



**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**

A Report by EarthRights International  
and the Shwe Gas Movement

June 15, 2009

### **About EarthRights International (ERI)**

EarthRights International (ERI) is a nongovernmental, nonprofit organization that combines the power of law and the power of people in defense of human rights and the environment, which we define as “earth rights.” We specialize in fact-finding, legal actions against perpetrators of earth rights abuses, training grassroots and community leaders, and advocacy campaigns. Through these strategies, ERI seeks to end earth rights abuses, to provide real solutions for real people, and to promote and protect human rights and the environment in the communities where we work. [www.earthrights.org](http://www.earthrights.org)

### **About the Shwe Gas Movement (SGM)**

The Shwe Gas Movement (SGM) is a coalition of civil society organizations and individuals from Arakan State in western Burma, including representatives from populations directly affected by the Shwe Gas Project. Initiated in 2002 by the All Arakan Students’ and Youths’ Congress (AASYC), the SGM currently includes AASYC, the Shwe Gas Campaign Committee-India, Arakan Oil Watch (AOW), and SGM Bangladesh. The SGM mission is to prevent human rights and environmental abuses connected to the Shwe Project and to promote genuine, inclusive, and democratic participation in development decisions in Burma. [www.shwe.org](http://www.shwe.org)

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## TERMS AND ABBREVIATIONS

### **Burma / “Myanmar”**

In 1989, Burma’s military regime changed the name of the country from “Burma” to “Myanmar,” which is closer to the historical, Burmese-language name. At that time, the regime also unilaterally changed place names: “Rangoon” became “Yangon,” and so forth. While the term *Myanma* is commonly used in the Burmese language, the name Myanmar is not accepted by most opposition groups, who continue to reject the military regime’s legitimacy to change the name of the country. This opposition includes the democratically-elected National League for Democracy (NLD), headed by Nobel Laureate Aung San Suu Kyi, who refer to the country as Burma and non-Burman ethnic nationalities who further oppose the name changes as part of an effort to “Burmanize” the national culture. EarthRights International (ERI) and the Shwe Gas Movement (SGM) refer to the country as Burma.

### **National Contact Point (NCP)**

The Korean NCP is wholly part of the Ministry of Knowledge Economy (MKE) in the Korean government. In this report, the NCP and Korean government are referred to interchangeably.

Acronyms and abbreviations that appear in this report are as follows:

|        |   |
|--------|---|
| AOW    | Arakan Oil Watch  |
| AASYC  | All Arakan Students’ and Youths’ Congress                 |
| CAN    | Citizens’ Action Network                                  |
| ERI    | EarthRights International                                 |
| EIA    | Environmental Impact Assessment                           |
| FKTU   | Federations of Korean Trade Unions                        |
| GAIL   | Gas Authority of India                                    |
| HURFOM | Human Rights Foundation of Monland                        |
| IMF    | International Monetary Fund                               |
| KHIS   | Korean House for International Solidarity                 |
| KCTU   | Korean Confederation of Trade Unions                      |
| Kt     | Kyat (Burmese currency)                                   |
| MKE    | Ministry of Knowledge Economy                             |
| MOGE   | Myanmar Oil and Gas Enterprise                            |
| NGO    | Non-Governmental Organization                             |
| NCP    | National Contact Point                                    |
| NLD    | National League for Democracy                             |
| OECD   | Organization for Economic Cooperation and Development     |
| ONGC   | Oil and Natural Gas Corporation Videsh Limited            |
| PSC    | Production Sharing Contract                               |
| SPDC   | State Peace and Development Council                       |
| SGM    | Shwe Gas Movement   |
| UNSGSR | United Nations Secretary General’s Special Representative |
| US\$   | US Dollar   |

## INTRODUCTION

In 2000, the Korean corporation Daewoo International (“Daewoo”) signed a Production Sharing Contract (PSC) with Burma’s ruling regime, the State Peace and Development Council (SPDC), to explore and exploit natural gas in Burma’s Bay of Bengal.<sup>1</sup> Shortly thereafter, in 2001, Daewoo formed an international consortium to develop the gas field that includes the state-controlled Korean Gas Corporation (KOGAS).<sup>2</sup> In late 2003, as operator of the project, Daewoo announced the discovery of a large and commercially viable natural gas deposit. Later discoveries were also made and plans are currently underway to transport and sell the discovered gas to China through a cross-country pipeline to Yunnan Province – the pipeline will be operated in part by the China National Petroleum Corporation (CNPC).<sup>3</sup>

The project is called *Shwe*, meaning “gold” in Burmese. It has already been linked to human and environmental rights abuses, fails to meet a number of international best practice standards, and, once operational, will become one of the largest single sources of revenue for the SPDC.<sup>4</sup> The project as currently constituted violates several of the OECD *Guidelines for Multinational Enterprises* (hereinafter, the “Guidelines”).

In late 2008, representatives from EarthRights International (ERI) and the Shwe Gas Movement (SGM) traveled to Seoul, Korea to file a 48-page Korean-language complaint with the Government of Korea regarding violations of the Guidelines by Daewoo and KOGAS in Burma.<sup>5</sup> The complaint alleged that Daewoo and KOGAS failed to practice due diligence to prevent negative human rights and environmental impacts of the Shwe Project, and are currently and potentially in violation of at least six of the Guidelines. Documented violations included: the failure to respect human rights; failure to promote sustainable development; failure to disclose information about the project; failure to consult with local populations; and failure to conduct an Environmental Impact Assessment (EIA) according to international standards.

The complaint reflected research by EarthRights International (ERI) and the Shwe Gas Movement (SGM) and was endorsed by nine co-complainants, including Korean

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<sup>1</sup> Daewoo International Corporation. “Daewoo International Sells Stake in Myanmar field to KOGAS,” (Dec. 27, 2001), [http://www.daewoo.com/english/publicity/news.jsp?work=read&u\\_id=280&now\\_page=1&keyword=Daewoo%20International%20sells%20stake%20in%20Myanmar%20field%20to%20KOGAS&keytype=subject&nav=null](http://www.daewoo.com/english/publicity/news.jsp?work=read&u_id=280&now_page=1&keyword=Daewoo%20International%20sells%20stake%20in%20Myanmar%20field%20to%20KOGAS&keytype=subject&nav=null) (accessed June 11, 2009); and Daewoo Int’l Corp. “Daewoo Sells Gas Project in Myanmar,” (Jan. 29, 2002), [http://www.daewoo.com/english/publicity/news.jsp?work=read&u\\_id=289&now\\_page=1&keyword=Daewoo%20Sells%20Gas%20Project%20in%20Myanmar&keytype=subject&nav=null](http://www.daewoo.com/english/publicity/news.jsp?work=read&u_id=289&now_page=1&keyword=Daewoo%20Sells%20Gas%20Project%20in%20Myanmar&keytype=subject&nav=null) (accessed June 11, 2009).

