Report must include **disclosure of all material payments** to government by oil, gas and mining companies (EITI Standard: Requirement 4)
- Report must be easily comprehensible, actively promoted, publicly accessible and **contribute to public debate** (Requirement 6)



Licenses & contracts

Monitoring production

Tax collection

Revenue distribution

Expenditure management



Licensing information

State ownership

Contract transparency (encouraged)

Beneficial ownership (encouraged)

Production data



**Companies disclose payments**

Transit payments (encouraged)



**Government discloses receipts**

State-owned enterprises

Transfers to local government

Social and infrastructure investments



A national **multi-stakeholder group** (government, industry & civil society) decides how their EITI process should work.



Government revenues and company payments are disclosed and independently assessed in an **EITI Report**.



The findings are communicated to create **public awareness and debate** about how the country should manage its resources better.

# Stages of EITI Process

## 1. Pre Sign-up (4 Sign-up Steps)

- Submit candidacy application to International EITI Board
- Board reviews application - makes decision at quarterly Board Meeting

## 2. Candidate Country (Myanmar)

- 18 months deadline for first EITI Report – produced, widely disseminated and contribute to public debate
- Annual EITI Report produced

## 3. Validation

- 2.5 years from granting of candidate country status
- Independent assessment of compliance with 7 Requirements

## 4. Compliant Country

- Validation every 3 years

# Role of Companies in EITI



# Role of Companies in EITI

- Companies are at the core of the EITI process
- Oil, gas and mining companies report payments to government on an annual basis
- Payments and revenues are reconciled in an annual, independently produced EITI Report
- Companies help govern and guide the EITI process both locally and internationally
- Companies decide how they best want to be represented in the process in a country
- Usually a sector working group or association (1 oil/gas and 1 mining) with a few agreed representatives sitting on the MSG

# Role of Companies in EITI

- Companies, as part of the MSG, help shape the **scope / materiality** of EITI in a country, including:
  - Sectors/sub-sectors and why (most relevant to country)
  - Revenue streams / payment types to be reported
  - Appropriate payment materiality thresholds
  - Level of disaggregation of data
- Companies required to report all material payments on time using **reporting templates** prescribed by the MSG
- Payment data must be based on accounts audited to international standards

# EITI and the Oil, Gas and Mining Sectors

- EITI now has 100 'Supporting Companies' - more and more companies joining every year
- Approximately ½ oil and gas, ½ are mining companies
- Key international oil and gas company supporters of EITI include:

- BG Group
- BP
- Chevron
- Eni
- ExxonMobil
- Royal Dutch Shell
- Total
- Woodside



# EITI and the Oil, Gas and Mining Sectors

- Key international mining company supporters of EITI are:
  - All ICMM members (International Council on Mining and Metals)
  - Anglo American
  - ArcelorMittal
  - BHP Billiton
  - Glencore
  - MMG (China Minmetals Corporation- CMC)
  - Newmont
  - Rio Tinto
  - Vale

**ICMM**  
International Council  
on Mining & Metals



**ANGLO  
AMERICAN**



**bhpbilliton**  
resourcing the future

**RioTinto**

**GLENCORE**

  
**ArcelorMittal**

  
**NEWMONT™**  
*The Gold Company*

**MMG**

  
**VALE**



# Myanmar EITI - Progress

# MEITI Timeline

December 2012	Government commitment to implement EITI in Presidential Decree: 'Leading Authority' of 5 ministers appointed and MDRI-CESD designated 'Coordinator'.
January 2014	Establishment of Multi-Stakeholder Group (MSG) to lead implementation of EITI in Myanmar
Feb-April 2014	First MSG meeting, Agreement of MEITI Workplan
Feb - May 2014	Preparation for MEITI candidacy application
July 2014	EITI Board awards Myanmar candidate country status. Myanmar granted until January 2016 to publish first report.
<b>Jan - Feb 2015</b>	<b>Procurement of Independent Administrator to carry out scoping study followed by production of first MEITI Report</b>
Feb - May 2015	Scoping study to determine scope of first MEITI Report
June - Nov 2015	Production of first MEITI Report
January 2016	Deadline for publication of first MEITI Report (for FY 2013-2014)
January 2017	MEITI Validation of compliance with 7 Requirements (to achieve 'Compliant' status)

# Myanmar EITI MSG Composition

(agreed in January 2014)

