



Financing the Military in Myanmar: Analysis of Gas Revenues

INTRODUCTION

The Myanmar military has faced widespread allegations of human rights violations since an attempted coup d'état in February 2021.¹ The military regime is sustaining itself with revenues from the offshore gas industry.² This Publish What You Pay policy brief summarizes how revenues are flowing from oil and gas companies, including the French energy giant Total, through the state-owned Myanmar Oil and Gas Enterprise (MOGE), and on to the military. Since the attempted coup, these revenues are more likely than ever to be a direct source of finance for the Myanmar military. The following highlights these key findings:

- MOGE has entered into four joint ventures as a representative of the Government of Myanmar for four offshore gas projects, including the Yadana Project operated by Total.
- Following the attempted coup d'état, the military has control over all government bank accounts, including MOGE's accounts.
- In 2017-2018, the amount that MOGE collected from the project under the responsibility of Total amounted to almost USD 400 million.³
- About 50 percent of Myanmar's foreign exchange now comes from gas revenues, indicating a high likelihood that the military is relying on them.⁴

This briefing relies on information available in the public domain to explain complex payment processes for gas in Myanmar. A copy of this briefing was shared with Total prior to publication and we invited it to disclose additional supporting documents, but it did not.

BACKGROUND

The Myanmar military attempted a coup d'état on February 1, 2021. Active citizens formed a non-violent nationwide civil disobedience movement (CDM) in opposition to the military, which have responded by killing over 750 people (as of early May 2021), including 46 children, while detaining thousands. Elected lawmakers in exile (through the Committee Representing Pyidaungsu Hluttaw (CRPH)) declared a National Unity Government as the military pushes Myanmar towards economic collapse, expanded armed conflict, and deeper humanitarian crisis.

Revenues and associated taxes from MOGE are the largest single source of foreign exchange available to the military.⁵ Foreign exchange is important to the military to pay for equipment and supplies, and to purchase foreign inputs that service military-owned companies.

OIL AND GAS SECTOR LANDSCAPE IN MYANMAR

Offshore operations are led by Total (together with Chevron), Korean company Posco International (formerly Posco Daweoo), and Thailand's PTT Exploration and Production Public Company (PTTEP).⁶ A fourth offshore operation, led by Petronas, declared force majeure on its gas field due to the depletion of output, and has halted production until further notice.⁷

The Myanmar Ministry of Planning, Finance and Industry forecasted MOGE to earn USD 1.5 billion in 2021-2022 from offshore and pipeline projects.⁸

Companies wanting to engage in Myanmar's gas sector must enter joint ventures with the MOGE, which is a state-owned enterprise that is effectively a department of the Ministry of Electricity and Energy (MOEE) and has no legal personality of its own.⁹ The MOEE 'Minister' was appointed by the military State Administration Council (SAC)¹⁰, the governing body created by the military after the attempted coup. The 'Minister' was appointed using a section of the the Myanmar Constitution that gave all powers of state to General Min Aung Hlaing¹¹ (albeit powers that were seized illegally).¹²

MOGE has entered into four joint ventures as a representative of the Government of Myanmar (GoM) for four different offshore gas projects operated by Total (for the Yadana Project), Posco International (for the Shwe Project), PTTEP (for the Zawtika Project), and Petronas (for the Yetagun Project). Each joint venture comprises two parts: the upstream operation undertaken under a production sharing contract (PSC), and gas transportation carried out by an incorporated company with the investors and MOGE as shareholders.¹³ Approximately 80% of the gas is exported by pipeline to Thailand or China.¹⁴ Under the PSCs, MOGE acts as the revenue collector for the state's royalties, profit share, and bonuses.¹⁵ It also exercises a right to 15-25% participation in the joint ventures as a "contractor".¹⁶ MOGE and the investors are then shareholders in transport pipelines. MOGE's role in all offshore projects is nonoperational.¹⁷

REVENUE FROM OIL AND GAS PROJECTS TO MOGE

In general, EITI reports show payments from offshore operators of the government's share of gas production in cash, including royalties, profit petroleum, and the state participation share (for MOGE as a contractor).¹⁸ Some operators are also obliged to provide a share of the gas "in kind" to MOGE in line with a domestic market obligation at a discounted price.¹⁹ Each investor in the joint venture also pays 25% of corporate income tax on their net profit,²⁰ which remains a modest revenue flow compared to the State's share of the production.²¹

