



China's Oil & Gas Giants in Burma: Risks and impacts from the activities of CNOOC Ltd. and the China National Petroleum Corporation in Burma

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In the past 5 years, two of China's largest oil and gas companies have become increasingly involved in investment and operations in Burma. This paper will focus on two major projects that are quickly accelerating: 1) onshore Block M in western Burma and 2) the offshore Shwe Natural Gas Project and pipelines. Both have significant new activities beginning this year – resumption of drilling and project construction – and both are spearheaded by giants of China's oil and gas industry.

Since 2004, **CNOOC Ltd.** (NYSE: CEO; HKSE 0883), the main subsidiary of the China National Offshore Oil Corporation, has been leading a consortium of companies exploring for oil in Block M in western Burma's Arakan State. Late last year, **China National Petroleum Corporation** (CNPC), parent company of PetroChina (NYSE: PTR; HKSE: 0857; SSE: 601857), became the majority investor and manager of planned dual oil and gas pipelines across Burma, and a major CNPC subsidiary entered into an agreement to buy the Shwe gas. Both companies are also involved in several smaller blocks in Burma.

Despite facing a suite of environmental and human rights related challenges, both the Block M and Shwe projects are rapidly moving forward, reducing the companies' opportunity to minimize and manage the political, environmental and social risks associated with these investments. Both projects have already caused negative impacts to those living in the project areas; if, as expected, militarization intensifies in order to secure the projects, human rights risks will increase.

Both projects have also already drawn international attention. Most recently, complaints detailing violations of the *OECD Guidelines for Multinational Enterprises* posed by the Shwe project and pipelines were submitted by EarthRights International and the Shwe Gas Movement to the Korean National Contact Point and 2009 National Contact Point meeting.¹ The Shwe project, pipelines, and Block M have also garnered substantial international media regarding their considerable human rights and environmental risks.²

¹ See *Complaint to the South Korea National Contact Point Under the Specific Instance Procedure of the OECD Guidelines for Multinational Enterprises Regarding Natural Gas Development by Daewoo International and Korea Gas Corporation (KOGAS) in Burma (Myanmar)*, EarthRights International & Shwe Gas Movement (29 Oct. 2008) [*Shwe OECD Complaint*]; see also *A Governance Gap: The Failure of the Korean Government to Hold Korean Corporations Accountable to the OECD Guidelines for Multinational Enterprises Regarding Violations in Burma*, EarthRights International & Shwe Gas Movement (Jun. 2009).

² For a few recent examples, see "The Scramble for a Piece of Burma," *Time Magazine* (19 Mar. 2009); "S. Korea firms 'linked to Myanmar gas abuse,'" *Agence France-Presse* 15 Jun. 2005); "Chinese interest in Myanmar," *The Economist* (7 Feb. 2008); "Myanmar's farmers pay for China's oil thirst," *Asia Times* (4 Nov. 2008).

Compared to their international peers, CNOOC and CNPC have relatively little experience in managing complex non-commercial risks associated with foreign direct investment. Burma poses a particularly challenging operational and investment climate, due to its history of human rights abuses, absence of rule of law, and lack of adequate environmental and social protections. To successfully operate in Burma, companies like CNOOC and CNPC need, at the very least, to conform to international and home country standards and uphold internationally-accepted norms such as those involving forced labor and land confiscation. We recommend that company financiers use their influence to ensure that the companies' operations in Burma meet international standards, or that companies leave Burma if compliance cannot be demonstrated. Should financiers' concerns go unheeded, we recommend that they pull their investment from companies operating in Burma.

Background

Burma, also known as Myanmar,³ has been ruled by repressive military dictatorships since 1962. The current government of Burma, the State Peace and Development Council (SPDC), took power in a 1988 coup. Since that time the junta has faced international condemnation for the brutal crackdown of protesters in 1988, and the subsequent arrest and imprisonment of Nobel Laureate Daw Aung San Suu Kyi and other elected leaders. Known for its repressive tactics, such as jailing political dissidents, Burma has for many years come under extensive scrutiny for the brutal actions of the Burma Army in areas inhabited by ethnic minority nationalities.⁴

Recent events have once again placed Burma in the international spotlight. Following an uprising by the country's monks in September 2007, the junta's brutal crackdown prompted criticism from the United Nations, Association of Southeast Asian Nations, and several other members of the international community.⁵ These criticisms were intensified by the junta's severe mishandling of the aftermath of the May 2008 Cyclone Nargis and repressive tactics associated with the government's constitutional referendum that same year.⁶

Extractive industry revenues constitute the largest source of income for Burma's military junta, with revenues expected to rise astronomically when several new projects – most notably Shwe – come online. The SPDC currently receives an estimated 1 billion USD per year from the Yadana project alone.⁷ When the Shwe gas begins production in 2013, the regime's revenues are expected to jump 1.5 billion per year, with an estimated nearly 48 billion in revenues over 30 years.⁸

³ The military junta changed the name of the country from Burma to Myanmar in 1989. This change is not recognized by those opposed to the military's continued rule.

