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I. General Overview of Mining Industry

Myanmar has a long history of mining in gemstones, gold, silver, amber, antimony, cinnabar and copper sulphate, with the first recorded mines dating from the 15th century. During British rule the government granted mining leases mainly to British private companies, for producing lead, zinc, silver, tin, gemstones and gold. Following independence in 1948, the government entered into joint ventures with primarily British companies but in the 1950's and 60's all private mining companies were nationalized. All naturally occurring minerals found either on or under the soil of any land and in the continental shelf were deemed to be owned by the State. State owned enterprises were set up throughout the economy, including the resources sector.

Since 1989, when Myanmar first reopened its economy to foreign investment, both foreign and local companies have been encouraged to invest in the Myanmar mineral sector, although development has been slow. The Myanmar Mines Law was promulgated in mid 1994 (with gemstones mining being subject to a separate Gemstones Law of 1995). It adopted the exiting right of the State's ownership of all minerals. All mining activities were administrated by the Ministry of Mines which operated a Production Sharing Contract (PSC) system for mining, where the State would take a share (up to 30%) of the mining output. This structure was not popular with investors, not only for the actual PSC structure but because the PSC was only put in place at the mining stage, creating investor uncertainty.

In December 2015, Myanmar adopted substantial amendments to the Myanmar Mines Law following which, in 2016, the Ministry of Mines was merged with the Ministry of Environmental Conservation to form the and Ministry of Natural Resources and Environmental Conservation (MONREC). MONREC is the government ministry responsible for administration of the mining industry. Within MONREC, there are 2 departments related to mining administration:

- the Department of Mines is responsible for administration of mineral policy and planning mineral legislation, mine inspection and safety, mineral conservation and environmental conservation; and
- the Department of Geological Survey and Mineral Exploration conducts geological surveys and mapping as well as undertaking exploration for mineral resources.

Upon its formation, MONREC implemented a moratorium on the issue of new mining permits due to concern over the environmental damage caused by the mining industry and "legal confusion" pending issue of new Mines Rules. These rules were finally issued in February 2018 and the moratorium was lifted in July 2018, with MONREC announcing that, following assessment of 519 mining sites and instituting various reforms, new local and foreign investment in the mining sector would again be permitted. Very few mining permits have been issued to date.

Whilst Myanmar offers significant opportunities for mining, the country risk remains high and the permitting process is likely to be slow, particularly as MONREC works out its application of the new law and rules.

II. Mining Regime

The primary legislation governing mining in Myanmar is the Myanmar Mines Law of 1994 as amended by Law 72/2015 (**the Mines Law**). The Mines Law sets out the mining permitting framework, the respective roles and responsibilities of MONREC and regional authorities, the royalty rates for minerals, the designation of Mineral Reserve Areas, the role of the Chief Inspector in ensuring compliance with health and safety, environmental management and general laws, prohibitions and penalties for breach of the law

The Myanmar Mines Rules issued pursuant to Notification of MONREC No. 13/2018 (**the Mines Rules**) deal with the operations of the Mines Law, providing for the Permit application process, obligations and rights of Permit holders, transfer of permits, rules related to use of land and water, mine employment and working conditions, mine health and safety, mine closure procedures, environmental management, reporting, inspections fiscal issues, and the State participation rights.

Mining activity with respect to gemstones continues to be governed by the Gemstones Law of 1995, which is currently before Parliament for amendment.

Permitting

There are 9 forms of permit for mining with an additional permit to provide for multiple activities to be included under the one licence. There are permits for each stage of a mining project:

- Prospecting
- Exploration
- Feasibility Study
- Production (separate licences for large scale, medium scale, small scale and subsistence production)
- Mineral processing
- Mineral trading

A feature of the Myanmar mining permitting regime is the distinction made between large scale, medium scale and small scale production which both regulates who will approve the permitting, as well as who may be granted a permit. This distinction is relevant at all permitting stages.