YADANA PROJECT AND DISTRIBUTION OF SALES PROCEEDS

The Yadana project is the only project with contracts that are publicly available.²² MOGE in its role as a state enterprise entered into a Production Sharing Contract (PSC) with three "Contractors": Total (31% ownership); Unocal, now Chevron (28% ownership), and PTTEP (26% ownership). MOGE also participates in the PSC as a fourth contractor (15% ownership). The gas is sold to PTT, the Thai state oil company and parent of PTTEP.²³

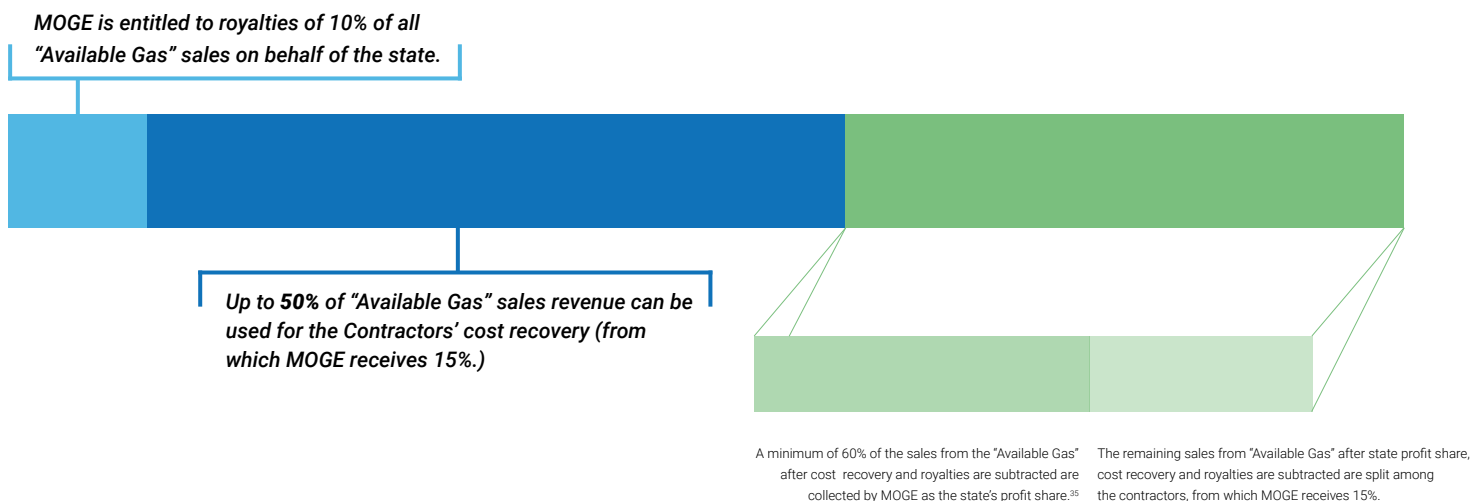
The gas produced is transported via a 63 km onshore pipeline to the Thai border. The pipeline is managed by the Moattama Gas Transportation Company (MGTC), whose shareholding mirrors the joint venture participation under the PSC.²⁴ The costs of transportation are deducted from the proceeds from the gas sales to PTT and paid to the MGTC. In 2017-2018, MGTC paid taxes to the government and dividends to MOGE of USD 141 million.²⁵ Under the original agreement, these dividend payments can only be paid with the approval of PTTEP, Total and Chevron²⁶ and Total is responsible for arranging payment of MGTC's taxes.²⁷ On 26th May 2021, shareholders of MGTC voted to suspend all cash distributions due to the unstable context in Myanmar.²⁸

Total has an additional role as the "Operator" of the upstream production and the pipeline.²⁹ This means that Total is in charge of the day to day on site operations. It also facilitates the gas sales to PTT by submitting an invoice as a "representative" of the parties to the PSC.³⁰

Approximately 80% of the produced gas is sold to PTT, with 20% retained for domestic use.³¹ The entitlements of the parties to the PSC to proceeds from gas sales are set out in Chart 1.³² The value of these entitlements are calculated by taking the combined value of the gas exported and gas retained for domestic use and subtracting the transportation costs that are paid to MGTC.³³ This leaves what is known as "available gas," which is the basis for the payment allocation in Chart 1.

The value of the gas that MOGE retained for domestic use is then deducted from MOGE's entitlements set out in Chart 1.

