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Myanmar's Mineral Resources: Boon or Bane for the Peace Process?

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As investors look to tap into new opportunities in Myanmar's resource and mining sectors they risk undermining the fragile peace process and provoking tensions between the government and armed ethnic groups. The challenges are many and could multiply if business, government and other actors are not cool headed moving forward. Mining sector reform is a crucial pivot that will be a bellwether for the country's transition. This paper explores the various issues faced by Myanmar's mineral resource sector and the impact on the peace process.

As hype persists over Myanmar's resource wealth, the country is gearing up for a new wave of investment with new mining laws predicted to shortly come into effect. Indeed, a recent Asian Development Bank study noted that Myanmar could become Asia's next "rising star" if it can leverage its rich resource potential.[1] However, regardless of much optimism, difficulties remain and if not addressed could unsettle the peace process. The most important issue for investors, but also populations living near resources, is the reform of legal and regulatory frameworks—the current uncertainty in these frameworks is harming the investment climate. Similarly land tenure must be defined and sustainable agreement reached with armed ethnic groups for their greater inclusion into the democratic process. Greater transparency is also needed to boost confidence in local actors that remain entangled with military powerbrokers. If such a prudent approach is not achieved, resources could become more of a burden rather than a boon in the country's transformation and could ultimately unhinge the peace process. This paper explores current progress and future problems in the development of a robust mining sector in Myanmar that can facilitate cooperation and confidence, and whereby the profits can buttress rather than break the peace process.

Myanmar is rich in minerals, amongst them nickel, gold, bauxite, copper, coal, and gemstones. After the energy sector, mining is the second biggest sector for foreign direct investment in the country. Unlike the energy sector, which is largely controlled by the Burman majority ethnic group, high-value minerals are found across the entire country, including in areas controlled by other ethnic groups. Despite the

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potential stored in mineral wealth in Myanmar, the population is still tied to the agricultural sector. Seventy percent of the country's labor force is engaged in agriculture, while only seven percent are engaged in industry.[2] Making the shift to engage a greater share of the population in the mining industry could, at least in the short term, provide valuable incomes to rural communities. Most importantly, mining in remote rural and ethnic areas could pay for key infrastructure—including electricity, transport, water, and wastewater facilities—in hitherto neglected areas of the country. Yet Myanmar, with numerous simmering conflicts between the central government and armed ethnic groups, must walk a perilous path to avoid falling deeper into an already palpable "resource curse."

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Mapping Myanmar's Mineral Wealth

Resources in Myanmar are spread over many ethnic regions, many of which have limited central government control. The country is split, according to government data, into eight major ethnic races, which comprise 135 distinct ethnic groups. According to survey maps from the Ministry of Mines, the energy belts of hydrocarbons (oil, gas, and coal) are centered in Burman ethnic areas, the majority and governing ethnic group. Lead, zinc, silver and copper belts are found in the center and northeast of the country—much of it in ethnic-controlled areas, including by Shan, Mon, and Wa peoples. The Kachin control or contest much of the northeastern mineral belts of gold, copper, iron, and also of lead, zinc, silver and copper. Mineral belts of precious stones can also be found in the northeast Kachin region and north-central Shan region. While the mountainous central-western regions, home to the least developed infrastructure in Myanmar and dominated by the ethnic Chin, hold belts of hydrocarbons and minerals such as nickel, chromite, copper, platinum, and gold.

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Unsurprisingly, government-controlled and often ethnically Burman areas continue to hold the majority of investments in the mining sector. Rubies and sapphires are mined in Mogok, Upper Myanmar/Mandalay. Gold is extracted in six large-scale gold mines including Phayoungtaung mine in Manadalay division and Kyaukpahto in Sagaing division. An iron and steel plant in Pyin Oo Lwin is operated by the Ministry of Defence, with much of the production providing the local market. Nickel is produced in the Tagaung Taung nickel ore project at Thabeikying in Mandalay Division under a joint venture production sharing agreement with state-run Mining Enterprise 3 and China Nonferrous Metal Mining Group Co Ltd (CNMC)—a project reportedly worth almost a billion USD.[3]

