BRI MONITOR

## Belt and Road Monitoring Project:

# Myanmar–China Oil and Gas Pipeline Projects


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**Sandhi Governance Institute** is a Myanmar Policy Research Institute with the focus on enhancing capacity of political parties and civil society organizations, increasing transparency and accountability in public sector and strengthening participation of all key stakeholders in public affairs and major investments to promote democratic governance in Myanmar.

Figure 1: Map of Myanmar-China Oil and Gas Pipeline Projects


*Source: Created by BRI Monitor*

## Introduction

In 2010, construction began on parallel onshore pipelines designed to transport natural gas and crude oil from the west coast of Myanmar to China, part of a series of Chinese-built and operated infrastructure projects in Myanmar.[1] Both pipelines cross Myanmar and extend into China's Yunnan Province (see Figure 1). They are international cooperation projects, and construction and management is run by two special purpose vehicles (SPVs) between China National Petroleum Corporation (CNPC), a Chinese state-owned enterprise (SOE), and Myanma Oil and Gas Enterprise (MOGE), a Myanmar state-owned enterprise. The gas pipeline project has additional overseas partners, covered in greater detail below.

The two pipelines were completed in June 2013 and August 2014, becoming operational in October 2013 and 2017, respectively. They move natural gas extracted from fields off the coast of Myanmar and energy imports brought on tankers from the Middle East and other fossil fuel-producing nations. This case study examines the nature of Chinese investment in these pipelines and how the Chinese company and its subsidiary dominated the project life cycle and financing structure, posing serious challenges to transparency. The case study also illustrates the risks of unequal gains for the recipient and investing countries when the recipient country is responsible for servicing the debt, while Chinese entities have a larger share in the profits.

1 "Myanmar–China Pipelines," Hydrocarbons Technology, accessed October 21, 2021, https://www.hydrocarbons-technology.com/projects/myanmar-china-pipelines/.

For these two SPVs, MOGE received loans (up to USD $560 million for the gas pipeline and around USD $1.1 billion, or RMB 7.4 billion for the oil pipeline) from the China Development Bank (CDB) at a 4.5 percent interest rate in November 2010 according to the Myanmar Extractive Industries Transparency Initiative (EITI) report for 2017 to 2018.[2] A majority of Myanmar's debt owed to China is for these two pipeline projects. However, the level of debt MOGE incurred for these projects does not match its shares in the profit-making entities associated with the projects: the Southeast Asia Gas Pipeline (SEAGP) SPV and the Southeast Asia Oil Pipeline (SEAOP) SPV. Due to the large amount of debt at a commercial interest rate, these two projects are considered not beneficial to Myanmar, and the concessions to be discussed are one-sided (details will be addressed in the project financing section).

These two pipeline projects also shed light on the political economy and governance of Myanmar's then-ruling military regime, the State Peace and Development Council (SPDC). To increase the extractive sector's revenue, which is the main source of government revenue and a source of rents for private gain, the military regime was willing to sign a Memorandum of Understanding (MoU) with Chinese SOEs, offering one of the sole sources of foreign investment at that time. However, corruption and bad governance in land acquisition and implementation of these and other Chinese investments fueled significant anti-Chinese sentiments and protests in Myanmar. This led to the suspension of the Myitsone Hydropower and amendment of Letpadaung Copper Mine projects, two other major Chinese-backed infrastructure development projects from September 2011, under General Thein Sein's administration.[3] These sentiments remain high because of China's perceived support of the State Administration Council, Myanmar's current governing military junta that rose to power following the February 2021 coup d'état.

## Strategic Context and China's Belt and Road Initiative

Chinese state media has touted the pipelines as "a pioneer project" of the Belt and Road Initiative (BRI) and refers to the pipelines as part of the China–Myanmar Economic Corridor (CMEC), a designated swathe of 1,700 kilometers leading from China's Yunnan province to the Indian Ocean off Myanmar's coast.[4] Though the BRI had not yet been announced and the CMEC had not been agreed to when the pipeline project began, it is not uncommon for Chinese-supported infrastructure projects abroad to be retroactively classified as part of the BRI.[5]

2 Chan Mya Htwe, "Oil and Gas Responsible for half of Myanmar's Debt," *Myanmar Times*, last modified June 29, 2018, https://www.mmtimes.com/news/oil-and-gas-responsible-half-myanmars-debt.html; "Myanmar EITI Report 2017-18," Myanmar Extractive Industries Transparency Initiative, (January 2019): 327-328, https://myanmareiti.org/sites/myanmareiti.org/files/publication_docs/meiti_reconciliation_report_2017-2018_final_signed.pdfs

3 Ruosui Zhang, "Chinese Investment in Myanmar: Beyond Myitsone Dam," *The Diplomat*, last modified July 22, 2020, https://thediplomat.com/2020/07/chinese-investment-in-myanmar-beyond-myitsone-dam/.