The assessment of what constitutes large, medium or small scale mining will be based on the likely mine life, the area to be mined, the likely investment amount and the machinery and equipment to be used in production (Section 11 of the Mines Law).

- Only Myanmar citizens or citizen organizations (Myanmar citizen owned companies, partnerships or co-operatives) may hold permits for medium and small scale mining. Foreign investment is limited to large scale mining and in addition to the necessary MONREC approvals, all permits involving foreign investment require approval from the Union Government (through foreign investment licensing from the Myanmar Investment Commission (MIC) – see below).
- All large scale mining, medium scale mining for metallic and industrial minerals and small scale mining for metallic and industrial minerals restricted by MONREC notification must be approved by MONREC
- Medium scale mining for stone and small scale mining for stone restricted by MONREC notification must be approved by the Department of Mines, under MONREC
- Other small scale mining may be approved at the regional or state level

Further, all permits will specify which group of minerals can be mined – metallic minerals, industrial minerals or stone.

The Myanmar Mines Act contains (in section 11(a)) an assurance that a party who has undertaken successful prospecting, exploring and feasibility study will have a right to be granted a production permit. This provides some assurance to investors that they cannot be gazumped having identified a resource.

The maximum area for mining permits is as set out in Table 1:

Table 1 – Maximum area for permits		
Permit	Prospecting/ Exploration/ Feasibility Study	Production
Large Scale	2100km ²	2100km ² but not exceeding area required for production
Medium Scale	1km ²	1km ² but not exceeding area required for production
Small Scale	0.08km ² industrial minerals and stone 0.04km ² metal other than gold and precious metal 0.016km ² gold and precious metal	0.08km ² industrial minerals and stone 0.04km ² metal other than gold and precious metal 0.016km ² gold and precious metal
Subsistence Scale Production	-	0.02km ² industrial minerals and stone 0.012km ² metal other than gold and precious metal 0.004km ² gold and precious metal

Prospecting Permit

Generally, where land is open for exploration, the grant of a Prospecting Permit will be upon application. Land will be open for prospecting if it is not already the subject of mining activity and doesn't fall within a restricted area. Where there is thorough geological data already existing with respect to an area which has identified potential commercial production, the permit will be issued through public tender.

The application, which will include a mineral prospecting plan, will be reviewed by a committee established by the relevant licensing authority to review applications and granted approval following the consent of the relevant regulatory authorities. A Prospecting Permit may be granted for 1 year, with the possibility of a 1 year extension.

Upon grant, prospecting must commence within 90 days. There will be minimum expenditure requirements set out in the Prospecting Permit. A prospecting permit gives limited rights to the permit holder. It effectively allows the holder to enter the land and conduct preliminary survey (including aerial survey). This would include taking samples of rock for analysis but would not include drilling (which falls under exploration).

The Mines Rules give the holder of a Prospecting Permit the right to apply for an Exploration or Feasibility Study Permit to the exclusion of others. Any application for an extension of the Prospecting Permit or for an Exploration or Feasibility Study Permit must be made not less than 3 months prior to the expiry of the Prospecting Permit.

Exploration Permit

Generally, where land is open for exploration, the grant of an Exploration Permit will be upon application. Land will be open for exploration if it is not already the subject of mining activity and doesn't fall within a restricted area. The holder of a Prospecting Permit has the right to apply for an Exploration Permit. For an area not subject to a current Prospecting Permit, where there is thorough geological data already existing with respect to an area which has identified potential commercial production, the permit will be issued through public tender.

The application process is similar to the Prospecting Permit application process and would be subject to approval from the same approval bodies. The maximum area of the exploration block will be the same as the Prospecting Permit.

An Exploration permit may be granted for a term not exceeding 3 years and may be extended twice for a period of 1 year each time. Where the permit holder involves foreign investment targeting large scale production and the application is deemed of interest to the State and the public, with the approval of MONREC's management committee and the Union Government (MIC), a further extension may be granted for one year up to 3 times. This means that for large scale investment involving foreign investors the Exploration Permit can be for up to 8 years.