<sup>2</sup> *Id.* Currently, the consortium also includes ONGC Videsh and the Gas Authority of India (GAIL), both state-owned companies in India, and the Myanmar Oil and Gas Enterprise (MOGE), the state-owned company in Burma.

<sup>3</sup> “China Signs Cross Border Oil and Gas Pipelines Deal with Myanmar,” *InvestatAsia.com* (Apr. 4, 2009), <http://www.gasandoil.com/goc/news/nts91909.htm> (accessed June 10, 2009).

<sup>4</sup> According to the Shwe Gas Movement, the project will generate up to US\$ 26 billion for the Burmese regime. See Arakan Oil Watch, *Blocking Freedom* (2008: 35). See generally Shwe Gas Movement, *Supply and Command* (2006).

<sup>5</sup> EarthRights International, Shwe Gas Movement et al, *Complaint to the South Korea National Contact point Under the Specific Instance Procedure of the OECD Guidelines for Multinational Enterprises* (October 29, 2008), <http://www.earthrights.org/files/Burma%20Project/Shwe/OECDComplaint10.29-ENGLISH.pdf> (accessed June 10, 2009). The English language complaint is 43-pages long.

civil society organizations, exiled Burmese organizations, and Korea's two largest labor organizations, which have a collective membership numbering over 1 million.<sup>6</sup>

On November 27, 2008, less than one month after it was filed, the complaint was uniformly rejected by the Korean National Contact Point (NCP) tasked with promoting the Guidelines.<sup>7</sup> The Korean government sided completely and uncritically with Daewoo International and KOGAS on every aspect of the complaint. The final ruling opined that the companies are fulfilling the Guidelines and that the Shwe Gas Project and the complaint raised no issues that merited investigation.<sup>8</sup>

This report explains why and how that decision was gravely erroneous and suggests recommendations to the OECD to improve the effectiveness of the Guidelines.

The annual meeting of the NCPs to share experiences and to report to the Investment Committee is at the OECD Headquarters in Paris, France from June 16-17, 2009. The Investment Committee's duty is to ensure the "effective functioning of the Guidelines" and it has the power to issue "clarifications" about the Guidelines and NCP decisions.<sup>9</sup> This report calls on the OECD Investment Committee to clarify specific elements of the Guidelines with respect to conclusions reached by the Korean government in response to the complaint filed against Daewoo International and KOGAS for violations in Burma.

This report documents conflicts of interest at the Korean NCP and its failure to adequately perform its responsibilities and duties. It finds that the NCP's decision is both inconsistent with decisions of other NCPs and with the Guidelines themselves, and raises numerous substantive concerns.

The Investment Committee has an opportunity to clarify the Korean decision in the Shwe case, to take effective action to improve functional equivalence among NCPs, and to provide guidance to the Korean NCP to improve its application of the Guidelines. A failure to clarify these matters will undermine the integrity of the Guidelines and reinforce current critiques that the OECD generally, and the Guidelines specifically, are an ineffective multilateral system of governance to protect local people and environments from harmful impacts of multinational enterprises.

The Shwe Gas Project is continuing as planned by Daewoo and KOGAS and is scheduled to enter into the next stage of development in 2009. The Project as currently planned will inevitably lead to more widespread and systematic human and environmental abuses against the diverse ethnic populations living in its current and proposed vicinity. ERI and SGM call on the OECD Investment Committee to take

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<sup>6</sup> The nine co-complainants are The Korean House for International Solidarity (KHIS), the Korean Confederation of Trade Unions (KCTU), the Federations of Korean Trade Unions (FKTU), Citizen's Action Network (CAN), People for Democracy in Burma, Writers for Democracy of Burma, Human Rights Solidarity for New Society, The Association for Migrant Workers' Human Rights, and Burma Action Korea; *Id.*, 1.

<sup>7</sup> Unofficial English translation of Korean NCP reply (Nov. 27, 2008). See Appendix A of this report. Note that co-complainant Korean House for International Solidarity (KHIS) contacted the NCP and requested the decision to be translated into English and the NCP refused the request.

<sup>8</sup> *Id.*

<sup>9</sup> OECD Directorate for Financial and Enterprise Affairs. "OECD Investment Committee," [http://www.oecd.org/document/24/0,3343,en\\_2649\\_34863\\_2373464\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/24/0,3343,en_2649_34863_2373464_1_1_1_1,00.html) (accessed June 10, 2009).

effective steps to provide clarification to the Korean and other NCPs regarding investigation and complaint criteria for multinational enterprises.

## **EXECUTIVE SUMMARY**

This report is intended to inform the upcoming meetings of the OECD Investment Committee in Paris, France in 2009. It documents substantive errors in the Korean NCP's interpretations of the OECD Guidelines, and its failure to achieve functional equivalence with other NCPs. EarthRights International (ERI) and the Shwe Gas Movement (SGM) request the Investment Committee to address the governance gap within the OECD Guidelines system of implementation by acknowledging the Korean NCP's errors in interpretation, and by clarifying certain aspects of Guidelines with respect to the Korean NCP's decision in the Shwe case.

**Chapter 1** provides an updated context of the situation in Burma, highlighting the environmental and human rights, political, and economic situations, with particular attention to updates on the impacts of natural gas development in the country.

**Chapter 2** describes the OECD Guidelines specific instance procedure and the complaint filed by ERI and SGM et al. in October 2008.

**Chapter 3** explains structural shortcomings and conflicts of interest at the Korean NCP, noting that these are problems that appear to pervade the NCP system, raising important questions about the ability of the Guidelines to have their desired effect.

**Chapter 4** describes specific substantive problems with the Korean NCP's decision in the Shwe case, noting how the NCP decided in favor of the companies on every count, concluding that the complaint did not merit further attention.

**Chapter 5** highlights the ways in which the Korean NCP's decision is inconsistent with decisions of other NCPs, most notably with decisions by the French and UK NCPs.

