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# Extracting the truth about the Bawdwin Mine

How the military coup, opaque ownership  
and armed conflict pose risks to local  
communities, governments, and investors

February 2021



This research brief outlines how an Australian mining company, Myanmar Metals is in partnership with Myanmar based companies linked to alleged corrupt figures and former drug dealers. With the recent Myanmar military coup, Myanmar Metals could be linked financially to the military. The findings reveal how these deals, a lack of transparency and serious human rights issues pose risks for investors, governments and local communities. The Bawdwin mine Joint Venture Project in Shan State, Myanmar is expected to be in production by late 2021 and contains one of the world's largest deposits of zinc, lead and silver. This brief was produced in late 2020 and updated in February 2021.



Figure 1: Location of Bawdwin Project

## About Publish What You Pay Australia

Publish What You Pay Australia is a civil society coalition of 30 anti-corruption, human rights, environmental, and faith-based organisations united in their call for greater transparency and accountability of the mining, gas and oil sectors. Publish What You Pay Australia is a member of the Publish What You Pay movement globally which consists of over 700 organisations and 50 national coalitions working to ensure that revenues from oil, gas and mining help improve people's lives. Our shared vision is a world where everyone benefits from their natural resources – today and tomorrow. More information via [www.pwyp.org.au](http://www.pwyp.org.au)

## About Myanmar Alliance for Transparency and Accountability

Myanmar Alliance for Transparency and Accountability (MATA) is a national network comprised of over 450 civil society actors and individuals from all of Myanmar's 14 states and regions. MATA supports members to collaboratively examine economic, political and social reform issues and to advocate for transparency and accountability of governance in Myanmar – with a focus on extractive industries.

MATA was formed during 2013 amid heightened civil society activity around the Extractive Industries Transparency Initiative (EITI) mechanism. A number of civil society actors had focused on EITI before 2013 however the alliance formed a critical mass following a commitment from the President of Myanmar to join EITI. In October 2013, a core group of civil society actors collaboratively organised an EITI National Conference of CSOs. These groups formed MATA – then named the Myanmar Coalition 4 Transparency; subsequently changed to reflect a focus on accountability issues.

# Executive Summary

## Key Findings

- **The recent military coup** in Myanmar means that an illegitimate authority (Myanmar Military) is attempting to govern Myanmar – if the **Bawdwin Joint Venture were to continue**, Australian listed company Myanmar Metals would be engaging and doing business with actors that have received international condemnation.
- The mine's fiscal terms include production sharing and royalty **payments to the military** led government and military controlled state-owned enterprises **that could support future Myanmar military activities**.
- **Ownership of the joint venture is opaque** having **links with the notorious Asia World Co.**, which was founded by alleged corrupt business figures, supporters of the former military junta and known drug dealers.
- Australia's Investment and Trade Agency, **Austrade has promoted the mine** which could lead to increased armed conflict and human rights violations **undermining the policy aims of the Australian Aid Program**.
- **Ongoing deadly armed conflict** between the Myanmar military and ethnic armed groups around the mine could exacerbate once the mine is operational. This presents a **serious risk to local communities and Australian investors**.
- **Hundreds of villagers** are refusing to be **forcibly removed** for the mine development.

Myanmar is a country rich with natural resources yet with high rates of poverty, corruption, and armed conflict.<sup>1</sup> On 1 February 2021, the military took power and arbitrarily detained President Win Myint, State Counsellor Aung San Suu Kyi and leaders of regional and national governments. Monks, civil society activists, journalists and public figures are also being targeted. The military coup compounds the grave damage that the military has done to Myanmar's political, economic, social and cultural life and to human rights more broadly over the past 60 years. The Myanmar military's coup follows their 2017 campaign of terror against ethnic and religious minorities, which included credible allegations of genocide, war crimes and crimes against humanity against the Rohingya people, as well as war crimes against people in Kachin and Shan

<sup>1</sup> Myanmar ranks 145 out of 189 countries on the Human Development Index and ranks 130 out of 180 in corruption perception risks. See <http://hdr.undp.org/en/content/human-development-index-hdi/> / <https://www.transparency.org/en/countries/myanmar#>

States. International pressure from governments and civil society on the Myanmar military is building with calls for sanctions and divestment growing.

Before the coup, governance of the extractive sectors and anticorruption measures were weak leaving the country vulnerable to exploitation of its vast natural wealth with limited returns to its local populations.<sup>2</sup> Financial flows from mining and oil and gas sectors are major sources of revenue and could be used to prop up the now military led government.

