

## Licensing for exploration and production

### WHY DOES IT MATTER?

Licensing is important because it allows governments to determine:

- Which companies are allowed to explore and extract natural resources.
- Where companies are allowed to operate.
- With what conditions companies must comply.

Well-planned licensing processes ensure that natural resource development meets governments' economic, social and environmental priorities. Consistency and efficiency is also important to attract responsible investors.

### WHAT IS INVOLVED?

Governments should:

- Write laws and regulations that clearly state which institution is responsible for issuing licenses and how institutions make those decisions.
- Review applications from companies and issue licenses for exploration and production.
- Keep track of licenses and monitor compliance.



### HOW IS THIS POLICY AREA CURRENTLY MANAGED IN MYANMAR?

Licensing in Myanmar is problematic, especially in the minerals and gemstones sector. Legal procedures are not clear, there is no single system for tracking licenses, and the government lacks the capacity to monitor compliance. The formal role of subnational institutions is small.

#### Who does what?

- Licensing processes are detailed in Union legislation. In the mining sector, the most important laws are the Myanmar Mines Law (1994, amended 2015) and Myanmar Gemstone Law (1995, amended 2016). In the oil and gas sector, production sharing contracts are the main legal points of reference. The Myanmar Investment Law (2016) also includes licensing requirements.
- Union institutions are responsible for issuing most licenses, including the Department of Mines for minerals, the Myanmar Gems Enterprise for gemstones, and the Myanmar Oil and Gas Enterprise for oil and gas. Most investments also require a permit from the Myanmar Investment Commission.
- In the future, states and regions will issue artisanal and small-scale licenses. The exact procedures for this are not currently defined.
- State, region and township authorities are consulted at specific stages of the licensing process, particularly for minerals. While their influence is not clearly defined in law, these institutions can potentially delay and even block decisions.
- In certain areas, the military or ethnic armed organizations determine who receives licenses or has physical access to natural resources.





## HOW DO OTHER COUNTRIES INVOLVE SUBNATIONAL INSTITUTIONS IN THIS POLICY AREA?

- National governments often create the legal framework for licensing, including in federal countries like India. But this is not always the case—for example, in Australia and Malaysia subnational governments write laws governing minerals licensing.
- Subnational institutions often have some role in issuing licenses. In some cases, the national government consults subnationally or seeks subnational consent. In other countries, subnational institutions lead the licensing process.
- Subnational involvement is often greater in mining than in oil and gas. In Malaysia, for example, subnational governments issue mining licenses but a national institution issues oil and gas licenses.
- Subnational involvement tends to be greater for onshore than offshore resources. In India, for example, onshore licenses are issued by subnational governments while offshore licenses are issued by the federal government. In Australia, onshore licensing is the responsibility of subnational governments while offshore licenses are issued through a joint decision by subnational and federal authorities.

## OPPORTUNITIES AND CHALLENGES FOR SUBNATIONAL RESOURCE GOVERNANCE

### OPPORTUNITIES

### CHALLENGES

**Giving communities a bigger sense of control over natural resources**

**Building skills and knowledge to review applications and ensure that licenses are given to qualified companies**

**Ensuring decisions are guided by the concerns and needs of communities**

**Strengthening transparency and accountability to prevent corruption**

**Giving officials a bigger incentive to monitor compliance**

**Putting in place systems to track licenses to avoid overlaps and tenure insecurity**