**Chapter 6** makes specific requests of the OECD Investment Committee with respect to clarifying certain aspects of the Guidelines and taking effective action to improve the performance of the Korean NCP.

**Appendix A** of this report is an unofficial English translation of the Korean NCPs decision. The text of the complaint filed by ERI and SGM et al. is available at [www.earthrights.org](http://www.earthrights.org).

## 1. MILITARY-RULED BURMA: UPDATED CONTEXT AND BACKGROUND

The Burmese military regime has exhibited consistent and widespread patterns of environmental and human rights abuses, with well-documented cases associated with extractive projects, particularly in ethnic regions of the country. Human rights abuses committed by the Burma Army have been well-documented by the United Nations, governments, and local and international nongovernmental organizations (NGOs).

Current reports suggest the situation in the country is worsening.<sup>10</sup>

The Burma Army's hardest hitting offensive against civilian populations since the late 1990s is currently underway in Karen State in Eastern Burma. At the time of writing, over 3,500 civilians have fled the Burma Army attacks into Thailand.<sup>11</sup>

The ILO recently found that forced labor in the country is getting worse,<sup>12</sup> and a recent effort has been initiated to push for a UN Commission of Inquiry into crimes against humanity and war crimes committed by the military regime.<sup>13</sup>

Political repression remains severe, represented most famously by the house arrest and show trial of Nobel Laureate Aung San Suu Kyi, as well as the over 2,000 political prisoners languishing in the country's notorious prisons.<sup>14</sup>

Economic indicators are reportedly worsening. The military regime denies that the global economic crisis has had any effect in the country, yet industrial production and exports are dwindling while the Central Bank continues to print money to finance deficits.<sup>15</sup> The official exchange rate set by the military regime is 6 Kt to the dollar, while the unofficial black market rate is approximately 1,100 Kt to the dollar. Despite billion dollar revenues from natural gas exports to Thailand through the Yadana and Yetagun pipelines,<sup>16</sup> the International Monetary Fund (IMF) recently noted that the SPDC does not accurately reflect these revenues in its budget. The SPDC reportedly includes gas

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<sup>10</sup> "Myanmar Ethnic Groups Call for UN Investigation Into Karen Exodus," *Deutsch-Press Agentur* (June 10, 2009), [http://www.monstersandcritics.com/news/asiapacific/news/article\\_1482554.php/Myanmar\\_ethnic\\_groups\\_call\\_for\\_UN\\_investigation\\_into\\_Karen\\_exodus](http://www.monstersandcritics.com/news/asiapacific/news/article_1482554.php/Myanmar_ethnic_groups_call_for_UN_investigation_into_Karen_exodus) (accessed June 10, 2009); Democratic Voice of Burma. "No Reduction in Forced Labor, Says ILO" (February 27, 2009), <http://www.dvb.no/english/news.php?id=2266> (accessed June 4, 2009); "Myanmar Efforts to Halt Forced Labour Minimal," *Reuters* (June 6, 2009), <http://uk.reuters.com/article/worldNews/idUKTRE5550L520090606?sp=true> (accessed June 7, 2009).

<sup>11</sup> *Id.*

<sup>12</sup> Democratic Voice of Burma. "No Reduction in Forced Labor, Says ILO," (February 27, 2009), <http://www.dvb.no/english/news.php?id=2266> (accessed June 4, 2009); "Myanmar Efforts to Halt Forced Labour Minimal," *Reuters* (June 6, 2009). <http://uk.reuters.com/article/worldNews/idUKTRE5550L520090606?sp=true> (accessed June 7, 2009).

<sup>13</sup> International Human Rights Clinic at Harvard Law School, *Crimes in Burma* (2009), [www.law.harvard.edu/programs/hrp/documents/Crimes-in-Burma.pdf](http://www.law.harvard.edu/programs/hrp/documents/Crimes-in-Burma.pdf).

<sup>14</sup> See Assistance Association for Political Prisoners (Burma), <http://www.aappb.org/>. As of June 6, 2009 there were 2,155 political prisoners in the country.

<sup>15</sup> Economist Intelligence Unit (EIU), *Burma: Country Report* (April 2009), 4-5.

<sup>16</sup> EarthRights International (ERI) estimated that in 2007 approximately US\$ 969 billion in revenue went directly to the military regime from the Yadana gas project operated by Total and Chevron. ERI, *The Human Cost of Energy* (2008), 19-23.



revenues in the budget at the grossly overvalued exchange rate of 6 Kt to the dollar.<sup>17</sup> Billions of dollars in revenue are unaccounted for.

Abuses associated with natural gas development in the country continue. A recent 92-page report by the Human Rights Foundation of Monland (HURFOM) details the severe human rights impacts of the Kanbawk to Myaing Kalay natural gas pipeline, which is operated by the Myanmar Oil and Gas Enterprise (MOGE). Documented abuses by the Burma Army providing security for the gas project include land confiscation, widespread and systematic forced labor and forced portering, arbitrary taxation, arbitrary arrests and detention, torture, and killings.<sup>18</sup>

The Yadana Gas Pipeline operated by Total and Chevron continues to be connected to severe human rights abuses committed against local people by the Burma Army providing security for the companies and the project. A forthcoming report by EarthRights International (ERI) will document the most recent human rights and environmental impacts of the project, methodological flaws in third-party assessments of the project that were commissioned by Total, and it will assess the companies' socio-economic program.<sup>19</sup>

Despite this problematic social and political context and the abuses already documented, the Shwe Gas Project is proceeding without adequate safeguards or local participation. A recent expose in *Time* magazine reported on the impacts of gas development in Burma's ethnic territories, focusing on the Daewoo-led Shwe Project. It confirms allegations made by ERI and SGM et al. in the OECD complaint filed in October 2008, noting the imminent likelihood of "extensive village relocations" and how "dissidents in ethnic Arakan State are currently being rounded up by the authorities and disappeared."<sup>20</sup>

## **2. THE OECD GUIDELINES AND THE COMPLAINT FILED AGAINST DAEWOO INTERNATIONAL AND KOGAS FOR VIOLATIONS IN BURMA**

Through their involvement in the Shwe Project, Daewoo and KOGAS have violated and will continue to violate the OECD *Guidelines for Multinational Enterprises*.<sup>21</sup> Promulgated by the OECD, the Guidelines are addressed by governments to international corporations based in their nations, outlining basic standards for responsible and ethical conduct in areas including employment relations, human rights, the environment, and information disclosure.<sup>22</sup>

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<sup>17</sup> Amy Kazmin. "Burma gas sales surge but little cash leaks out," *Financial Times* (UK) (May 11, 2009), <http://www.ft.com/cms/s/0/795043a4-3dc2-11de-a85e-00144feabdc0.html> (accessed May 29, 2009).