4 Zhuang Beining, "Spotlight: China-Myanmar Oil, Gas Project Benefits Both," *Xinhua*, last modified May 10, 2017, http://www.xinhuanet.com/english/2017-05/10/c_136272395.htm; Ming Mei, ed. "China-Myanmar Economic Corridor Office Opens in Myanmar Capital," *Xinhua*, last modified May 17, 2019, http://www.xinhuanet.com/english/2019-05/17/c_138067107.htm.

5 Jonathan Hillman, "How Big Is China's Belt and Road?" Center for Strategic and International Studies, last modified April 3, 2018, https://www.csis.org/analysis/how-big-chinas-belt-and-road.

The CMEC is one of six main economic corridors within the BRI and the second-largest single-country initiative after the China–Pakistan Economic Corridor.[6] The multi-billion-dollar CMEC is slated to include railway links, the Kyaukphyu Special Economic Zone (SEZ) and its deep seaport, three "border economic cooperation core zones," and the Yangon New City Development mega-project envisioned to create a new "smart city" to house 1.2 million by 2050.[7] All of these are to be co-constructed between China and Myanmar, with the projects structured as partnerships between Myanmar and Chinese SOEs.[8]

China's foreign minister announced the proposal for the CMEC in late 2017 after meeting with then-State Counselor Daw Aung San Suu Kyi. In September 2018, the two countries signed a fifteen-point MoU to establish the CMEC.[9] The Chinese government was represented at the agreement signing by the chair of its National Development and Reform Commission, and the Myanmar government was represented by its Minister of Planning and Finance.[10]

## Background: Chinese Investment and Interests in Myanmar

Over time, Chinese investment in Myanmar has moved from the extractive industries to infrastructure and the development of special economic zones.[11] Its current CMEC projects bear the hallmark BRI focus points: ports, energy pipelines, transportation networks, and SEZs.

Even before the advent of the BRI, it was clear that China was interested in using Myanmar as an outlet for its landlocked provinces.[12] China's development of its Southwest provinces (including Yunnan province) and the diversification of its energy routes depends on a transportation and natural resource route through Myanmar. This makes the Myanmar–China Oil and Gas Pipelines Project strategically important for China, both for developing its interior provinces and for securing an additional energy supply lane.

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6 Jason Li, "China's Conflict Mediation in Myanmar," Stimson Center, last modified September 17, 2020, https://www.stimson.org/2020/chinas-conflict-mediation-in-myanmar/.

7 Chan Mya Htwe, "Three Locations Identified for China–Myanmar Economic Corridor," *Myanmar Times*, last modified June 7, 2019, https://www.mmtimes.com/news/three-locations-identified-china-myanmar-economic-corridor.html; Thu Thu Aung and Poppy McPherson, "Myanmar, China Ink Deals to Accelerate Belt and Road as Xi Courts an Isolated Suu Kyi," *Reuters*, last modified January 18, 2020, https://www.reuters.com/article/uk-myanmar-china-idUKKBN1ZH052; Jason Tower, "China Using Pandemic Aid to Push Myanmar Economic Corridor," United States Institute of Peace, last modified May 27, 2020, https://www.usip.org/publications/2020/05/china-using-pandemic-aid-push-myanmar-economic-corridor; and Jack Board, "Speculative Yangon City Mega-Project Draws 'White Elephant' Concerns for Myanmar," *Channel News Asia*, last modified November 23, 2019, https://www.channelnewsasia.com/asia/yangon-city-mega-project-myanmar-china-state-investment-1315386.

8 Nicholas Lo, "China Builds in Myanmar's Conflict Areas," *The Third Pole*, last modified November 26, 2019, https://www.thethirdpole.net/en/regional-cooperation/china-builds-in-myanmars-conflict-areas/.

9 "Mutual Interest Revives Myanmar Belt and Road Partnership," *Hong Kong Means Business*, last modified September 13, 2018, https://secure.hkmb.hktdc.com/en/1X0AF2XX/inside-china/Mutual-Interest-Revives-Myanmar-Belt-and-Road-Partnership.

10 Nan Lwin, "Gov't Signs MoU with Beijing to Build China-Myanmar Economic Corridor," *The Irrawaddy*, last modified September 13, 2018, https://www.irrawaddy.com/news/burma/govt-signs-mou-beijing-build-china-myanmar-economic-corridor.html.

11 "Speculative Yangon City Mega-Project Draws 'White Elephant' Concerns for Myanmar."

12 Bertil Lintner, "Myanmar A Perfect Fit on China's Belt and Road," *Asia Times*, last modified January 27, 2020, https://asiatimes.com/2020/01/myanmar-a-perfect-fit-on-chinas-belt-and-road/.