⁴ See *Situation of Human Rights in Myanmar*; Report of the Special Rapporteur, Paulo Sergio Pinheiro (Dec 2004).

⁵ "Asean assails Myanmar crackdown," *International Herald Tribune* (28 Sep. 2007); "Human Rights Council Strongly Deplores Continued Violent Repression of Peaceful Demonstrations in Myanmar," *United Nations Press Release* (2 Oct. 2007).

⁶ "Myanmar Seizes UN Food for Cyclone Victims and Blocks Foreign Experts," *New York Times* (10 May 2008); "UN says much of Myanmar cyclone aid is lost," *The Guardian* (25 Jul 2008).

⁷ See end of year 2007 estimates in *The Human Cost of Energy: Chevron's Continuing Role in Financing Oppression and Profiting from Human Rights Abuses in Military Rule Burma (Myanmar)*, EarthRights International (Apr. 2008) [*The Human Cost of Energy*].

⁸ Calculations available upon request to info@arakanoilwatch.org.

Despite overwhelming natural resource wealth, Burma remains one of the poorest countries in the world.⁹ Misuse of revenues, as well as pervasive corruption, have led to the elevation of the country's military rulers – and those connected to them – while the economic situation of the majority of the country's citizens continues to deteriorate. Intent on military buildup, the SPDC spends an estimated 40% of its annual budget on the military alone,¹⁰ while health and education receive a paltry 3% and 13%, respectively.¹¹

CNOOC Ltd. & Block M

In October 2004, a consortium of companies led by CNOOC Ltd. of Hong Kong signed an agreement for oil exploration in Block M, Arakan State.¹² That same month, the Sichuan Petroleum Geophysical Company set up a base camp and began conducting seismic surveys. After completing the surveys in 2005, two exploratory drilling sites were established; one was temporarily closed in late 2005 and one in early 2007. After a nearly two year hiatus, drilling restarted in February 2009.¹³

Block M is located on Ramree Island, home to an estimated 400,000 people, many of whom live in indigenous communities. Although Ramree villagers survive on a mixture of subsistence farming, fishing, and oil drilling, the oil business is integral to every aspect of the island's economy. Local oil wells in Ramree Island's Renandaung Village – “Oil Mountain Village” – provide 90 percent of the households there with an income. Villagers also come from elsewhere on Ramree Island in search of work on one of the 2,000 hand-dug oil wells there.

During the initial exploration period from late 2004 to early 2007, local communities on Ramree Island suffered a number of negative impacts from the project. The following have been documented:¹⁴

Land confiscation. An estimated 300 hand-dug oil wells and over 200 acres of farmland have been seized by the Burmese authorities from local residents for exploration activities. As a result, local residents, many of whom have traditionally supported themselves with hand-dug oil wells, have lost important livelihood sources.

Lack of adequate compensation. The local residents have not received adequate compensation for the seizures of wells and farmlands. Some local villagers have reported a compensation rate of 40,000 kyat (approximately 31 USD) from CNOOC Ltd. regardless of the size or quality of their land or the number of traditional oil wells already on it. In some cases, residents have not received any compensation at all. In other cases, part of the

⁹ The United Nations classifies Burma (Myanmar) as a “least developed country.” See <http://www.un.org/special-rep/ohrlls/lde/lde%20criteria.htm>.

¹⁰ “Misery piled upon misery: Myanmar,” *The Economist* (6 Oct. 2007).

¹¹ Statistics from the United Nations Children's Fund (as of 2006) at http://www.unicef.org/infobycountry/myanmar_statistics.html#58.

¹² “Chinese-led JV Signs Exploration Contract with Myanmar,” *Xinhua* (22 Oct. 2004).

¹³ For the latest report, see “CNOOC Starts Myanmar Drilling Despite Uproar Over Human Rights,” *International Oil Daily* (26 Feb. 2009). The resumption of drilling was independently confirmed by Arakan Oil Watch in March 2009.