A Myanmar Extractives Industries Transparency Initiative (EITI) report stated that the extractives sector only contributed to 4.78% of the country's GDP, a number that is likely well below the true value of the sector suggesting highly illicit activities are likely taking place in the sector. The military coup and subsequent end to civilian led government raises serious ethical and financial risks for companies and their backers doing business in Myanmar.

Australian listed mining company, Myanmar Metals Limited (MYL) has a 51% stake in the Bawdwin mine which has some of the world's largest deposits of zinc, lead and silver.<sup>3</sup> The large amount of revenue projected to be generated from the mine (\$2.9 billion AUD in the next 13 years<sup>4</sup>) raises questions as to how much would flow to the military in income taxes, royalties and production sharing arrangements.

The current fiscal terms for the Bawdwin mine includes a complex production sharing arrangement and payment of royalties.<sup>5</sup> This includes production sharing of lead and silver to the state-owned mining department, Mining Enterprise No. 1 which is now under military control. The fiscal terms also include payments of 3% or 4% royalties to the military controlled government. Some projections show that by 2023 the government would earn \$145 million AUD<sup>6</sup> per year even with a proposed income tax holiday and that the mine could generate 40% more government revenues than the whole mining sector of 2017.<sup>7</sup>

Prior to the coup, there was a proposed tax holiday that would potentially short-change Myanmar's government and citizens, if a civilian led government is returned, of \$232 million AUD revenue<sup>8</sup> in the first seven years of operation.<sup>9</sup> MYL should immediately suspend operations as part of the joint venture and rule out any payments to military controlled or linked departments, enterprises or business. Not suspending operations would essentially be in support of the illegal, unconstitutional seizure of power and legitimize the Myanmar military's authority.

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<sup>2</sup> NRGi's Governance Index ranked Myanmar 83 out of 89 countries. See: <https://resourcegovernanceindex.org/country-profiles/MMR/mining>

<sup>3</sup> Myanmar Metals, (2020), Operations, <https://myanmarmetals.com.au/operations/>

<sup>4</sup> Open Oil, (2020), *Bawdwin: Myanmar's first foreign mining investment? Draft Report*, [https://openoil.net/wp/wp-content/uploads/2016/12/oo\\_my\\_bawdwin\\_report\\_200114\\_0812\\_jw.pdf](https://openoil.net/wp/wp-content/uploads/2016/12/oo_my_bawdwin_report_200114_0812_jw.pdf)

<sup>5</sup> Myanmar Metals (2019), Investor Presentation, [https://assets.ctfassets.net/hnlfsgszg6je/6pxQpia5fGwUmlgG6cqW6w/44219b9cf2968571ba8b1c86cead3d29/180605\\_MYL\\_Investor\\_Presentation.pdf](https://assets.ctfassets.net/hnlfsgszg6je/6pxQpia5fGwUmlgG6cqW6w/44219b9cf2968571ba8b1c86cead3d29/180605_MYL_Investor_Presentation.pdf)

<sup>6</sup> Based on currency conversion from \$112 million USD to AUD done on 8 February 2020.

<https://www.xe.com/currencyconverter/convert/?Amount=112&From=USD&To=AUD>

<sup>7</sup> Open Oil, (2020), *Bawdwin: Myanmar's first foreign mining investment? Draft Report*,

<sup>8</sup> Open Oil calculated that the Myanmar Government would lose \$163 million USD in income tax from the project. Based on conversion done on xe.com on 5 October 2020, the amount is \$226.9 million AUD.

<sup>9</sup> Open Oil, (2020), *Bawdwin: Myanmar's first foreign mining investment? Draft Report*, [https://openoil.net/wp/wp-content/uploads/2016/12/oo\\_my\\_bawdwin\\_report\\_200114\\_0812\\_jw.pdf](https://openoil.net/wp/wp-content/uploads/2016/12/oo_my_bawdwin_report_200114_0812_jw.pdf)

To ensure greater accountability of ASX listed and Australian extractive companies, the Australia government should introduce legislation to ensure companies such as MYL annually publicly disclose their financial payments to governments country-by-country, project-by-project. Such laws already exist in the 27 EU nations, UK, Canada and await implementation in the USA.

**Asia World Co. Ltd (AWC)**  
is Myanmar's largest conglomerate.




Founder is Lo Hsing, known as the 'Godfather of Heroin' and supporter of the former military junta.




Steven Law is the son of Lo Hsing and is the current owner of AWC and has previously been on the US sanctions list. He is one of Asia's most secretive tycoons.