<sup>18</sup> Human Rights Foundation of Monland (HURFOM). *Laid Waste: Human Rights Along the Kanbawk to Myaing Kalay Pipeline* (May 2009), <http://rehmonnya.org/>.

<sup>19</sup> For updates on the release of the report, please visit [www.earthrights.org](http://www.earthrights.org).

<sup>20</sup> Hannah Beech. "The Scramble for a Piece of Burma," *Time* (March 19, 2009), <http://www.time.com/time/magazine/article/0,9171,1886304,00.html> (accessed June 10, 2009).

<sup>21</sup> EarthRights International, Shwe Gas Movement et al, *Complaint to the South Korea National Contact Point; OECD Guidelines for Multinational Enterprises*, <http://www.oecd.org/daf/investment/guidelines.html> (accessed June 11, 2009).

<sup>22</sup> *Id.*

Daewoo and KOGAS fall under the scope of the Guidelines as South Korea is an adhering member-state of the OECD, and all OECD countries are bound to uphold the Guidelines. Daewoo International is incorporate in Seoul and the South Korean government holds the largest stake (26.9 percent) in KOGAS, followed by the majority state-owned Korea Electric Power Corp.<sup>23</sup>

Moreover, the Guidelines are not optional for individual companies within the 30 member nations of the OECD or within the eleven additional states who have adopted them.<sup>24</sup> They apply to the activities of companies from OECD countries regardless of where those activities occur. The Guidelines represent the only comprehensive, multilaterally endorsed rules negotiated by nations governing corporate behavior.<sup>25</sup>

The complaint filed by ERI and SGM et al. found that Daewoo and KOGAS violated and will continue to violate six Guidelines requiring enterprises to: Contribute to sustainable development (II.1); Respect human rights under international law (II.2); Ensure timely disclosure of information regarding activities and consultation with affected communities (III.1 and V.2); Help eliminate forced labor (IV.1(c)); and prepare appropriate environmental impact assessments for their activities (V.3).<sup>26</sup>

In response to these violations, ERI, the SGM, and nine co-complainants, including civil society organizations from Korea and Burma as well as Korea's two largest labor organizations, initiated the "Specific Instance" procedure provided for resolution of disputes arising over the *Guidelines*. Per this process, a complaint was submitted on October 29, 2008 to the Korean National Contact Point (NCP), the government office charged with overseeing the dispute resolution process.

After receiving a complaint from concerned parties, the NCP is expected — under the principles of "visibility, accessibility, transparency, and accountability"<sup>27</sup> — to "make an initial assessment of whether the issues raised merit further examination."<sup>28</sup> If the issues do merit further examination, the NCP is obliged to "offer good offices to help the parties involved to resolve the issues" through consultation with the parties, advice from relevant experts and other NCPs, and conciliation/mediation services.<sup>29</sup> If no further examination is merited, the NCP must give its reasoning for deeming so, taking into account: the identity of the parties involved, whether the issue is material and substantiated, and how similar issues have been (or are being) treated in other fora.<sup>30</sup>

In November 2008, the Korean NCP issued ERI, SGM, and the other nine co-complainants a curt response to each of the allegations, denying any necessity to investigate further on the Shwe matter.

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<sup>23</sup> EarthRights International (ERI) and Shwe Gas Movement (SGM) et al, *Complaint to the South Korea National Contact Point*, 4-5.

<sup>24</sup> Trade Union Advisory Committee, "A User's Guide for Trade Unionists to the OECD Guidelines to Multinational Enterprises," (Nov. 28, 2007), 2, [http://www.tuac.org/en/public/e-docs/00/00/00/67/document\\_doc.phtml](http://www.tuac.org/en/public/e-docs/00/00/00/67/document_doc.phtml) (accessed June 11, 2009).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Procedural Guidance to the OECD Guidelines for Multinational Enterprises*, I, <http://www.oecd.org/daf/investment/guidelines.html> (accessed June 11, 2009).

<sup>28</sup> *Id.*, I(C)(1).

<sup>29</sup> *Id.*, I(C)(2).

<sup>30</sup> Trade Union Advisory Committee, "A User's Guide for Trade Unionists to the OECD Guidelines to Multinational Enterprises," 6.

### **3. STRUCTURAL SHORTCOMINGS AND CONFLICTS OF INTEREST AT THE KOREAN NCP**

There are key structural shortcomings of the Korean NCP that raise important questions of its objectivity in handling OECD complaints and promoting the Guidelines. The Korean NCP is wholly located in the Ministry of Knowledge Economy (MKE). Among its many functions, the MKE is tasked with promoting overseas energy development projects<sup>31</sup> and its Oil and Gas Development Division authorized sizable loans to Daewoo for the Shwe Project through Korea's Special Account Law.<sup>32</sup> This would raise obvious questions about the NCPs objectivity in handling a complaint about Korean energy development abroad, in which the Korean government itself holds a stake.

The Korean model for NCP operation lacks the involvement of other government ministries, such as labor or environmental affairs, and precludes civil organizations. This problem is not unique to the Korean NCP, however, and has led to the concerns about "unequal treatment of the parties, and a perception that NCP actions frequently protect business interest rather than seeking to resolve and remedy breaches."<sup>33</sup>

Conflict of interest concerns have been raised by John Ruggie, the U.N. Secretary General's Special Representative on issues of business and human rights. He noted that "[t]he housing of some NCPs within government departments tasked with promoting business, trade, and investment raises questions about conflicts of interest."<sup>34</sup>

Moreover, with regard to the Korean NCP, the lack of any oversight mechanism, such as reporting to steering committees, advisory groups, or even to national parliaments, further seriously compromises the ability of the office to objectively and thoroughly consider complaints.

### **4. SPECIFIC SUBSTANTIVE PROBLEMS WITH THE KOREAN NCP DECISION**

The Korean NCP's decision in the Shwe case failed to address many of the substantiated accounts of human rights abuses in the complaint and ignored the detailed treatment of the same issues concerning businesses in Burma by other NCPs in recent years. Instead, the NCP summarily repeated and accepted Daewoo's and KOGAS's position regarding each of the breaches of the Guidelines.