Chart 1.
Yadanda gas sales³⁴



TOTAL'S PAYMENTS TO MOGE AND ROLE IN GAS SALES

Total has publicly stated that they do not directly provide revenue payments to MOGE, that the Myanmar's state's share is paid in-kind,³⁶ and that payments for gas sales are by PTT, the buyer.³⁷ Without access to current contractual documents and invoices, it is difficult to confirm how much of the gas each investor is selling to PTT. However, according to [Total's reports to the Extractive Industries Transparency Initiative](#) (EITI), which is reproduced in the table below, Total appears to make revenue payments to MOGE in cash for cost recovery, MOGE's profit share, the state profit share, and royalties. [The Extractive Industries Transparency Initiative 2017-2018 Commodity Report](#) does not record Total providing any in-kind payments to MOGE. Even gas retained for domestic use was sold at full price to MOGE.³⁸

Total's and MOGE's Memorandum of Understanding (MoU) states that, apart from the gas that is retained for domestic use, all MOGE entitlements under the PSC will be "taken 'in cash' i.e. paid to Myanmar and MOGE by the Foreign Participants in the Project."⁴¹

Chart 2.
Total's Cash Payments to MOGE 2017-2018
(table reproduced from Myanmar EITI report)³⁹

Total E&P Payments in Cash to MOGE	\$258,766,685.55 ⁴⁰
Domestic sales to the MOGE (-)	(\$189,562,622.89)
MOGE Cost recovery	\$33,582,503.13
MOGE profit share (profit split)	\$26,575,678.38
Royalties in cash	\$78,922,567.03
State profit share	\$309,248,559.91

This would suggest that at least Total, if not also PTTEP and Chevron, are taking the gas, selling it and have a cash liability to MOGE. Practically, Total has stated that the funds are paid by PTT.⁴² This payment takes place after Total, as Operator, issues invoices to PTT directing it to pay specific amounts to each member of the joint venture and to MGTC. The payments from PTT, however, would be based on each party's ultimate entitlement to cash under the PSC and the gas transportation agreement, as calculated by Total, rather than reflecting who owns the gas being sold.⁴³ PTT as the buyer is liable to the sellers - the companies that form the upstream joint-venture. But each of the sellers is also liable to the State of Myanmar and MOGE, its representative as per the terms of the PSC. Instead of having each of the sellers retrocede part of the final payments made by PTT to MOGE, deductions are directly made, and MOGE receives its payment as a contractor, and as the collector for the State of Myanmar. MGTC for example, receives payments from PTT, but sells no gas. Therefore, unless the PSC and MoU have been amended, if payments are made in kind (i.e. MOGE sells its entitlement directly to PTT), this would appear to be at the election of Total, Chevron, and PTTEP.

At the very least, even if MOGE sells some gas directly to PTT, when Total issues invoices to PTT, it does so as a "representative" for each of the parties to the PSC.⁴⁴ As a representative of MOGE, Total thus issues an invoice to PTT for payments to MOGE in US dollars, designating MOGE's bank accounts.⁴⁵ Following the attempted coup d'état on February 1, Total is doing this while the bank accounts are now in the control of a third party, the Myanmar military.

MILITARY ACCESS TO PROCEEDS FROM OIL AND GAS REVENUES

Presently, following the attempted coup d'état, the military has control over all government bank accounts, thus all funds held in these accounts can be accessed by the military. This includes PTT and/or Total's gas revenue payments to MOGE.⁴⁶ These payments are made to bank accounts held internationally with the state-owned Myanmar

Foreign Trade Bank (MFTB).⁴⁷ MFTB receives these payments in foreign currency. MFTB then credits MOGE at its bank account at another state-owned bank held domestically, Myanmar Economic Bank (MEB). MFTB then distributes the government's foreign currency to different government agencies, including the military.⁴⁸ The military has a long history of misappropriating funds paid into MOGE accounts.⁴⁹ It is estimated that around 50% of Myanmar's foreign exchange now come from gas revenues.⁵⁰ These revenues are likely to be crucial to the military's ability to import fuel, weapons and equipment and its attempts to overcome the CDM and assert control of the state.