A Permit holder is required to commence exploration within 90 days of grant of the Permit and to meet the minimum expenditure obligations included in the Exploration Permit terms. The Permit Holder is required to submit quarterly reports including comprehensive detail of all exploration activity, to the permit issuing department.

A Permit Holder has the right (with approval of relevant authorities) to build roads, bridges, jetties and other infrastructure necessary to conduct exploration activity. Samples may only be transported off site for the purposes of laboratory testing, quality assessment or inspection. There is no right to sell any minerals obtained.

Any application for extension of the Exploration Permit or for a Feasibility Study Permit or Production Permit must be made not less than 3 months prior to the expiry of the Exploration Permit.

Feasibility Study Permit

The Mines Rules provide for an initial 1 year Feasibility Study Permit but, depending on the likely scale of production and if foreign ownership is involved, up to 2 one year extensions. Any application for an extension of the Feasibility Study Permit or for a Production Permit must be made not less than 3 months prior to the expiry of the Feasibility Study Permit.

A Permit holder is required to commence the feasibility study within 60 days of grant of the Permit. During the course of undertaking the feasibility study, the permit holder can continue to carry out further exploration activity for the purposes of supporting the feasibility study.

The permit holder must maintain records of all activity and submit reports to the Geological Study and Mineral Prospection Department,

Production Permit

A holder of an Exploration Permit or a Feasibility study Permit has the exclusive right to apply for a Production Permit over any part of the Permit area. If the Permit Holder determines not to proceed with a Production Permit application, then other parties may apply. Where more than one applies there will be a public tender.

Whether large, medium or small scale production, the basic requirements for grant of a Permit will be the same. Each application must include:

- Mine Production Plan
- Workplace Health and Safety Plan

- Production Permit Area Plan – the proposed area must not exceed the area actually required for production
- An initial environmental assessment plan or environmental damage report in accordance with the environmental Conservation Law, the Mines Rules and the Environmental Impact assessment Procedures
- For large scale production, a Procurement Plan for goods and services available in Myanmar.

The assessment of any Large, Medium or Small Scale Production Permit application involves a review of the application to ensure there is a commercially viable deposit and implementing a corporate social responsibility enquiry through discussions with the local population. A Subsistence Production Permit involves a simpler application process but still requires an initial environmental assessment report.

The same body approving the Feasibility Study Permit will approve the Production Permit. If granted the time for large scale production will be determined based on mine life and could be between 15 and 50 years, with a possible 5 year extension. Medium scale production is for 10-15 years with a possible 2 year extension and small scale production is for 5-10 years with a possible 2 year extension.

A Production Permit also authorises the holder to process and trade minerals without the need to obtain a separate Processing or Trading Permit. However, this will be limited to processing and trading of minerals mined pursuant to the Production Permit. If a Production Permit holder wishes to process minerals on behalf of others or trade minerals generally then it will be necessary to apply for a Mineral Processing Permit or Mineral Trading Permit.

The Permit holder must keep accurate records of all mining activity and provide copies to MONREC.

Mineral Processing Permit

A Mineral Processing Permit allows a party to establish a stand-alone processing facility without attached mine. Whilst the Production Permit allows for a permit holder to process and trade its product, it does not allow it to process or trade other parties' minerals. Therefore, if a Production Permit holder wishes to process minerals on behalf of other miners it will be necessary for it to obtain a Mineral Processing Permit.

The Mineral Processing Permit does not allow the holder to trade in minerals. A separate Mineral Trading Permit will be required.

The time period for the initial Processing Permits and extensions mirrors the Production Permits but unlike the Production Permits, extensions can be renewed.

Mineral Trading Permits

A Mineral Trading Permit allows a party to trade both unrefined and refined minerals in Myanmar and for export. A Production Permit Holder does not require a Trading Permit to trade its own production. The trading permit is for 3 years but is renewable.