Specific problems with the responses from the NCP to the Guidelines violations are as follows:

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<sup>31</sup> Ministry of Knowledge Economy (MKE). "Energy Policies: Promote Overseas Energy Development Projects," (2008), [http://www.mke.go.kr/language/eng/policy/Epolicies\\_02.jsp](http://www.mke.go.kr/language/eng/policy/Epolicies_02.jsp) (accessed June 10, 2009).

<sup>32</sup> ERI and SGM meetings with MKE Oil and Gas Development Division, Seoul, Korea (Oct. 23, 2008), Notes on file with ERI and SGM. The special account loan received by Daewoo was reportedly US\$ 25.52 million. See "Foreign Oil Development Support Amount at US\$191 Million," *Seoul Econ. Newspaper*, (Oct. 6, 2005), (in Korean language).

<sup>33</sup> OECD Watch. "2008 Review of National Contact Points and the Implementation of the OECD Guidelines" Submission to the Annual Meeting of NCPs (June 2008), 3.

<sup>34</sup> "Protect, Respect and Remedy: a Framework for Business and Human Rights," Report of the Special Representative to the United Nations Secretary General on the issue of Human Rights and transnational corporations and other business enterprises (7 April 2008).

## **Contributing to Sustainable Development (II.1)**

The NCP declared that by making “several public notices” concerning the Shwe Project, by meeting with four of the complainant NGOs, and by establishing and operating a socio-economic program, the corporations had satisfied the Guideline for contributing to sustainable development.

The NCP did not provide any information about the substance of Daewoo’s “public notices” and interviews and how it is that they contribute to sustainable development. It was not clear that these supposed criteria for contributing to sustainable development had been, or had to be, verified or documented.

Furthermore, the NCP reiterated the company’s claims about its local socio-economic programs as evidence of the company’s contribution to sustainable development. The NCP did not appear to consider independent verification of a contribution to sustainable development, or even the existence and/or effectiveness of the socio-economic program.

This aspect of the NCP’s decision suggests that the mere existence of a socio-economic program is evidence of a contribution to sustainable development *per se*. A forthcoming report by EarthRights International (ERI) documents the adverse impacts of the Yadana Gas Project operated by Total and Chevron, and the marginal contributions of its socio-economic program. The forthcoming report finds that not only do key elements of the companies’ socio-economic program not function the way the companies claim they do, but certain elements, such as a micro-credit program, have actually had adverse impacts on the livelihood of local people.<sup>35</sup>

## **Respecting Human Rights (II.2)**

The NCP found no failure to respect human rights, finding that because construction on the project had yet to commence, and because Daewoo’s announced portion of the project is largely offshore, there was no basis for an investigation. It noted further that the cross-country onshore pipeline will be operated by the China National Petroleum Corporation (CNPC), citing this also as a reason that there was no basis for an investigation.

In this aspect of the decision, the NCP apparently did not regard the onshore and offshore elements of the same project as integrated, and failed to note that Daewoo’s off-to-onshore project will involve significant onshore construction of processing facilities as well as an onshore pipeline that will meet the CNPC-led pipeline, each with considerable threats to the human rights of local residents.

Human rights abuses were documented and referenced in the ERI and SGM complaint, including reports of forced relocation from villages on Baday Island associated with the Daewoo-led project.<sup>36</sup> These aspects of the complaint were ignored by the NCP. Moreover, the NCP declared that the Burmese regime’s well-documented

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<sup>35</sup> EarthRights International (ERI), forthcoming report, Summer 2009. Please visit [www.earthrights.org](http://www.earthrights.org) for updates.

<sup>36</sup> EarthRights International, Shwe Gas Movement et al, *Complaint to the South Korea National Contact point*, 6.

record of systematic and violent human rights violations in connection to natural gas development was irrelevant.<sup>37</sup>

### **Disclosing Vital Information about the Project (III)**

The NCP declared that the companies did not have to disclose vital information, per the Guidelines, because of a confidentiality agreement in place with the Burmese military dictatorship.<sup>38</sup> The NCP did not provide an explanation about how this confidentiality agreement, or others, could supersede the Guidelines or, alternatively, how any of the exceptions to disclosure allowed by the Guidelines applied to this particular case.<sup>39</sup>

### **Eliminating Forced Labor (V.1(c))**

The NCP rejected the existence of any forced labor connected to the project, only citing Daewoo and KOGAS' adoption of a "code of conduct" and finding that a breach by the companies required "management responsibility."<sup>40</sup> The substance or actual enforcement of the code of conduct was not addressed, nor was the concept of "management responsibility," which is defined nowhere in the text of the Guidelines. The NCP again rejected the history of forced labor connected to development projects as irrelevant.<sup>41</sup>

### **Environmental Impact Assessment (EIA) (V.2)**

The NCP found that the corporations had carried out an environmental impact assessment. This EIA has not been released or verified and the NCP effectively held that EIAs can be kept strictly confidential without violating the Guidelines.<sup>42</sup> ERI and SGM maintain that the directly-affected communities have a right to access environmental impact assessments in general, and communities affected by the Shwe Project have a right to access any conducted for the Shwe Project. The NCP also failed to explain how the substance of the claimed EIA in question was "adequate" per the text of the Guidelines.<sup>43</sup>

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<sup>37</sup> Korean NCP Reply, II(2)(3). *See* Appendix A of this report.

<sup>38</sup> *Id.*, II(3)(3).

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*, II(4)(3)

<sup>41</sup> *Id.*

<sup>42</sup> In a private meeting with executives from Daewoo International in Seoul on October 28, 2008, initiated by ERI and SGM, ERI and SGM representatives were informed by the company that the conclusion of the EIA would be released to them. The company has to date failed to release any part of the EIA to ERI or SGM and repeated attempts by complainants to obtain the EIA from the company have not been answered.

<sup>43</sup> Korean NCP Reply, II(6)(3). *See* Appendix A of this report.

## 5. THE KOREAN NCP'S INCONSISTENT INTERPRETATION OF THE GUIDELINES

According to the official *Commentary on the Implementation Procedures of the Guidelines*, clarifications are “a key responsibility of the [Investment] Committee to ensure that the meaning of the Guidelines would not vary from country to country.”<sup>44</sup> This principle of consistent interpretation, or “functional equivalence,” is a key to sustaining the effectiveness of the Guidelines as a multilateral instrument for governing corporate activities that span the globe.

It is a problem highlighted throughout the Korean NCPs decision in the Shwe case.