¹⁴ See *Blocking Freedom: A Case Study of China's Oil and Gas Investments in Burma*, Arakan Oil Watch (Oct. 2008) [*Blocking Freedom*].

already meager compensation provided by CNOOC Ltd. was lost to corruption. Several reports indicate that up to ¼ of the compensation provided to CNOOC Ltd. was taken by Burmese township officials before reaching the hands of local residents.

Failure to inform or consult with local affected people. The local residents of Ramree Island were neither informed nor consulted prior to CNOOC Ltd.'s exploration activities. They have been given no opportunity to participate in decision-making regarding the project. In Burma's repressive climate, anyone voicing opposition to the project faces severe consequences that may include prison.

Pollution and environmental destruction. Local residents report that CNOOC Ltd. workers built shallow canals to carry toxic drilling muds away from drilling sites and into Chaing Wa Creek. Seismic surveys conducted in 2004-2005 destroyed fields, crops, and trees. Some fields were left infertile after the surveys.

Failure to provide benefits to the local community. The above impacts have combined to destroy the livelihoods of affected residents of Ramree Island. The local community has not received any benefits from the sale of their own natural resources; instead the community continues to suffer from the impacts of CNOOC Ltd.'s exploration activities and the loss of their traditional livelihoods, lands, and natural resources.

As drilling recommences, additional negative impacts can be expected, posing reputational and project risks to the company.

CNPC & Shwe

In November 2008, state media announced that CNPC holds a 50.9% stake in dual oil and gas pipelines planned from western Burma's Arakan State to China's Yunnan Province. CNPC will also manage the projects, which will cut directly through central Burma and affect thousands of communities. Its partners in the pipeline projects are Burma's state-owned Myanmar Oil and Gas Enterprise (MOGE) and Daewoo International of Korea, which hold the remaining shares. Construction on the pipelines is set to begin in September 2009.¹⁵

While the oil pipeline is intended to provide China with an alternate route for oil from the Middle East, bypassing the Strait of Malacca, the gas pipeline will carry gas sold to China from the Shwe Natural Gas Project. In December 2008, the China National United Oil Corporation (CNUOC), a subsidiary of CNPC, signed an agreement with Burma's military junta to purchase natural gas from the project. Production is scheduled for 2013.¹⁶

The Shwe Natural Gas Project is located in offshore Arakan State, in the Bay of Bengal. The Shwe field is comprised of offshore gas Blocks A-1 and A-3. Two Korean companies, Daewoo International and the Korea Gas Corporation, and two Indian companies, ONGC Videsh and Gas Authority of India Limited, form the project consortium along with MOGE.

The increase in Burma Army soldiers near the offshore drilling sites of the Shwe project – two new outposts were built in 2005¹⁷ – has resulted in negative impacts for local villagers. The following impacts and risks have been observed:

¹⁵ "China to build new oil, gas pipeline across Myanmar: state media," Agence France-Presse (18 Nov. 2008).

¹⁶ "China to import gas from Myanmar," Xinhua (26 Dec. 2008).

¹⁷ "Two defense outposts built on two islands," Narinjara News (7 Sep. 2005).

Loss of livelihood. Villagers, who have traditionally relied on fishing, have lost their livelihoods as a result of fishing restrictions in Block A-1.¹⁸

Violence against communities. Soldiers guarding the area have imposed exclusion zones, but failed to adequately and clearly inform villagers of the exact parameters of the restrictions. As a result, villagers have been detained and beaten for violating restrictions of which they were not aware. In April 2004, 4 fishermen were arrested, beaten, and jailed for fishing in an excluded zone. Several months later, in January 2005, 4 more fishermen were arrested, beaten, and threatened for crossing into the zone. As a result of the restrictions and fear of the soldiers, villagers who had made their livelihoods by fishing in Block A-1 have been forced to find other means of survival.¹⁹

Forced relocation. On Arakan's Baday Island, five villages – the island's entire population – have been told to leave their homes without compensation. Reportedly, villagers were told that they must leave because their island will be used for the “energy industry.”²⁰

High risk of complicity in human rights abuses. In addition to the negative impacts caused by the drilling, the Shwe pipeline projects are expected to cause additional harm to local communities along the pipeline route. As Burma Army soldiers increase their numbers in these communities in order to provide security for pipeline construction, residents can expect to face abuses such as forced labor, forced relocation, torture, rape, and murder. The escalation of abuses around a project site when Burma Army soldiers arrive to provide security is well documented.²¹