Prior to 2012, MOGE along with other state-owned enterprises opened offshore accounts using shell corporations in China, Singapore, and elsewhere under individuals' or companies' names for the purposes of evading sanctions;⁵¹ MEB and MFTB were under US sanctions until 2016.⁵² As noted above, Total's role includes issuing invoices for payments into the accounts that are specified by MOGE. Three other state-owned enterprises have been sanctioned by the U.S. government since the attempted coup.⁵³ The SAC, which now controls MOGE's bank accounts and has appointed an MOEE "Minister", was sanctioned by the U.S. government on 17 May.⁵⁴

CONCLUSION

In 2017-2018, the amount that MOGE collected from payments under the responsibility of Total amounted to almost USD\$400 million. This includes USD 141 million in taxes and dividends from the Moattama Gas Transportation Company and USD 258 million in royalties, state profit share, MOGE's profit share, and cost recovery for the upstream production.⁵⁵ Total is the operator of both of these projects. As the military has taken over MOGE's bank accounts, all revenue payments under the responsibility of Total will now be under the control of the military, which are highly likely to be misappropriated and used to finance future repression of the Myanmar population.

It is recommended that multinational oil and gas companies pay revenue owed to MOGE into a trust or protected account until a legitimate and democratically-elected government is in place in Myanmar. This briefing has outlined that Total, as the operator, takes responsibility for channeling payments. Total should therefore use its power to ensure funds do not make it to the military.