The Korean NCP's decision is in some ways wholly inconsistent with previously enumerated standards set by other NCP decisions. Most notably, the French and United Kingdom NCPs dealt with obligations on forced labor and avoiding broader human rights abuses, respectively, and issued categorically different interpretations of the Guidelines.<sup>45</sup>

In response to a 2007 complaint filed by Global Witness against the UK company Afrimex regarding breaches connected to the company's mineral trading in the Democratic Republic of Congo (DRC), the UK NCP recognized that working with regimes with notorious human rights records should trigger caution. The decision declared that the Guidelines require firms to conduct “due diligence” on potential human rights impacts *before* entering into partnerships with abusive states in order to anticipate and prevent breaches.<sup>46</sup>

Likewise, a 2001 complaint filed with the French NCP by the French unions Confédération Française Démocratique du Travail (CFBT) and Force Ouvrière (FO) regarding the Burmese natural gas pipeline activities of the oil company Total is also relevant.<sup>47</sup> In a 2002 decision in this case, the NCP further extended a precautionary principle by outlining specific steps that should be taken by businesses working with the Burmese military regime *once projects are in progress* in order to satisfy the Guidelines' obligations on forced labor.<sup>48</sup> These steps included recourse to external monitoring; verification by local management of the behavior of sub-contractors; development of a social dialogue with organizations representing workers on a local and international scale; and regular information from the Board of Directors on initiatives being taken to avoid all use of forced labor.<sup>49</sup>

By contrast, the Korean NCP identified no affirmative duty required to ensure compliance with the Guidelines at any stage of the Shwe Project and deemed irrelevant the Burmese regime's history of abuses connected to similar projects. Instead, the Korean NCP simply stated that the fact that pipeline construction onshore had not yet started was

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<sup>44</sup> *Commentaries on the OECD Guidelines for Multinational Enterprises* 27.

<sup>45</sup> Final Statement by the UK National Contact Point for the OECD Guidelines for Multinational Enterprises: Afrimex (UK) Ltd. (Aug. 28, 2008); French NCP, “Récommandations du Point de contact national français à l'intention des entreprises au sujet de la question du travail forcé en Birmanie,” (Mar. 28, 2002), [www.minefi.gouv.fr/directions\\_service/dgtpe/pcn/compn280302.htm](http://www.minefi.gouv.fr/directions_service/dgtpe/pcn/compn280302.htm) (accessed June 10, 2009).

<sup>46</sup> Final Statement by the UK National Contact Point on Afrimex (UK) Ltd.

<sup>47</sup> French NCP, “Récommandations du Point de contact national français à l'intention des entreprises au sujet de la question du travail forcé en Birmanie.”

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

conclusive evidence of a lack of breach by Daewoo and KOGAS. This position is not only inconsistent with previous NCP interpretations and decisions, but it also undermines Section IV.1(c) of the Guidelines, which calls on enterprises to act affirmatively and “contribute to the elimination of all forms of forced or compulsory labor.” The UK and French interpretations, on the other hand, reinforce this Section’s aim by outlining specific obligations required during the planning and production stages of business projects.

## **6. REQUESTS OF THE INVESTMENT COMMITTEE**

### ***HOLD DAEWOO AND KOGAS ACCOUNTABLE TO THE GUIDELINES AND STRENGTHEN THE GOVERNANCE OF THE GUIDELINES***

The Korean NCP’s summary rejection of the Shwe complaint, in which it simply repeated and asserted the claims of Daweoo International and KOGAS, represents a complete failure to meet the standards set by the OECD for the National Contact Point to act as an objective interpreter of the Guidelines and fair mediator of disputes. Moreover, this case underscores some of the fundamental weaknesses of the implementation and guidance procedure in place for the Guidelines. To a fault, the OECD system relies on the assumed good faith performance of NCPs and operates with little oversight and accountability, failing to ensure confidence in the system and its effective operation.

The OECD Investment Committee, the governing body charged with reviewing the operation of the NCPs and issuing official clarifications over the Guidelines and their interpretation,<sup>50</sup> convenes regularly at the OECD Headquarters in Paris, France. The annual meeting of the National Contact Points to share experiences and to report to the Investment Committee at the OECD Headquarters will be held June 16-17, 2009. The Committee must seize this and forthcoming occasions to address and resolve the inconsistencies between the Korean NCP’s response and recent decisions by other NCPs. It should also clarify questions raised by the Korean NCP’s interpretations of the Guidelines, which reflect an incorrect interpretation of the Guidelines, and recommend the Korean NCP reconsider past and future complaints based on correct and functionally equivalent standards.

Specifically, the Investment Committee should address the South Korean NCPs de facto rejection of the UK and French NCPs’ interpretation of the Guidelines and its apparent adoption of a contradictory standard. ERI and the SGM urge the committee to recognize that the simplistic Korean standard of “no-construction, no-breach” contradicts not only the substance of Guidelines but the interpretations of other NCPs. The Investment Committee should affirm the elements of due diligence and ongoing monitoring identified by the UK and French NCPs.

Moreover, the Committee should clarify that, counter to the Korean NCP’s suggestion, the Guidelines require consideration of known records of human rights abuses by partner regimes.

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<sup>50</sup> *Implementation Procedures of the OECD Guidelines* II(4).

The Investment Committee should require explanations for several of the Korean NCP's short, under-defined interpretations. The Korean NCP found that by making "several public notices" and by meeting with complainants Daewoo and KOGAS have adequately contributed to the principles of sustainable development, for example. This was determined in face of the environmental and human rights abuses documented on the ground. Furthermore, the substance and existence of Daewoo's "public notices" have not been verified, and Daewoo only met with complainant organizations after complainants repeatedly applied pressure on the company.

The Investment Committee should clarify in clear terms how a multinational enterprise undertaking a project with serious human rights and environmental impacts and potential impacts can ensure that it complies with Section II.1's call for sustainable development. If indeed the Committee accepts that "public notices" and meeting(s) with complainants are sufficient in this regard, it should define the substance and procedure required of these disclosures and meetings to render them meaningful.

The Korean NCP ignored the complainants' substantiated evidence that offshore exploration had already resulted in forced relocation of villages on Baday Island, seizure of fishing waters, and persecution of dissenting local people exercising their rights to freedom of speech and expression in opposition to the Shwe Project.<sup>51</sup> The Investment Committee must consider the Korean NCP's failure to address the substantiated reports of human rights abuses already underway in Arakan State.