High risk of environmental destruction. Without proper preparation and environmental management, pollution from offshore natural gas projects can destroy marine life, further decimating the livelihoods of communities near the project. Emissions from drilling rigs and natural gas flares can also cause air pollution. As no Environmental Impact Assessment has been released for the Shwe project, it is unclear whether the project will employ environmental management systems and adequate pollution prevention technology.²²

Human risks associated with the Shwe project can be expected to be similar to those of Unocal's Yadana Gas Pipeline Project in eastern Burma, which was litigated in US courts. In the early 1990s, this pipeline was constructed to carry the Yadana gas from the Andaman Sea to be sold in neighboring Thailand. As Burma Army battalions moved into the area to provide security for the project, thousands of refugees began streaming across the Thai-Burma border telling stories of forced labor, forced relocation, torture, murder, extortion, and rape at the hands of soldiers guarding

¹⁸ See *Supply and Command: Natural gas in western Burma set to entrench military rule*, All Arakan Students and Youth Congress (Jul. 2006).

¹⁹ *Id.*

²⁰ “Burmese junta profits from Chinese pipeline,” Daily Telegraph (14 Jan. 2008); “Chinese interest in Myanmar,” The Economist (7 Feb. 2008).

²¹ See several publications documenting abuses linked to major development projects at www.earthrights.org/burma and www.burmaversnetwork.org.

²² See *Shwe OECD Complaint*.

the pipeline. Entire villages were cleared at gunpoint to make way for the pipeline, and an untold number of villagers were conscripted as forced laborers in support of the project.²³

In 1996, the abuses led to the filing of a lawsuit in US courts against, among others, the American member of the Yadana consortium, Unocal Corporation. After several years of expensive litigation and reputational damage, *Doe v. Unocal* was settled in 2005, with payments by the company reportedly in the millions; in 2006 Unocal was bought by Chevron.²⁴ Three years later, Chevron now faces scrutiny due its participation in the Yadana project, which is still secured by the Burma Army.²⁵

As construction on the dual oil & gas pipelines from Arakan to Yunnan begins this year, CNPC is at risk of complicity in the same abuses that faced Unocal in the Yadana pipeline. The Burma Army has a well-documented history of using forced laborers for major development projects such as gas pipelines, and of using brutal tactics such as forced labor, murder, torture, and rape against communities in the pipeline corridor. The Arakan-Yunnan pipelines, extending nearly 1,000 km across central Burma, are several times longer than the Yadana pipeline and will affect thousands of villages.

Unless CNPC takes immediate action to ensure otherwise, similar abuses can be expected from construction of the dual oil & gas pipeline from Arakan State to Yunnan Province. The company faces risks of severe reputational damage if similar abuses do occur.

The pipelines also risk causing severe environmental damage as they bisect the Indo-Burma biological hotspot and run through several ecologically sensitive areas across Burma. In addition to mango swamps, estuaries, small rivers, and a national marine park in Arakan State, the pipelines will cross the Mizoram-Manipur-Kachin rainforests, Chin Hills-Arakan Yoma montane forests, Irrawaddy dry forests, Irrawaddy moist deciduous forests, Northern Indochina subtropical forests, a wildlife sanctuary, and a bird sanctuary as they move across central Burma to Yunnan. There is no evidence that mitigation strategies have been put into place, as no Environmental Impact Assessment has been released.²⁶

Other Projects

CNOOC and CNPC are also involved in several smaller onshore and offshore oil and gas blocks in various parts of Burma. Both companies have stakes in the offshore M-2 and M-10 blocks in eastern Burma.²⁷ CNOOC is both the majority stakeholder and operator of offshore gas block AD-4 in Arakan State and onshore oil blocks C-1 and C-2 in Sagaing Division.²⁸ In January of 2007, CNPC signed production sharing contracts with Burma's military junta for three oil blocks in

²³ See *The Human Cost of Energy*; see also *Total Denial Continues: Earth Rights Abuses Along the Yadana and Yetagan Pipelines in Burma*, EarthRights International (May 2000); *Total Denial*, Earthrights International & Southeast Asian Information Network (Jul. 1996).

²⁴ For more information about *Doe v. Unocal*, see www.earthrights.org/legal/unocal.

²⁵ See *The Human Cost of Energy*.

²⁶ See *Shwe OECD Complaint*.

²⁷ See <http://www.hrw.org/legacy/campaigns/burma/drilling/Burma>.