If a Mineral Processing Permit Holder wishes to trade its processed product or trade generally or if a Production Permit holder wishes to trade minerals generally, it will be necessary for them to obtain a Trading Permit.

Table 2 – Permit Tenure				
Permit		Initial term	Maximum Extension	Maximum total period
Prospecting	1 year		1 year	2 years
Exploration	3 years		1 year x 2 extensions (an additional 1 year x 3 for large scale involving foreign investment)	5 years (8 years for large scale involving foreign investment)
Feasibility Study	1 year		1 year (an additional 1 year for large scale involving foreign investment)	2 years (3 years for large scale involving foreign investment)
Maximum period pre-production				9 years (13 for large scale involving foreign investment)
Large Scale Production	15-50 years depending on the type of mineral and extent of production		5 years	55 years
Medium Scale Production	10-15 years depending on the type of mineral and extent of production		2 years	17 years
Small Scale Production	5-10 years depending on the type of mineral and extent of production		2 years	12 years
Large scale Processing	15-50 years depending on the type of mineral and volume of activity		5 years (renewable)	
Medium Scale Processing	10-15 years depending on the type of mineral and volume of activity		2 years (renewable)	
Small Scale Processing	5-10 years depending on the type of mineral and volume of activity		2 years (renewable)	
Trading	3 years		3 years (renewable)	

Multi-stage Permit

The Mines Law and Mines Rules provide for the issue of a Multi-stage Permit that covers at least 3 stages of a mining project. Even if multiple stages are covered, it is likely that the different requirements for each stage application will be replicated in the Multi-stage Permit.

The Multi-stage permit appears to be an effort by the Government to meet investor concerns for large scale exploration projects, where the terms of investment can be covered at an earlier stage to provide greater investment certainty. In this manner, the Multi-stage Permit is something akin to the Indonesian Contract of Work which covered all of the mine lifecycle in the one document.

It is unclear in what situations MONREC will agree to such Multi-stage Permits and whether they would be prepared to agree the Government production/equity sharing arrangements before a resource was identified.

Transfer of Interest

Whether a Permit is transferred or the shares in a Permit holding company are transferred or further shares are issued, all will be deemed a transfer of interest for the purposes of Chapter 24 of the Mines Rules. Any transfer of interest requires approval of the Permit issuing office and if a foreigner is to become the Permit holder or a shareholder, then MONREC will be the approving body.

If a permit Holder wishes to return the whole or a part of any block area, they may do so subject to meeting the then applicable terms of the Permit (including the fiscal terms). Relinquishment requires 3 months' notice to the Permit issuing authority.

State participation

Section 35(a) enshrines in the Mines Law the right to participate in mineral production projects. MONREC has the right to form a joint venture or partnership with the permit holder. This may be production or profit sharing basis, taking into account the costs of the project, including the environmental impact assessments or may be on an equity contribution profit sharing basis.

Historically, MONREC has adopted the production sharing model outlined in the old Mines Law (and based on the oil and gas model) and it is expected that this will initially carry through to the new Mines Law. The uncertainty over the approach to State participation is a negative influence on business investment decision making.

Technically, the decision to participate is made at the point of grant of the Production Permit, although investors will push for an earlier engagement so as to provide for greater certainty in the Feasibility Study Permit stage. This is potentially the largest benefit of the multi-stage Permit approach, as the State participation would be agreed upfront as part of the Permitting process.

III. Approvals

Company establishment

Whilst Myanmar individuals can hold the various mining permits it is more likely a corporate structure would be used. Any foreign investment would be through establishing either a 100% foreign owned company or a joint venture company. The company would only be established following MIC approval for the investment and prior to the grant of the Permit.

Myanmar adopted a new Companies Law, which became operational on 1 August 2018. This Companies Law adopts a similar approach to the Australian and Singapore companies' legislation. The regulatory authority is the Directorate of Investment and Company Administration (DICA). Registration of companies is done online.

