

Burma Environmental Working Group Benchmarks for Investment in Energy, Extractive and Land Sectors in Burma

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Today, the Burma Environmental Working Group (BEWG) – an alliance of grassroots-based organizations – issues its *Benchmarks for Investment in Burma's Energy, Extractive and Land Sectors* to serve as a framework for responsible investment in critical sectors in Burma. The release of the benchmarks comes at a very important time when Western democracies are considering easing or eliminating existing economic sanctions against Burma, and companies and countries are showing renewed interest in investment in Burma despite a high risk investment environment. Adherence to the benchmarks will increase the likelihood that investment in sectors that have been historically linked with human rights and environmental abuses will benefit the people of Burma and does not undermine effective political, social and environmental progress in this emerging South East Asian country. Increasing investments since the late 1980s, especially from resource-hungry Asian neighbors – including through the establishment of Special Economic Zones (SEZs) – has increased violent conflict, led to human rights abuses against local communities, threatened traditional livelihoods and ways of life, and caused irreparable environmental damage.

BEWG intends for the benchmarks to lead to benefits for local communities that are most affected by investments in natural resource projects and SEZs. Community support will be earned by: adopting a project benefit distribution system which guarantees equitable benefit sharing to communities; reducing conflict and risk in project and investment areas; ensuring the rule of law and accountability; establishing checks and balances; improving and protecting the rights of civil society, including the right to participate in development decisions and the right of communities to grant or withhold free, prior and informed consent; and ensuring balanced and sustainable economic and environmental development through the proper management of the country's natural resources.

“Investment in Burma must support genuine peace and national reform and must follow the will of local communities who have long paid the price for resource-driven investments through forced labor, land confiscation, illegal taxes, loss of life, and other human rights abuses,” said BEWG spokesperson Paul Sein Twa.

BEWG intends to work with additional stakeholders as space increases for civil society inside Burma to further refine and publicize these benchmarks.

The following is a summary of BEWG's five major benchmarks for investors:

1) Do No Harm

Investment should not exacerbate natural resource and land-based conflict in Burma.

Burma's political situation is growing increasingly sensitive as ethnic groups and the government enter the early stages of new peace talks to advance national reform and reconciliation. The interests of investment projects and investors can directly interfere with the political peace process and have already increased violence and the loss of life and livelihoods in conflict areas where investment projects are taking place. Lasting and genuine peace in project areas is essential and cannot be created instantaneously. Completely addressing all aspects of ethnic conflict and not just concurrently signing peace and business deals with armed groups, will take considerable time and effort. In the pursuance of peace, investors must fully understand the historical and modern day connection of specific projects, government actors and business partners to conflict, and ensure that project security is a result of the rule of law and not regional militarization. Investors must carry out best practices in conflict risk assessments and must follow risk management strategies to avoid renewed conflict or complicity in security-related human rights abuses. BEWG recommends that new investment projects only be carried out when sufficient legal and regulatory reforms are

adopted that guarantee social and environmental safeguards to international best practice, when meaningful local participation, consent and consultation are enshrined in law and practice, and only in areas that are free of conflict.

2) Best Practices or No Practices

Investors should respect the widely accepted global standards for environmental and human rights law while following international best practices in human rights, social and environmental impact assessments. Burma does not have human rights, environmental or social impact assessment laws or requirements in the country. Until such laws are implemented and instituted to an international standard, investors should meet or exceed the international community and their home countries' standards for environmental and human rights laws in order to ensure that decision making is consultative and inclusive of all stakeholders. Following Free, Prior and Informed Consent (FPIC) and consultation standards is necessary to ensure that the rights of local communities are protected.

3) Act Transparently and with Principles

Investors should have a zero-tolerance policy on corruption and should uphold full revenue and contract transparency.

It is well-documented that corruption in Burma contributes directly to poverty, underdevelopment, human rights abuses and the financing of military action against ethnic groups. Corruption is worsened by the lack of transparency of revenue and contracts from foreign investment. Investors must disclose with appropriate scope and scale high quality information regularly, transparently and thoroughly that covers all benefit streams and company activities, and that is easily accessible to stakeholders including a majority of the affected population and public. As energy and extractive resources are depleted in Burma, investors, governments and communities must manage revenue transparently to support a long-term sustainable strategy for economic and social development. Investors can actively support well-managed benefit streams on all levels by fully complying with external revenue disclosure regulations and by applying thorough supply chain management oversight and strong internal anti-corruption policies to all third party contractors.

4) Support Civil Society not Impunity

Civil society should be free to fulfill its role without threat of repression or abuse.

Rights and protections for Civil Society Organizations (CSOs) in Burma must be guaranteed by law and CSOs must be allowed to conduct community capacity building and education regarding all extractive, energy and land-based projects – including SEZs. CSOs are an important part of a checks and balances system that includes government and the private sector. CSOs help to ensure that public and local community interests are protected and work to avoid abuses under authoritarian and repressive systems. Investors can start supporting civil society immediately by engaging CSOs directly in a peaceful and meaningful dialog during all stages of a project.

5) Empower Communities

Community grievances must be fully addressed in existing and proposed investments.

The concerns and needs of communities in project areas must be fully and impartially addressed. Local communities, especially women and children in those communities, have long paid the price for investments in Burma through forced labor, land confiscation, illegal taxes, loss of life, and other human rights abuses – with very little and often ineffective outlets for raising grievances or obtaining redress for abuse. In addition to domestic and international legal standards already in place, effective internal safeguards must be established by investors in every investment project to protect people's rights, monitor abuses, and provide access to remedies for past, present or future abuse.

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BEWG refers investors to the following resources but is not limited to the UN Global Compact-PRI 2010 publication *Guidance on Responsible Business in Conflict-Affected and High-Risk Areas*, the 2006 *OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones*, the 2002 *Global Compact Business Guide for Conflict Impact*

Assessment and Risk Management, the 2011 *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework* and the global Extractive Industry Transparency Initiative (EITI) and other best practice resources. Financiers should consult the Equator Principles for initial guidance.

These benchmarks stem from an ongoing consultative process first initiated at the Another Development for Burma (ADfB) seminar in 2005. Each member and collaborating group brings the experiences of their organization and the voices of the ethnic people they work with to the consultation process. BEWG has made recommendations in the past, most notably in its 2011 publication *Burma’s Environment: People, Problems, Policies*.

The context in which past BEWG recommendations were made appears to be rapidly changing, and BEWG is in a constant process of discussion and consultation to ensure that useful, relevant and inclusive responses to the changing situation are made. However, the core need for transparent and effective policies that address widespread problems while at the same time truly benefiting – and not harming - the people and environment of Burma has not changed.

For more information on this topic, please refer to BEWG’s 2011 report, *Burma’s Environment: People, Problems, Policies*. More information is also available on BEWG’s website (www.bewg.org).

BEWG consists of Arakan Oil Watch (AOW), BRIDGE (Bridging Rural Integrated Development and Grassroots Empowerment), EarthRights International (ERI), the Kachin Development Networking Group (KDNG), the Karen Environmental and Social Action Network (KESAN), the Lahu National Development Organization (LNDO), the Network for Environmental and Economic Development (NEED), the Pa-Oh Youth Organization (PYO), the Shan Sapawa Environmental Organization (Sapawa) and the Shwe Gas Movement (SGM). Since 2005, most BEWG activities have been facilitated with support from the ADfB platform.

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