²⁸ “Thai, Chinese Firms Strike Deal on Burmese Oil, Gas Blocks,” Reuters (9 Apr. 2008); “Myanmar signs oil contracts with Chinese-Singaporean consortium,” *The Myanmar Times* (7-13 Feb. 2005).

offshore Arakan State: Blocks AD-1, AD-6, and AD-8.²⁹ The three blocks are still in the exploration stage, while CNPC has older stakes in several onshore blocks, notably blocks IOR-3, IOR-4, RSF-2, RSF -3,³⁰ and TSF-2.³¹ Subsidiaries of both CNOOC and CNPC are involved in additional blocks.

While very little information regarding the status of these smaller projects is currently available, all pose risks for similar abuses to those already documented in Block M, Shwe, and the earlier Yadana project. The potential risks associated with these projects may be material and yet may not have been adequately disclosed to investors and financiers.

Investment risks due to ongoing instability in Burma

Burma is a poor and unstable military dictatorship that continues to make headlines for political instability as well as the ongoing civil war in many parts of the country. Any large scale investment in Burma is risky, given the always present political instability and unpredictable nature of the country's rulers. Military leaders, who have famously turned to astrology to aid decision-making,³² preside over an increasingly unstable economy lacking even rudimentary rule of law; even major decisions are subject to the whims of the rulers. An example was provided in 2007, when the decision of the military regime to double fuel prices sparked civilian anger that erupted in the form of nation-wide protests.³³ Any investments in Burma, particularly costly, long-term oil and gas projects, risk disruption, destruction, and even cancellation.

The dual Arakan-Yunnan oil and gas pipelines are particularly vulnerable. Spanning several states and divisions in Central Burma, the pipelines risk destruction or sabotage by non-state forces or others opposed to the projects. The pipelines will cross near areas of active fighting in Shan State, where pockets of resistance continue in southern Shan State and a shaky alliance exists in the north.³⁴

Major projects in Burma, including drilling in Block M, have already been disrupted. In early 2007, angry residents of Ramree Island attacked a drilling site, destroying equipment and supplies.³⁵ In late 2007, construction on the 1 billion USD Hatgyi Dam was suspended after a second worker was killed as a result of the nearby civil war in Karen State.³⁶

²⁹ "Chinese company to explore oil, gas in three Myanmar offshore areas," Xinhua (16 Jan. 2007).

³⁰ See <http://www.hrw.org/legacy/campaigns/burma/drilling/Burma>.

³¹ See <http://www.cnpc.com.cn/en/cnpcworldwide/myanmar/Myanmar.htm>.

³² Burma's dictator, Than Shwe, reportedly moved the country's capital on the advice of an astrologer. See "Instant karma in Myanmar," Asia Times (18 Jun. 2009).

³³ "Steep Rise in Fuel Costs Prompts Rare Public Protest in Myanmar," The New York Times (23 Aug. 2007); "Monks' Protest is Challenging Burmese Junta," The New York Times (24 Sep. 2007).

³⁴ "Burma send mortars to Shan State," The Irrawaddy (23 Jun. 2009).

³⁵ See *Blocking Freedom*.

³⁶ "Thai worker killed in attack on Myanmar dam site," Reuters (3 Sep. 2007).

Corporate responsibility in Burma

While complying with host country laws usually provides companies with a starting point for managing environmental and social risks, the utter lack of adequate social and environmental standards and enforcement in Burma renders this an ineffective strategy. Rather, adhering to international and home country standards (at minimum) is a more effective way of mitigating litigation and reputational risks, given the pervasive use of forced labor and continued military abuses in the country.

We believe that the current activities of CNOOC Ltd. in Block M and CNPC in the Shwe project and pipelines fail to comply with international and home country standards regarding human rights and environmental protection. These include Chinese government policy, such as the State Council's "Nine Principles on Encouraging and Standardizing Foreign Investment," and the State Assets Supervision and Administration Commission's (which regulates state owned enterprises) "Guidelines on Fulfilling Social Responsibilities by Central Enterprises." The exploration activities violate international standards governing corporate responsibility contained in several documents including the *UN Global Compact*, the *UN Norms on the Responsibilities of Transnational Corporations*, and the *OECD Guidelines for Multinational Enterprises*.

For more information...

This brief was prepared by Arakan Oil Watch, a member of the Shwe Gas Movement. For more information on the activities of CNOOC Ltd. and CNPC in Burma, please visit www.arakanoilwatch.org and www.shwe.org.