- **MEITI MSG Chair**
  - Dr Maung Maung Thein, Deputy Minister of Finance
- **MEITI MSG Deputy-Chair**
  - U Myint Zaw, Deputy Minister of Energy
- **MEITI National Coordinator**
  - Dr Zaw Oo, MDRI-CESD
- **6 Government representatives:**
  - MD MOGE
  - DG Ministry of Mines
  - DG Ministry of Finance (Revenue Department)
  - DG Ministry of Env. Conservation and Forestry
  - DG Home Affairs
  - DG Office of the Auditor General
- **Private Sector – oil and gas (4):**
  - Total
  - Petronas
  - MPRL
  - GoldPetrol
- **Private Sector- mining (2):**
  - CNMC Nickel
  - Myanmar Federation of Mining Associations (MFMA)
- **Civil Society Organisations:**
  - 9 representatives of national and regional CSOs

# Current MEITI Status

- Now = procurement of Independent Administrator to do scoping study and produce first MEITI report for MSG
- Scoping Study for first MEITI report (Feb-May 2015)
  - to determine which sub-sectors, payment/revenue types, thresholds and reporting entities (companies and government) will be included
- Production of MEITI report (June-October 2015)
  - Reconciliation of all payment/revenue data included in agreed scope
  - Contextual information about sector (e.g. license allocation, production data, contract disclosure, beneficial ownership etc.)
- Report publication deadline 2<sup>nd</sup> January 2016
- National MEITI Secretariat moving from MDRI-CESD to Ministry of Finance over the next few months during 2015



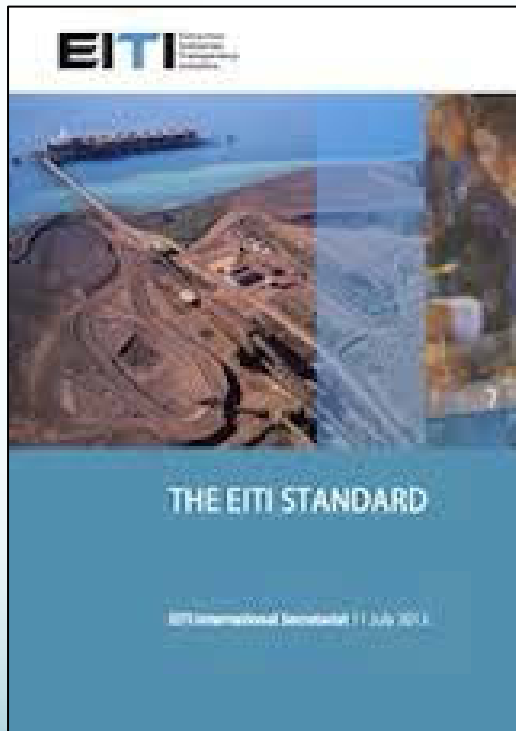
# Implications for Companies

# Implications for Companies

- Most recent/new company contracts with the government include an EITI clause
- Companies will be asked to provide the required data by/to the Independent Administrator (with support from MEITI National Secretariat):
  - For the scoping study (Feb-May 2015) - to determine what the scope/materiality threshold for the first report should be
  - Once scope agreed by the MSG, for the reconciliation report (June-Nov 2015)
- Necessary data relates to EITI Standard, Requirements 3 and 4 specifically

# Implications for Companies

- EITI Standard, Requirement 3:



***“The EITI requires EITI Reports that include contextual information about the extractive industries”***

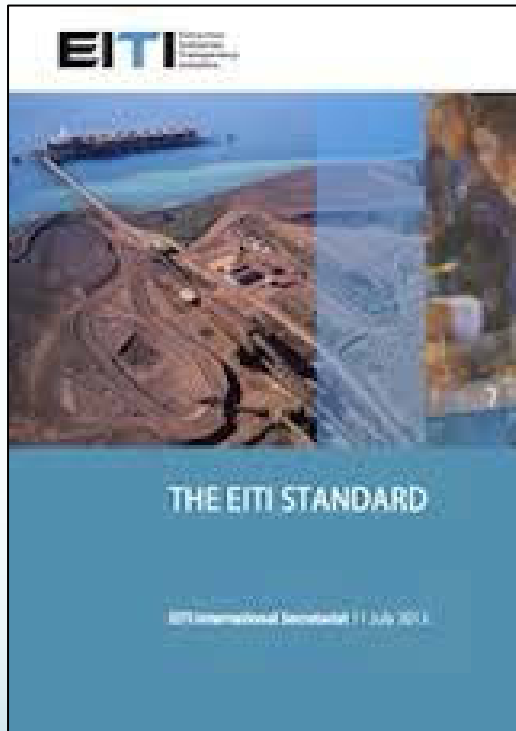
- *Overview of sector*
- *Contribution to economy*
- *Production & Export data (volumes, value etc.)*
- *State participation in sector*
- *State revenue management & expenditure*
- *Register of licenses / cadastre*
- *Allocation of licenses*
- *Beneficial ownership*
- *Contract disclosure*