Non-Burman Divisions, where significant mining projects are underway, are notably fewer, but include Kachin State, Kayah State, and Shan State. Jadeite jade is mined in Kachin State. Tin and its refined and concentrate varieties are produced in Mawchi mine in Kayah State, Tanintharyi, and Tenasserim division in southern Myanmar. Lead and zinc are produced in Namtu-Bawdwin (Shan State), Yadanar Theingi (Mandalay), and Bawsaing (Shan State) mines. Chin State, in the country's west, has been slated by the government to commence nickel and chromite production once sufficient electricity supply is available.[4]

The uneven weight of commercial mining

ventures between Burman and non-Burman Divisions is not surprising. Until recent ceasefire agreements were signed, Myanmar was a hotbed of ethnic conflicts with dozens of armed ethnic groups operating across the country, making ethnic areas "no-go zones" for investment. Additionally, the policy of ethnic assimilation—"one race, one language, one religion"[5]—pursued by U Nu, Myanmar's first prime minister following independence in 1948—remained under the Junta and sought to keep ethnic minorities marginalized and poor so they would yield to the Burman-run government. The policy significantly reduced development of ethnic areas. While this policy has now officially changed, sentiments remain. Development of mineral resources in Myanmar's ethnic areas will thus also be challenged by a need to change discriminatory mindsets.

Changing State Monopolies

Numerous problems remain in the overall framework and make-up of the mining sector, not just in ethnic areas. In addition to the increasingly complicated presence of a multitude of international actors, one of the key problems is the entrenchment of state-run or state-connected companies.

Under the Ministry of Mines, three core state-owned enterprises (SOEs)—Mining Enterprise 1, 2, and 3—continue to operate in the mining sector, entering into joint venture arrangements with local and foreign companies. In addition to these three core enterprises, the Myanmar Gems Enterprise, Myanmar Pearl Enterprise, and Myanmar Salt and Marine Chemical Enterprise are responsible for the production of their namesake minerals.

Under the military regime, much of the extractives industries were run, directly or indirectly, by the Tatmadaw. While progress has been made in redressing this imbalance, the continued government presence in the sector remains a significant impediment to a transparent and competitive market. In January 2011, the government announced a plan to privatize 90 percent of the country's state-owned enterprises in the extractives sector within a 12-month period.[6] The privatization saw many of the assets traded from official government control to the control of connected crony elites. But it also had the positive effects in the opening up of monopolies once held by Myanmar Oil and Gas Enterprise (MOGE), Myanmar Post and Telecommunications (MPT), and Myanmar Electric Power Enterprise (MEPE).[7]

State-Owned Enterprise	**Production Mineral Responsibilities**
Mining Enterprise 1	Lead, zinc, iron, antimony, nickel, copper, chromite and silver.
Mining Enterprise 2	Tin concentrates, wolfram concentrates, tin-wolfram-scheelite mixed concentrates, refined gold and refined tin.
Mining Enterprise 3	Coal, manganese, limestone, barite, gypsum, dolomite, fluorite, bentonite, industrial clay and dimension stones.

Other state-owned enterprises have been more stubborn to change. Myanmar Economic Holding Ltd (MEH) and Myanmar Economic Corporation (MEC), the two major conglomerates run by the Ministry of Defence, are both either directly or indirectly heavily invested in the extractive industries. For example, MEH, and Mining Enterprise 1, have a joint venture agreement with Chinese firm Yang Tse Mining Ltd to run one of the country's largest copper mines at Letpadaung outside of Monywa.

The copper mines outside of Monywa, both that at Letpadaung as well as the Sabetaung and Kyisintaung mine, are widely unpopular. Large protests against the Monywa mines have continued over the past 12 months and were brutally dispersed by police reportedly using white phosphorous, an incendiary weapon subject to international bans. The crackdown led to the commissioning of a report and an investigation headed by Aung San Suu Kyi, and brought MEH into an unwelcome spotlight.

Further to such criticisms of SOEs in the mining sector, other censure has come from seemingly corrupt practices within the political system. Diminishing the military's near-monopoly on business interests has been one of President Thein Sein's hardest battles—a battle not always won.