A Myanmar company can have a minimum of 1 shareholder and 1 director but must have a resident director.

Foreign Investment

Whilst foreign investment is open to all non-production permits, it is limited to large scale production. In addition all foreign investment in the mining sector requires the Union Government approval to issue any permit. What this means in practice is that a foreign investor will need to apply for an investment permit under the Investment Law from the Myanmar Investment Commission (MIC). This process is only undertaken once the investor has negotiated all agreements with the Ministry of Natural Resources and Environmental Conservation

The introduction of a foreigner into a permit issued to a citizen will require an application to replace the existing permit (and an application to MIC) and in the case of small or medium production, into a Large Scale Production Permit involving a foreigner. How The Mines Law interacts with the Companies Law, which treats a company with less than 35% foreign ownership as Myanmar Company, is yet to be clarified.

It is also unclear what rights a foreign company will have where it has held permits up to production but the proposed mine is assessed by the authorities as failing to meet the large scale production threshold for foreign investment.

Land & Water

Compensation to land holders and user

Whilst a permit holder has a right to enter land for the purposes of the Permit activity, the Mines Rules place an obligation on the permit holder to first compensate the land holder or user. If the permit holder cannot reach agreement with the land owner/user then there is recourse if the land owner/user is a State owned enterprise or a party in joint venture with the Government. If the relevant government department determines that there is commercially viable production then that department will coordinate obtaining the right to use the land. However, where there is no Government involvement, unless a compensation agreement is first obtained, then the production permit will not be issued. Approval is also required where the mining activity is close to existing infrastructure or nature reserves.

Land Lease

In addition to the mining activity, other land may be required for mining support services (warehousing, equipment storage, accommodation etc). Under the 1987 Transfer of Immovable Property Restriction Act, private land ownership by a foreign national or a foreign company is not permitted. Generally a foreigner is only allowed to enter into a land lease for a period of 1 year, renewable. As all mining projects involving foreigners will require MIC approval, this lease period can be for up to 50 years, which may be extended twice for another 10 years each.

Use of Water

Where a permit holder wishes to draw water from a public source, the permit holder must apply for approval from the Block Scrutinizing and Assigning Committee. The permit holder then assumes potential liability for environmental pollution and the quality of above ground and underground water where drawn.

Environmental

As part of the Production Permit application, an applicant is required to submit an initial environmental assessment plan prepared in accordance with the Environmental Conservation Law and the “Environmental Impact Assessment (EIA) Procedure” issued by MONREC.

Environmental Conservation Law

The Environmental Conservation Law implements the National Environmental Policy; sets requirements for the conservation of natural and cultural heritage, the reclamation of degraded ecosystems; and the sustainable use of natural resources. For mining projects:

- companies are required to install or use on-site equipment to monitor, control, manage, reduce or eliminate environmental pollution, and are required to discharge polluting substances in accordance with the 2015 Environmental Quality Guidelines (applicable to tailings)
- permission from MONREC is required in order to import, export, produce, store, carry or trade any material which causes an adverse impact on the environment

EIA Procedures

The Environmental Impact Assessment (EIA) Procedure provides that all Projects which may cause adverse impact on environmental quality and are required to undertake an Environmental Impact Assessment (EIA) and Initial Environmental Examination (IEE) or to develop an Environmental Management Plan, and to obtain an Environmental Compliance Certificate. This involves:

- the preparation of a project proposal which is submitted to MONREC
- a decision by MONREC as to the level of assessment required (EIA, IEE or no assessment required) in assessing the level there is a list of factors to be taken into account, particularly related to the environment where the activity will occur but including the level of activity. Generally an EIA will be required for a Large Scale Production Permit. An IEE is a lesser form of assessment. An Environmental Management Plan may also be required with respect to any Permit.
- carrying out the relevant assessment, including public consultation
- submission of the draft IEE/EIA/EMP to MONREC for consideration
- publication of the draft IEE/EIA for public comment
- review and approval/non-approval of the project and the issuance of an Environmental Compliance Certificate