ENDNOTES

1. Thomas H. Andrews, 'Report of the Special Rapporteur on the situation of human rights in Myanmar', Report No. A/HRC/46/56, United Nations, March 4, 2021.
2. Letter from Jeffrey Merkley, et al to Treasury Secretary Janet Yellen and Secretary of State Antony Blinken to urge the Biden Administration to stop money flowing from American businesses to the Myanmar Oil and Gas Enterprise, April 27 2021. [Available here](#)
3. Myanmar Extractive Industries Transparency Initiative 2017-2018, BDO, March 2020.
4. According to the Extractive Industries Transparency Initiative, in 2017-2018, the Myanmar government received about USD\$1 billion in foreign exchange from the oil and gas sector; USD\$470 million from the mining sector; USD\$300 million from the gems sector; USD\$138 million from the forestry sector. Separately, in 2020/21, telecom operators were expected to pay about USD\$420 million in license fees, and the oil and gas industry was forecasted to earn the MOGE revenues of about USD\$1.5 billion in 2020/2021 according to the Ministry of Planning, Finance, and Industry. Based on these estimates, the oil and gas sector represents the largest source of foreign exchange.
5. Based on the figures above at footnote 4, primarily using EITI data.
6. Myanmar Extractive Industries Transparency Initiative 2017-2018, BDO, March 2020, pg. 54-66.
7. 'PETRONAS 'Upstream Operations in Myanmar Declares Force Majeure on its Yetagun Field', PETRONAS Press Release, April 2 2021
8. 'FY 2020-2021 Budget Brief on the Oil and Gas Sector', Ministry of Planning, Finance and Industries, July 2020, which took account of reduced sales prices due to COVID-19.
9. Bauer et al, 'State-owned Economic Enterprise Reform in Myanmar: The Case of Natural Resource Enterprises', Report, Natural Resource Governance Institute, 2018; pg 51
10. Global New Light of Myanmar, February 19, 2021, Republic of the Union of Myanmar, State Administration Council Order No 37/2021
11. Section 419 of the Myanmar Constitution.
12. The Illegality of Myanmar's Coup, Melissa Crouch, [Available here](#)
13. Myanmar Extractive Industries Transparency Initiative 2017-2018, BDO, March 2020, pg. 54-66.
14. Ibid, pg. 54-66.
15. Bauer et al, pg 41.
16. Myanmar Extractive Industries Transparency Initiative 2017-2018, pg. 53.
17. MOGE also has a role selling gas domestically for power generation and industrial use, the latter is provided at a subsidized rate to mainly military-owned factories (including companies owned or controlled by Myanmar Economic Holdings Ltd. and Myanmar Economic Corporation Ltd.
18. Myanmar Extractive Industries Transparency Initiative 2017-2018, Annex 12.
19. Myanmar Extractive Industries Transparency Initiative 2017-2018, pg. 53.
20. Bauer et al, pg. 60.
21. For instance, according to the Myanmar EITI 2015-2016 report, Total paid about USD\$135 000 in corporate income tax while the state profit and MOGE profit share combined was about USD\$505.5 million.
22. The explanation in this section is based on documents disclosed in 2004 by Unocal in litigation in the US courts (following claims from Burmese villagers of human rights abuses by the military security forces that protected the Yadanda gas pipeline) and other confidential sources. It is possible that these contracts ([available here](#)) have since been amended.
23. Myanmar Extractive Industries Transparency Initiative 2017-2018, pg. 64.
24. Ibid, pg. 80.
25. Ibid, Annex 12.
26. See sections 9.3 (b) and (c) of the 1995 Shareholders Contract Agreement available at: <https://earthrights.org/case/doe-v-unocal/#documentsff69-1a905f26-f4b6>
27. This is a responsibility as "Operator" under section 4.2(B)(8) of the Gas Pipeline Operating Agreement available at: <https://earthrights.org/case/doe-v-unocal/#documentsff69-1a905f26-f4b6>
28. Myanmar Shareholders of Moattama Gas Transportation Company Limited vote to suspend all cash distributions, Total. [Available here](#).
29. See the Production Operating Agreement and Gas Pipeline Operating Agreement available at: <https://earthrights.org/case/doe-v-unocal/#documentsff69-1a905f26-f4b6>
30. See section 12.6 of the Export Gas Sales Agreement (EGSA) and section 2.1 of the clause 2.1 of the Export Gas Proceeds Distribution Procedure (EGPDP). [Available here](#)
31. Myanmar Extractive Industries Transparency Initiative 2017-2018, pg. 64.
32. Ibid, pg. 64.
33. See section 10.1 of the Production Sharing Contract section 4.2 of the Export Gas Proceeds Distribution Procedure (EGPDP). [Available here](#)
34. Myanmar Extractive Industries Transparency Initiative 2017-2018, BDO, March 2020, pg.67
35. This distribution is calculated on a sliding scale between 60% and 90% based on production levels, see section 9.1 of the Production Sharing Contract section. [Available here](#).
36. Patrick Pouyanne (@PPouyanne), April 3 2021, Les droits de production, ce n'est pas du cash - c'est la part de gaz naturel qui revient à l'Etat - c'est payé 'en nature'. Il faut arrêter la production pour ne pas les donner! Seules les taxes de 37 millions dollars sont payées en cash. [Tweet], Twitter <<https://twitter.com/PPouyanne/status/1378813427901198337>>.
37. Patrick Pouyanne, "Total and the Human Rights Crisis in Myanmar", April 4 2021, available at: <https://www.linkedin.com/pulse/total-human-rights-crisis-myanmar-patrick-pouyann%C3%A9/>
38. According to the EITI report, the only in-kind payments MOGE received were from MPRL E&P and Gold Petrol.
39. Myanmar Extractive Industries Transparency Initiative 2017-2018, Annex 12.
40. Exchange rate used is 1322.92 MMK per USD.
41. See section 4(d) of the Memorandum of Understanding. Available at: <https://earthrights.org/case/doe-v-unocal/#documentsff69-1a905f26-f4b6>
42. Patrick Pouyanne, "Total and the Human Rights Crisis in Myanmar", April 4 2021, available at: <https://www.linkedin.com/pulse/total-human-rights-crisis-myanmar-patrick-pouyann%C3%A9/>
43. EGSA EGPDP, section 4.
44. EGSA section 12.1, 12.3 and 12.6 and sections 2.1 and 4.5, EGPDP.
45. EGSA, section 12.1, 12.3 and 12.6 and sections 2.1 and 4.5, EGPDP
46. As noted above, MOGE is a department that reports directly to MOEE. The military has illegally appointed a new MOEE "minister" and arbitrarily detained the minister appointed by the previous civilian government. It also has control of MEB and MFTB.
47. MFTB holds accounts in approximately 50 corresponding banks in countries including Singapore, the U.K., Malaysia, Bangladesh, the U.S., Germany, and Switzerland; Bauer et al, pg 31.
48. Ibid; pg 31.
49. It has done so in the past using exchange rate manipulation and through the use of opaque "Other Accounts" that were not subject to any transparency or oversight.
50. Based on the figures above at footnote 4, primarily using EITI data.
51. Bauer et al, pg 31.
52. [Treasury Amends Burmese Sanctions Regulations, Identifies Blocked Companies Owned By Designated Persons, And Delists Several Burmese State-Owned Entities, 2016](#)
53. [US targets state-owned Myanmar timber, pearl businesses with new sanctions, The Hill](#)
54. Treasury Sanctions Governing Body, Officials, and Family Members Connected to Burma's Military, U.S. Department of the Treasury, <https://home.treasury.gov/news/press-releases/jy0180>
55. Myanmar Extractive Industries Transparency Initiative 2017-2018, Annex 12.