The Korean NCP also decided that the confidentiality agreement in place between Daewoo/KOGAS and the Burmese regime shielded the corporations from adhering to Guideline Sections III.1 and V.2 requiring full disclosure of vital information. The Investment Committee must address the clear implication of such a drastic conclusion: the requirement to disclose in the Guidelines would be rendered meaningless if corporate parties can simply evade it by signing "confidentiality agreements" that have blanket, unquestioned effect. Even if the use of such agreements could be condoned in some cases to protect competitive advantage, the Committee must set clear standards by which NCPs can evaluate whether confidentiality agreements are being legitimately cited.

The Korean NCP found no violation of Section IV.1(c), aimed at fighting forced labor, because Daewoo and KOGAS have a "Code of Conduct" in place. The Investment Committee must clarify that the mere adoption of a Code of Conduct, without any investigation or analysis of its substantive content and the effectiveness of its implementation, is an inadequate indication that the Guidelines' direction against forced labor has been satisfied.

The Korean NCP claims that it is sufficient for an enterprise to state that it has carried out an adequate Environmental Impact Assessment (EIA), without having to make it public in whole or in part or even verify its existence, and without noting what level of public participation was involved in the assessment. This standard undermines the entire purpose of Section V.3, allowing companies to perform perfunctory, inadequate assessments or, quite simply, to not perform one and claim otherwise. The Investment Committee must intervene and indicate that this interpretation by the Korean NCP is incompatible with the purposes of the Guidelines. The Committee should also clarify in

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<sup>51</sup> EarthRights International, Shwe Gas Movement et al, *Complaint to the South Korea National Contact point*, 6, 22.



clear and precise terms what standards of detail, methodology, and public availability an EIA must meet to satisfy the language in Section V.3 that requires an “adequate” EIA.

Finally, with an eye to improving the Guideline implementation procedure more generally, the Committee should also address key structural shortcomings in the NCP/Guidelines implementation system by addressing inherent conflicts of interest.

## **CONCLUSION: A MATTER OF URGENCY**

It is critical to the integrity of the OECD Guidelines that the Investment Committee address the existing governance gap within the NCP implementation system. The Committee should seize the opportunity to clarify certain aspects of the OECD Guidelines with respect to the Korean NCPs decision, and take effective action to improve the performance of the Korean NCP.

In the absence of intervention and a meaningful dialogue between the companies and the complainants toward real solutions to Daewoo’s and KOGAS’s ongoing breaches of the *Guidelines*, ERI and the SGM maintain the reasonable demand that the companies and the Korean government postpone the Shwe Gas Project.

## **APPENDIX A: UNOFFICIAL TRANSLATION OF THE KOREAN NCP DECISION IN THE SHWE CASE**

Unofficial translation by co-complainant Korean House for International Solidarity (KHIS)

### **Reply to the Complaint, by OECD Korea NCP, Ministry of Knowledge Economy of the Republic of Korea**

The Ministry of Knowledge Economy (hereinafter, “MKE”) of the Republic of Korea finds it hard to assume that the involved corporations breached the OECD Guidelines for Multinational Enterprises Ch. II, III, IV, and V; thus, the MKE does not see a necessity to initiate an additional investigation or an arbitration.

However, the MKE expects the relevant companies to make a continuous effort to disclose relevant information and consult with the affected communities, regarding the size and socio-economic effects of this gas development.

If you have any more question, please contact NCP Korea (02-2110-5356)

Addressees: KHIS, Daewoo International, KOGAS

November 27, 2008

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**EXAMINATION OF THE FEASIBILITY OF INVESTIGATION  
ON THE ALLEGED BREACHES OF OECD GUIDELINES FOR  
MULTINATIONAL ENTERPRISES BY  
DAEWOO INTERNATIONAL AND KOREA GAS CORPORATION**

### **I. COMPLAINT SUMMARY**

1. Date of the Complaint: October 29, 2008
2. Corporations involved: Daewoo International, Korea Gas Corporation (KOGAS)

3. Complainants: EarthRights International (ERI), Korean House of International Solidarity (KHIS), and eight other organizations
4. Content of the Complaint – Breaches of the OECD Guidelines for Multinational Enterprises (hereinafter, “Guidelines”)
  - 1) Breaches of Section II. General Policies
    - Failure to disclose vital information and to consult the indigenous communities affected about the Shwe Project (hereinafter, “Project”) (Breaches of Section II.1)
    - Participation in the Project that contributes to human right abuses of people in the project area, including forced relocations (Breaches of Section II.2)
  - 2) Breaches of Section III. Disclosure
    - Failure to disclose to the public about Daewoo’s contract with the Myanmar military regime (Breaches of Section III)
  - 3) Breaches of Section IV. Employment and Industrial Relations
    - High possibility of breaching the Guidelines with the progression of the Project, such as commitment of forced labor (Breaches of Section IV.a(c))
  - 4) Breaches of Section V. Environment
    - Failure to provide the local communities with information on potential risks of the Project and opportunities to express their views about the environment (Breaches of Section V.2)
    - Absence of Environmental Impact Assessment (EIA) of the Project (Breaches of Section V.3)

## **II. EXAMINATION OF THE COMPLAINT**

### **1. Breaches of Section II.1 of the Guidelines**

- 1) Claims of the complainants
  - Daewoo and KOGAS failed to disclose vital information and consult the indigenous communities affected, thus failing to further the goal of achieving sustainable development.
- 2) Claims of the involved corporations

- They have disclosed relevant information by making a number of public notices, holding direct dialogues with human rights organizations, and participating in other activities concerning the Corporate Social Responsibility.
- In addition, they are making every effort to collect the communities' opinion by making an on-the-spot inspection, for example, through the Socio-economic Coordinator at their Exploration & Production (E&P) office in Myanmar.

### 3) Opinions of the MKE

- Concerning the complainant' claims, the corporations have made efforts to disclose the relevant information by making several public notices since July 27, 2007 and interviewing the Korean Federation for Environmental Movement (in 2006), KHIS, ERI, and SGM (in 2008).
- Moreover, the MKE recognizes that the corporations are trying to promote the communities' welfare within the project, by establishing and operating the Socio-economic Program<sup>52</sup> as they consult the communities through the E&P office in Myanmar. Such efforts can be deemed as furthering the goal of achieving sustainable development.
- Considering all the factors above, the MKE finds it hard to determine that the relevant corporations are breaching the Guidelines.