Myanmar's reform process is complex with one set of reforms begetting and necessitating quick reforms in other sectors. The current reach of Tatmadaw-run conglomerates, such as MEC and MEH, will mean that scaling back their influence may ultimately lead to a slowdown in effectiveness of local partners within the mining sector. This could have serious repercussions that could harm Myanmar's fragile economy. However, the long-term benefits will ultimately out-weigh the short-term frustrations. Similarly, it is important for SOEs to continue, at least in the short to mid term, to hold a presence within the sector. The collapse of the conglomerates could lead to significant budget deficits as enterprises that were once profit-making may require cash injections by the government to keep them afloat and the economy ticking over. Yet monopolies and government-led investments reduce free market activities and also the important creation of new local enterprises, particularly in ethnic areas. This stymies dynamism, reducing development and growth to solely Burman-areas, and thereby diminishes trust in the economic opening of the country, both for investors and ethnic minorities.

Improving Regulatory and Legal Frameworks

In order to mitigate many of these problems, a reform of the mining sector's legal and regulatory frameworks is necessary. It is these frameworks of the extractive industries that will have significant impacts on ethnic groups, including their access to resources and subsequent profit from their extraction. Such were the sentiments expressed at the Myanmar Mining Summit in July last year.[9] The mining law then stipulated a 30-70 split in profits, as well as the extracted resources, the larger slice going to the government. According to the Minister for Mines, Dr. Myint Aung An, an upheaval of Myanmar's 1994 mining laws is due shortly.[10]

The draft laws are currently in the parliament and are expected to come into effect by the end of the year, although further delays are likely. According to initial reports of these draft laws, foreign companies may receive 50-year leases for large-scale projects as well as tax breaks, or tax holidays, in the first five years. Current permits for large-scale mining cannot exceed a period of 25 years, with extensions of only five years per application, while the current law also requires raw ore to be processed in the country.[11] While officials have hinted that the latter requirement is unlikely to change, questions of the country's processing capacity remain, as this will also necessitate significant improvements in infrastructure.

These changes would be a significant step in boosting investor confidence and loosening the restrictive legal climate and further buttress progress that began with the signing of the foreign investment law in November 2012. Similar to these changes, the government, with the support of AusAID, is making progress in a bid to join the Global Extractive Industries Transparency Initiative (EITI), which the government is expected to begin the formal process of joining by the end of the year with full participation by 2016. The move would be a boon for the mining sector in Myanmar by boosting transparency of payments to government and of overall government revenues from the extractive industries.

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One of the key and immediate problems for the government, expressed by the country's then Minister for Energy Than Htay last June, is that sufficient job creation will not come from resources.[12] He's right. History shows the boom-bust cycle of mining in developing countries—mines are labor-intensive to develop and labor-light to run. While mining will bring money for much needed infrastructure and further development, it will not create enough jobs and could augment conflicts over profit-sharing agreements as well as land disputes. To make the sectors reform palatable for ethnic minorities, new regulations must ensure such measures as:

- inclusive profit-sharing agreements (where applicable);
- clear land tenure;
- market-value compensation for land;
- socio-economic incentives;
- strong environmental practices;
- transparent mechanisms for complaint and dispute resolution.

A Peace Economy: Mining the Peace Process

As official negotiations with armed ethnic groups are ongoing, other expeditious movements are also occurring, led by private sector individuals. In contested areas, where resources are rich, there has emerged a growing peace economy.[13]

According to a 2012 International Crisis Group report, Dawei Princess Company, which holds mining and logging concessions in Karen National Union (KNU) controlled areas, funded peace talks and facilitated contacts for ceasefire discussions in Karen State.[14] A similar case was seen in Kachin State where Yup Zaw Hkawng, a prominent businessman in the trade of precious stones, facilitated dialogues between the government and the Kachin Independence Organization.[15] Such examples of the emergence of a peace economy continue.

Companies see commercial benefits in brokering peace from which they can later command dividends from their involvement, thereby monetizing the peace process. Access to logging activities offer the most immediately accessible of such dividends, and were reportedly used as a bargaining tool by Karenni groups in ceasefire talks.[16] Such a peace economy, if the approach is transparent, can have a positive effect on incentivizing the peace process and allowing a win-win outcome for conflicting parties. However, as this becomes more entrenched it will be harder to dislodge these business interests from further negotiations.