**National Infrastructure Holdings Company (NIHC)**  
(Majority owner of **Win Myint Mo. Industries**)

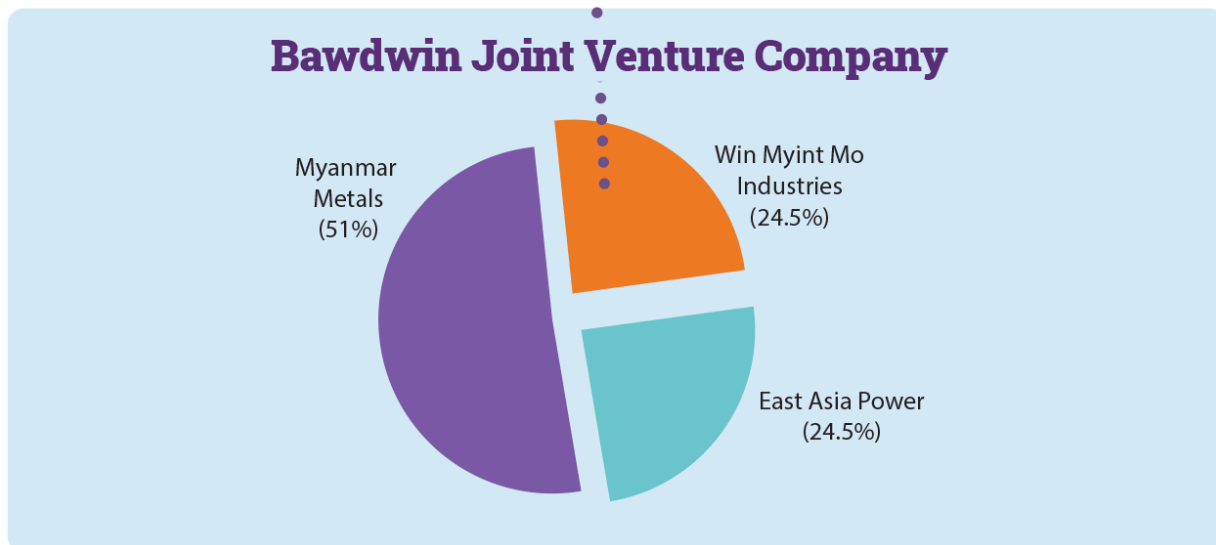
Created when AWC company split its mining, energy and infrastructure businesses off into NIHC.



U Muang Kyay is owner and Manager Director of NIHC. He is also a director of BJV Company and was a founding member and director of AWC for 20 years.



U Than Myint is owner and Director of NIHC. He is also a director of BJV Company and was a director of AWC for 20 years.



There are also significant issues and opacity related to ownership of the joint venture. MYL has formed the Bawdwin Joint Venture (BJV) Company with two Myanmar companies – Win Myint Mo and East Asia Power (Mining) Company Limited. Win Myint Mo is owned by a company born out of the disreputable Asia World Co. Ltd (AWC) in 2016.<sup>10</sup> AWC which is one Asia's largest conglomerates was founded by Lo Hsing Han, known as the 'Godfather of Heroin' and supporter of the former military junta.<sup>11</sup> Lo Hsing Han's son, Steven Law is the current owner of AWC and has previously been on the U.S. sanctions list and accused by the U.S. Government of involvement in laundering money for the Myanmar Military.<sup>12</sup>

The current directors of the BJV Company include four Australians from MYL and two owners from WMM's parent company who are both former directors and a co-founder of AWC.<sup>13</sup> MYL's strong link to AWC has not been publicly disclosed in Australia and raises questions as to who the ultimate owners and financial beneficiaries of the mine are and where revenue could be going. MYL purports that its local partners 'substantially de-risk the project'.<sup>14</sup>

Once the mine becomes operational, active conflict in the area between the Myanmar military (Tatmadaw) and three other ethnic armed groups will likely increase as the various actors struggle to gain a firm stronghold over the area. Given the significance of the extractive industry in sustaining armed actors, responsible investors should always carefully assess the impact of large-scale development projects on conflict dynamics. Within Myanmar, natural resource exploitation opportunities lead to competition between armed actors over townships in which the natural resource wealth is located, which in turn exacerbates conflict and reduces the likelihood of the peace. Large development projects, including extractives, have a history of being used to extend and assert Tatmadaw territorial control as a goal in itself. The companies would also need to rely on the Myanmar military for security, the latter of which has a long history of using violence to secure areas for investment projects (see UNOCAL<sup>15</sup>, Shwe Gas Project<sup>16</sup>).