## 2. Breaches of Section II.2 of the Guidelines

### 1) Claims of the complainants

- By participating in the Project, Daewoo and KOGAS are linked to violations of the fundamental human rights of people in the project area, including forced relocations.

### 2) Claims of the involved corporations

- Only offshore explorations have been completed. Course of onshore pipelines is not yet determined.
- As for construction of the onshore pipelines, it is too early to worry about

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<sup>52</sup> The Socio-Economic Program consists of programs in three areas.

- Education: to improve 22 school buildings.
- Healthcare: to build 9 health centers and blood storage facilities, providing HIV medicines and medical devices.
- Sanitation: to build and improve potable water storage facilities.

forced relocations or forced labor by military guards disposed along the pipeline corridor.

- Furthermore, the corporations are trying their best to prevent possible human rights abuses by analyzing the former case of the Yadana Project, and consulting the indigenous communities affected.

### 3) Opinions of the MKE

- Up to now, Daewoo and KOGAS are only involved in offshore explorations. Construction of onshore pipelines, which is related to the complainants' claims, is to be undertaken by the Republic of China (while Daewoo considers taking its share). Course of onshore pipelines is still undetermined and the construction has not begun yet.
- Thus, the MKE has not found any objective evidence that shows these corporations are linked to the Myanmar government's human right abuses. Moreover, the MKE finds it unreasonable to judge Daewoo and KOGAS to be breaching the Guidelines solely with the examples of Total and Unocal in the past Yadana Project.
- Unless there are special circumstances, the MKE will have difficulties in recognizing the mutual causality between the fact that Myanmar government has violated, or is violating human rights, and that the multinational corporations are taking part in a specific project.

## 3. Breaches of Section III of the Guidelines

### 1) Claims of the complainants

- As the Myanmar government holds 15% share of the project through its national enterprise (MOGE), Daewoo and KOGAS must publicize their contracts with the Myanmar government, concerning the security of pipelines, responsibility sharing, payments breakdown, etc.

### 2) Claims of the involved corporations

- Matters involving construction and maintenance of the offshore and onshore pipelines are under consultation between the interested parties. The Project is to be carried on under the permission of the Myanmar government.
- However, on the basis of the confidentiality clause, detailed terms of contract with the Myanmar government cannot be made public.

### 3) Opinions of the MKE

- Section III and the relevant commentary of the Guidelines speculate that disclosure requirements are not expected to place unreasonable administrative or cost burdens on enterprises and disclose information that may endanger their competitive position.
- Therefore, as it can be assumed that the corporations will be able to refuse disclosing the information which the corporations are bound to keep its confidentiality, the MKE estimates that Daewoo and KOGAS cannot be compelled to disclose information that is object to the confidentiality clause between the contractors.

#### **4. Breaches of Section V.1(c) of the Guidelines**

##### 1) Claims of the complainants

- It is highly likely that progression of the Project will lead to breaches of the Guidelines, including the pervasive use of forced labor as in the case of Yadana Project.

##### 2) Claims of the involved corporations

- Daewoo's E&P office in Myanmar established the Code of Conduct<sup>53</sup> in 2007, and it is still being implemented. Daewoo is also planning to notify the CNPC the relevant factors, and ask it to prevent breaches of the Code.

##### 3) Opinions of the MKE

- In the light of the principle of accountability, forced labor in sense of the Section IV.1 of the Guidelines should be interpreted as something related to the involved multinational corporation and committed under the corporation's management responsibility or in conspiracy with the other person.
- As for the Project, the MKE finds it hard to recognize the existence of forced labor only with the complainants' claims. The involved corporations have already established the Code of Conduct and are encouraging their employees to follow it.
- Further, the MKE finds it even harder to assume that at this stage, the corporations breached the Guidelines and are contributing to forced labor, only on the grounds of the history of forced labor in the similar project of

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<sup>53</sup> It refers to Code of Corporate Conduct and Ethics, which sets the activity standard in the stage of development production. It also reflects the UN Global Compact, the Rio Declaration, and Universal Declaration of Human Rights. It is practically in the same level as the Code of Conduct of the world's major oil companies.

the past.

## **5. Breaches of Section V.2 of the Guidelines**

### 1) Claims of the complainants

- Although the Project has adverse effects on the natural environment, Daewoo and KOGAS did not provide the local communities with opportunities to express their opinions. They also failed to address the Project's posing risks.

### 2) Claims of the involved corporations

- They have conducted a comprehensive Environment Impact Assessment (EIA) in order to minimize adverse effects the project may have on the project area's natural environment. Currently, the EIA on Upstream section has been completed, and the EIA on Midstream 1 section (corridor of the onshore pipelines) is nearly done.
- In order to prevent possible environmental disruption and human rights abuses and to seek appropriate countermeasures, the corporations are trying their best to collect the opinions of the local communities through the Socio-economic Coordinator at the E&P office in Myanmar. They are also exchanging opinions with relevant NGOs, both national and international.

### 3) Opinions of the MKE

- With regard to the Project's posing risks, the involved corporations have been conducting the EIAs since 2006. Presently, they are selecting eligible partners to carry out a Social Impact Assessment (SIA) and will start it soon.
- The involved corporations are not actually carrying out the construction of onshore pipelines, but they are still trying to collect opinions of the local communities through the Socio-economic Coordinator. In light of the foregoing, the MKE finds it hard to assume that the corporations breached the Guidelines.

## **6. Breaches of Section V.3 of the Guidelines**

### 1) Claims of the complainants

- Daewoo and KOGAS have not conducted an EIA for the Project, despite the fact the Project may have significant environmental, health, and safety risks.

2) Claims of the involved corporations

- They have conducted the EIAs since early 2006 in order to minimize adverse effects the project may have to the natural environment.
- Currently, the EIA on Upstream section has been completed. The corporations are now in the process of selecting eligible partners that will carry out a SIA.

3) Opinions of the MKE

- The gravity of resource development projects lies on development activities, such as exploitation, freight and sales. If an assessment over the environmental and social impacts has been conducted before the development activities, it should be seen as conforming to the Guidelines.
- Daewoo and KOGAS conducted the EIAs since 2006 before it entered the development stage through the ERM, and have already completed the EIA on Upstream. They are currently selecting eligible partners to conduct a SIA.
- Therefore, the MKE finds it hard to assume that the corporations failed to conduct the EIA and SIA.

END TEXT