Armed ethnic groups, such as the Kachin Independence Army (KIA), know that they are sitting atop precious resources and that could mean powerful wealth creation. However, currently the extraction of such minerals is based primarily on manual labor, which aside from being wildly uneconomical also includes practices of child labor. The modernization and industrialization of the mining sector could drastically increase profitability of extraction, remove illegal practices, and improve infrastructure and services to remote areas. Indeed, building infrastructure that allows for greater interaction with ethnic groups, and that provides greater access for ethnic groups to bring their goods to market, should lead to a greater inclusiveness in the overall development of the country.

Infrastructure is key in countering insurgency groups and developing remote communities. As the U.S. Commander in Afghanistan, Lieutenant General Eikenberry, noted in relation to the importance of infrastructure in Afghanistan, "where the roads end, the Taliban begin." For Naypyidaw this may also hold true in its conflicts with armed ethnic groups. However, in order for armed ethnic groups in Myanmar to allow such developments—as infrastructure would almost certainly diminish their control by diluting their monopoly in access and power in their respective territories—they must see some greater benefit, and a significant degree of trust between government, local populations and business actors needs to be fostered. Despite the difficulties, resource profit sharing offers one option for cooperation and trust building, if done right.

"Armed ethnic groups, such as the Kachin Independence Army, know that they are sitting atop precious resources and that could mean powerful wealth creation."

Yet this remains the problem. Fundamental questions in the peace process remain, and must be resolved before any resource profit sharing can occur. Indeed, answering such questions may in fact be the *sine qua non* to sustainable development in Myanmar. The core issues, by no means exhaustive, are: Who are the legitimate actors in negotiations and legitimate recipients of profits? Will representatives of ethnic organizations agree to partnership deals that would guarantee local trickle down of revenues? Or should integration into the political process be a precondition before such investments take place? These questions will need to be negotiated with individual interest groups.

Indeed it would not be surprising to see the reemergence of a debate on a federal system, once put forth by Aung San in the Panglong Agreement in 1947, to place a governance framework on the management of resource riches. However, the issue remains sensitive for Naypyidaw, particularly for much of the old guard of the Junta and the Union Solidarity and Development Party who see federation as ceding central power and harming the solidarity within the Union. While the establishment of a federal system would not be a panacea to all Myanmar's ills, it would allow for greater engagement of Naypyidaw with ethnic groups at a political level rather than at a military-to-military level. States could then be held accountable for their development and the management of their resources.

Short-term Bane, Long-term Boon

In the country's complicated peace process, there are numerous "hard questions" that remain unanswered. However, some reforms in the mining sector are relatively straightforward and may pave a smoother road for other more complicated issues to be addressed. Thus, in the short term: improvements to legal and regulatory frameworks should be prioritized, as should the joining of the EITI; the privatization of state-owned enterprises should be persistent but gradual to ensure stable growth; resource sharing agreements between ethnic groups and government or private companies should be arrived at as transparently as possible; and, foreign investment should be particularly aware of underlying tensions and the potential for political violence.

Despite other progress that may be achieved, investment in the mining sector will remain fraught with problems until the peace process is further consolidated. Yet if reform is persistent and patience prevails, the windfall can be shared by all.

KEY POINTS

- Investment in mineral resources can enable or destabilize the peace process between the Tatmadaw and armed ethnic groups but must be inclusive of all concerns if it is to be sustainable.
- Greater transparency, and joining of the EITI, is needed in Myanmar to ensure sustainable and peaceful growth.
- Federalism, under a renewed Panglong Agreement, may offer the framework for resource sharing agreements.
- Development of mineral resources in Myanmar's ethnic areas will be challenged by a need to change discriminatory mindsets and build trust between key stakeholders.
- Reform of the sector must ensure: inclusive and fair profit-sharing agreements; clear land tenure; market-value compensation for land; CSR and socio-economic incentives; strong environmental practices; and, transparent mechanisms for dispute and complaint resolution.

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[13] A "Peace Economy" here is defined as a licit shadow economy where economic incentives drive the private and public sector to enable peace processes rather than continue with interactions that prolong violent conflict for commercial gain.
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