In addition to various Environmental laws and regulations, the Mines Law and **Mines Rules** set out various environmental obligations on Permit Holders, including:

- Under Section 13 of the Mines law, a Permit Holder must:
 - minimize environmental damage and negative impacts on local communities and make an annual contribution to a fund for environmental conservation; and
 - contribute to a Mine Closure Fund for environmental rehabilitation and reforestation.
- at the time of its application for a Production Permit submit evidence that it has agreed a corporate social responsibility program with local communities.
- using water in a manor not to adversely impact the local community or to block or alter the flow of any water system
- not pollute and must maintain above and below ground water quality

Inspection & Monitoring

The Director General of the Department of Mines (DoM), acting as Chief Inspector, has the duties of: “inspecting the environmental impact assessment system and socioeconomic impact assessment system in prospecting, exploration, production and processing”.

Health & Safety

In addition to various Health & Safety laws and regulations, the Mines Law provides that a Permit Holder must make provisions for safety and the prevention of accidents at the mine. The Mines Rules expand on this and set out various health & safety obligations on Permit Holders, including to:

- submit safety programs and mine design plans, including electrical, machine and communication systems within 30 days of obtaining the production Permit
- provide all necessary measures for the safety in the mines to prevent land destabilization, cave in, flood, gas leak, particles and fire hazard in underground mines, including systems for measuring oxygen, gas and particle volumes.
- regularly inspect and maintain all equipment and buildings
- have systems in place for location of all workers entering an underground workplace, with appropriate supervision
- ensure all workers are trained and properly informed of the health risks

Section 181 of the Mines Rules sets out in detail how explosives are to be handled on a mine site. It should be noted that The Explosive Substances Act also regulates the use of explosives.

Forestry

The development of the mine site, roads and other facilities may involve the removal of vegetation including trees. This will be governed by the Forests Act 1992 which requires a permit holder to obtain a permit for removal of trees from reserved forest or protected public forest, or the removal of any teak tree.

Cultural Heritage Protection

The Protection and Preservation of Cultural Heritage Regions Law (1998) prohibits exploring for minerals within Cultural Heritage Regions (Section 20).

The Ministry of Culture may create the following zones as Cultural Heritage Regions:

- ancient monumental zone - where an ancient monument is situated;
- ancient site zone - a place or high ground where a town or settlement of ancient people or ancient monument had existed before 1886 or which is determined as cultural heritage; and
- protected and preserved zone - zone prescribed under the Law for the protection and preservation of the view of the cultural heritage, ancient monument and ancient sites in order that they may not be destroyed.

The ban on exploring for minerals under Section 20 is absolute and there is no discretion with the Ministry of Culture to allow for exceptions. As a result, penalties for breaches of this section including a term of imprisonment of 1-7 years, as well as fines and restoration requirements.

Export licence

In order to apply for an export licence, a party must be registered with the Importers/Exporters Registration Office of the Department of Trade under the Ministry of Commerce. Registration is valid for either one or three years and extensions are possible.

Rehabilitation

Production Permit Holders have the obligation to carry out programs for land reparation, rehabilitation and reforestation once extraction has been completed.

IV. Fiscal regime for Mining Projects

Royalties

Under The Mines Law, every production permit holder is obligated to pay royalty upon sale of the produced mineral.

Whilst the 1994 law specified a range of royalties payable for each type of mineral, with the exact percentage being determined by MONREC, The Mines Law now fixes the royalty rate. MONREC continues to have discretion to exempt, wholly or in part, the payment of a royalty.