# Implications for Companies

- Contextual information required for report:
  - **Production and export volumes**, value of production/export by commodity and by region
  - **Licensing and contracting process** - assessment and analysis
- Beneficial ownership
  - Disclosure of beneficial ownership of private companies (not publicly listed companies) = 'encouraged' but not yet mandatory. EITI Board has agreed to make this a requirement from January 2016.
- Contract disclosure:
  - Government policy on disclosure of contracts required
  - Countries are 'encouraged' to publicly disclose contracts and licenses
  - Growing international good practice

# Implications for Companies

- EITI Standard, Requirement 4:



*“The EITI requires the production of comprehensive EITI Reports that include full government disclosure of extractive industry revenues and **disclosure of all material payments to government by oil, gas and mining companies**”*



# Implications for Companies

In line with Requirement 4 of EITI Standard, companies will be required to provide the following information over the next few months

- Payment/Revenue types:
  - Government/SOE production entitlement (e.g. profit oil)
  - Profit tax and other taxes
  - Royalties
  - Dividends
  - Bonuses (e.g. signature, discovery or production)
  - License fees, rental fees, entry fees or other license/concession related fees
  - Any other significant payments and material benefit to the government

# Implications for Companies

- Revenue streams/benefits should only be excluded where:
  - They are not applicable, or
  - Where MSG agrees their omission will not materially affect report comprehensiveness
- Other required information:
  - Infrastructure provisions/barter arrangements (if applicable)
  - Social expenditures (if mandated by law or required by contract)
  - Transportation revenues (taxes, tariffs etc.)

# Implications for Companies

- All companies making material payments to government are required to comprehensively disclose these according to agreed scope to the Independent Administrator
- “An entity should only be exempted from reporting if it can be demonstrated that its payments and revenues are not material”
- Level of disaggregation of data
  - Individual company, government entity and revenue stream = required
  - Project level = required, providing is consistent with US SEC Rules and EU Directive requirements

# Implications for Companies

- Process:
  1. Companies will be contacted by Independent Administrator over next few months and asked for EITI-related information
  2. Companies will be asked to complete a form or 'reporting template'
  3. Form will require sign-off from a senior company representative to attest that it is complete and accurate
  4. Confirmation letter from company external auditor may also be required
- Appropriate provisions for safeguarding confidential information will be discussed and agreed in advance by the MSG and Independent Administrator



Legal framework & fiscal regime ( § 3.2 )	Exploration activities ( § 3.3 )	Taxes & Primary Revenues ( § 4.2(a) )	SOE level of beneficial ownership ( § 3.6(c) )	Direct payments/ receipts ( § 4.2(d) )	Employment § 3.4(d)	Revenues in & not recorded in budget ( § 3.7 )
License award/ transfer process & deviations( § 3.10 )	Production volumes & values ( § 3.5(a) & § 3.4(e) )	In-kind revenues ( § 4.1(c) )	Government transfers by SOEs ( § 4.2(c) )	Mandated national/ subnational transfers ( § 4.2(e) )	Social payments ( § 4.1(e) )	Earmarked revenues & budget/audit processes ( § 3.8 )
Register of licenses ( § 3.9 )	Export volumes & values ( § 3.5(b) )	Infrastructure /barter provisions ( § 4.1(d) )	SOE quasi-fiscal expenditures ( § 3.6(b) )			
Beneficial ownership ( § 3.11 )	Economic contribution ( § 3.4(a)-(c) )	Transport Revenues ( § 4.1(f) )				
Contract/licens e disclosure ( § 3.12 )						



# Benefits of EITI for Companies

# Benefits to Companies

- Benefits to companies and investors centre on mitigating political and reputational risks
- Political instability caused by opaque governance is a clear threat to investments
- Extractive industries = capital intensive investments and dependent on long-term stability to generate returns – so reducing instability is crucial for business
- Transparency of payments made to a government can help a company demonstrate the contribution that their investment makes to a country

# Benefits of EITI for Companies

- EITI provides opportunity to be part of public discussion and platform for constructively engaging with stakeholders
- Enables frequent engagement with government ahead of policy changes
- Opportunity to discuss issues with civil society/communities - an 'early warning system'
- Improves credibility and reputation - EITI Reports provide opportunity to demonstrate good corporate behaviour
- Better business climate - improves business confidence
- EITI builds trust among stakeholders, and...
- Is now increasingly leading to important reforms in implementing countries...

# Thank you

## Questions?

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