Increased conflict could also negatively impact the local population, particularly women and girls. There is extensive evidence on violence against women and girls including rape and sex slavery in conflict areas in Shan State and that resource extraction has fueled this.<sup>17</sup> Concerningly, MYL has not publicly disclosed any information about the ongoing fighting and conflict around the mine, does not have a human rights policy nor has published any form of human rights due diligence. The scoping report recently released ignores

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<sup>10</sup> Win Myint Mo is owned by National Infrastructure Holdings Co Ltd which was formed out of AWC in a splitting of their business entities. See: <http://www.nihcmm.com/single-post/2016/01/27/Asia-World-Company-dermerged-into-two-entities-National-Infrastructure-Holdings-Co-Ltd-and-Asia-World-Co-Ltd>

<sup>11</sup> U.S. Department of the Treasury, (2008), *Steven Law Financial Network*, <https://www.treasury.gov/press-center/press-releases/Documents/law%20network%20chart.pdf>

<sup>12</sup> Office of the United Nations High Commissioner for Human Rights, (2019), *The economic interests of the Myanmar military, Independent International Fact-Finding Mission on Myanmar*, [https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/EconomicInterestsMyanmarMilitary/A\\_HRC\\_42\\_CRP\\_3.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/EconomicInterestsMyanmarMilitary/A_HRC_42_CRP_3.pdf)

<sup>13</sup> Myanmar Directorate of Investment and Company Administration, (2020), *Bawdwin Joint Venture*, <https://www.myco.dica.gov.mm/Corp/EntityProfile.aspx?id=23716195-c0f8-431e-8fb8-88652aed9c3d>

<sup>14</sup> Myanmar Metals, (2018), *Equity Raising Presentation*, [https://assets.ctfassets.net/hnlfsgszg6ie/6pxQpia5fGwUmlgG6cqW6w/44219b9cf2968571ba8b1c86cead3d29/180605\\_MYL\\_Investor\\_Presentation.pdf](https://assets.ctfassets.net/hnlfsgszg6ie/6pxQpia5fGwUmlgG6cqW6w/44219b9cf2968571ba8b1c86cead3d29/180605_MYL_Investor_Presentation.pdf)

<sup>15</sup> Business & Human Rights Resource Centre, (2003), *Unocal lawsuit*, <https://www.business-humanrights.org/en/latest-news/unocal-lawsuit-re-myanmar/>

<sup>16</sup> Earth Rights, (2020), *Shwe Gas Project*, <https://earthrights.org/what-we-do/extractive-industries/shwe-gas-project/>

<sup>17</sup> Office of the United Nations Commissioner for Human Rights, (2019), *Sexual and gender-based violence in Myanmar and the gendered impact of its ethnic conflicts*, [https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/sexualviolence/A\\_HRC\\_CRP\\_4.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/sexualviolence/A_HRC_CRP_4.pdf)



conflict. The BJV Company has also stated that two villages will need to be relocated for the redevelopment of the mine though recent reports outline that local communities are refusing to relocate.<sup>18</sup>

The Australian government's policy in Myanmar could be seen as inconsistent and risks undermining efforts for peace and development. The aid program has been a generous donor to Myanmar in supporting peace building, women's rights and good governance and transparency initiatives in the extractives sector.<sup>19</sup> Whilst Austrade has promoted the Bawdwin mine despite the opaque dealings, conflict and human rights issues associated with the mine.

In light of the military coup and ongoing conflict in which the mine is operating, it would be difficult for MYL to ensure that they are not implicated in or driving conflict. **Australian company MYL should immediately suspend operations in Myanmar and divest from any relationships with military owned, controlled or linked business including state-owned enterprises.**

The other main recommendations are as follows:

### Myanmar Metals

- Myanmar Metals should publicly disclose who the ultimate owners of the joint venture are including any financial relationship with Asia World Co. Ltd.
- Myanmar Metals should publicly disclose environmental, gender, social and human rights impact assessments including any risks arising from the armed conflict near the site.

### Australian Government

- Austrade should cease all direct and indirect support for Australian companies operating in Myanmar until there is a return to civil led government.
- Australia should support comprehensive, targeted sanctions against the military, its leaders and its business interests and business partners.
- Australia should introduce legislation requiring ASX listed extractives companies and other extractive companies to annually report publicly all payments to foreign governments on a country-by-country, project-by-project basis.

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<sup>18</sup> Nan Lwin Hnin Pwint, (27/1/2021), *Residents refuse move in Australia Myanmar joint venture mine*, Irrawaddy online, [www.irrawaddy.com/news/burma/residents-refuse-move-australia-myanmar-joint-venture-mine.html](http://www.irrawaddy.com/news/burma/residents-refuse-move-australia-myanmar-joint-venture-mine.html)

<sup>19</sup> DFAT, (2020), *Development Assistance in Myanmar*, Development Assistance: <https://www.dfat.gov.au/geo/myanmar/development-assistance/Pages/development-assistance-in-myanmar>

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