Table 3 - Royalty Rates	
Mineral/Stone	Royalty Payable
Section 18(a) - Gold, platinum, uranium and other precious metallic minerals as prescribed by the Ministry with approval of the Union Government	5%
Section 18(b) Silver, copper, lead, tungsten, nickel, heavy sands, molybdenum, iridium, osmium, palladium, ruthenium, rhodium, tantalum, columbium, niobium, thorium, cadmium, chromium, rare earth, beryllium, titanium and other precious metallic minerals as prescribed by the Ministry, with the approval of the Union Government.	4%
Section 18(c) Iron, zinc, lead, tin, tungsten, aluminium, arsenic, bismuth, chromium, cobalt, manganese, magnesium and other metallic mineral as prescribed by the Ministry, with the approval of the Union Government.	3%
Section 18(d) Industrial minerals or stones	2%

Under Section 19 of The Mines Law and 204 of The Mines Rules, the royalty is calculated based on the pure mineral content and the average international price of the mineral during the period 30 days prior to the sale. This amends the prior basis of calculation which was on the net sales price. It is unclear how the “prevailing international price” will be determined.

Dead Rent and Expenditure obligations

Dead rent (annual permit cost) is payable annually through every stage of a mining project and ranges from 12,500 Kyat/KM2 for industrial minerals and stone prospecting through to 3,000,000 Kyat/KM2 during the precious metals project production period.

Table 4 - DEAD-RENTS FOR MINERALS OPERATIONS													
Annual dead rent to be paid per Square-kilometres (Kyat)													
Types of Mineral	Prospecting Period		Exploration Period					Feasibility Study Period		Establishment of Production Period			Production Period
	1 st year	2 nd year	1 st year	2 nd year	3 rd year	4 th year	5 th year	1 st year	2 nd year	1 st year	2 nd year	3 rd year	From year one
Section 18(d)	12,500	25,000	25,000	50,000	100,000	150,000	200,000	200,000	300,000	700,000	800,000	1,000,000	1,000,000
Section 18(c)	25,000	50,000	50,000	100,000	200,000	300,000	400,000	400,000	400,000	900,000	1,050,000	1,200,000	1,500,000
Section 18(b)	37,500	75,000	75,000	150,000	300,000	450,000	600,000	600,000	600,000	1,350,000	1,575,000	1,800,000	2,250,000
Section 18(a)	50,000	100,000	100,000	200,000	400,000	600,000	800,000	800,000	800,000	1,800,000	2,100,000	2,400,000	3,000,000

There will be minimum annual expenditure obligations imposed on each type of permit. However, presently MONREC has provided no guidance on the level of this obligation and therefore it will be case by case based on the type of permit, size of project and what is then negotiated to be included in the permit.

Signature bonus and Guarantees

We understand that MONREC has submitted proposed signature bonuses and performance guarantee requirements for each type of permit to the Union Government for approval but is yet to receive its approval.

Under the old Mines Law, Myanmar looked for signature bonuses to be paid upon grant of prospecting and exploration permits. This ranges from US\$50,000 to US\$100,000. In addition to Signature bonuses and Dead Rent, for prospecting and exploration permits, Performance Bank Guarantees of between US\$100,000 and US\$200,000 were required to be deposited. The amount of signature bonus and performance guarantee increased significantly for a Production Permit.

Corporate Taxes

A mining company is required to pay corporate income tax, commercial tax, import duties (which may be reduced by MIC), and other taxes and fees as would be generally applicable to business in Myanmar.

Head of Tax	Rate
Corporate Tax	25% of profits
Commercial Tax	5% on most goods and services
Withholding taxes (subject to double taxation agreement rates)	Payment to: Resident Non resident
Dividend	0% 0%
Interest	0% 15%
Royalties	10% 15%
Withholding tax on contractual payments to non-residents	2.5%
Capital Gains Tax	10% of the gain

Stamp duty

Stamp duty is payable on a wide range of instruments including leases and transfers of property. This can range from a nominal fee to up to 2% of the value of the transaction, depending on the type of document and the subject matter.

V. Mining Services

There are currently no separate regulations on mining services and therefore it will be necessary to comply with the general law. Where a foreign party wishes to provide mining services, this will more than likely include seeking MIC approval (see 3.2 above), particularly where large scale equipment may be imported for contract mining.

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