The CMEC and its component projects are part of Yunnan province's "land bridge" strategy to connect China's lesser-developed inland region with Southeast and South Asia through Myanmar.[13] The Yunnan Provincial Government sees this strategy as a way to address its decline from the 16th-largest contributor to Chinese GDP in 1990 (out of 29 provinces and autonomous regions) to the 24th in 2005. It argues that the development of transportation and energy infrastructure in Myanmar—including this oil and gas pipelines project, the Trans-Asia Railway Project (now the Muse–Mandalay Railway Project), highway construction, and power plants—will create alternative energy shipping routes from the Strait of Malacca, allowing the continuous provision of much-needed energy resources.[14] This would address the Chinese government's "Malacca Dilemma": China's dependence on shipping through the narrow Strait of Malacca, which could be blocked by enemy navies in times of conflict.[15] In 2016, 80 percent of China's oil imports transited this strait. In 2017, Chinese state-owned news organization Xinhua announced of the pipelines, "With such a project, China has realized its hope of opening up an Indian Ocean energy channel and diversify crude oil imports."[16]

In connection with these two pipeline projects, the Kyaukphyu SEZ and its deep seaport and China's investment into the Gwadar port in Pakistan, would increase China's maritime power and expand its influence in the Indian subcontinent and the Middle East. Given this, many believe that these projects are less commercial and focus more on geostrategic gains. Even some Chinese scholars have raised questions about their commercial viability and downgraded their economic importance.[17]

It is, however, clear the Chinese government views the pipelines as vital to ensure its resiliency for energy supply routes, foster development in its lagging inland provinces, and boost its geostrategic position. Despite these interests, it is very challenging to create a new route to the Indian Ocean by crossing the conflict-prone regions of Myanmar, a country that has also struggled with significant political instability.

## Project Timeline and Scope

In 2009, CNPC and Myanmar's Ministry of Energy signed a MoU in the presence of then-ruling SPDC's Vice-Chairman Lt Senior General Maung Aye and China's then-Vice President (now president) Xi Jinping to implement the Myanmar–China Crude Pipeline Project.[18] In 2010, CNPC and MOGE signed a shareholder's agreement in the presence of then-Prime Minister General Thein Sein (the first president of the pseudo-civilian Government of the Union of Myanmar after 2010) of the SPDC government and Chinese Premier Wen Jiabao to implement the project and subsequently formed the two joint-venture SPVs.

13 K. Yhome, "The BRI and Myanmar's China Debate," *Observer Research Foundation*, last modified July 11, 2018, https://www.orfonline.org/expert-speak/bri-myanmar-china-debate/.

14 "Selling the Silk Road Spirit: China's Belt and Road Initiative in Myanmar," Transnational Institute, Myanmar Policy Briefing, no. 22 (November 2019): 9, https://www.tni.org/files/publication-downloads/bri_myanmar_web_18-11-19.pdf.

15 China Power Team. "How Much Trade Transits the South China Sea?" *China Power*, last modified January 25, 2021,. https://chinapower.csis.org/much-trade-transits-south-china-sea/.

16 Zhuang Beining, "Spotlight: China-Myanmar Oil, Gas Project Benefits Both," Xinhua, last modified May 10, 2017, http://www.xinhuanet.com/english/2017-05/10/c_136272395.htm.

17 "Selling the Silk Road Spirit: China's Belt and Road Initiative in Myanmar," Transnational Institute, 24.

18 "Energy and Electricity Merger Complete," *The Myanmar Times*, last modified May 2, 2016, https://www.mmtimes.com/business/20066-energy-and-electricity-merger-complete.html.

The crude oil pipeline stretches 771 km from Madae (also known as Made or Maday) Island in Rakhine State, Western Myanmar, across the China–Myanmar border to Ruili, Yunnan province. The crude oil pipeline will have the capacity to transport 22 million tons of oil, accounting for about 5 percent of China's daily import demand.[19] Of its total length, 770.5 km runs through Myanmar. While the oil pipeline was completed in 2014, the pipeline only became operational in 2017. The delay in the operational use of the crude oil pipeline seems to have primarily been driven by a disagreement over a 5 percent crude oil tax that the Myanmar government had requested the Chinese government pay in addition to the agreed transit fee and pipeline tariff.[20] The pipeline became operational in April 2017, after the Myanmar government agreed to lower its transit fees, according to PetroChina President Wang Dongjin.[21] However, even the start of operations was characterized by tension, as the Chinese government dispatched a tanker to the pipeline before negotiations were completed.[22]

The natural gas pipeline carries gas from Block A-1 and A-3 Shwe Gas fields in the Bay of Bengal in Western Myanmar to Yunnan province in China. From Kyaukphyu on the western coast of Myanmar, it joins the crude oil pipeline in Madae Island, and from there the two pipelines run parallel to Ruili. The length of the gas pipeline in Myanmar is 793 km.[23] This pipeline was completed in June 2013 and began operations in October 2013.

## Project Structure: Mapping the Actors Involved

The Myanmar–China Oil and Gas Pipelines Project is an initiative of the MOGE with the CNPC and four other foreign companies. Under the 2008 Constitution of Myanmar, the state is the ultimate owner of all natural resources, including oil and gas. The state's intervention into natural resource sectors is conducted through SOEs. The State-Owned Economic Enterprises Law assigns responsibility for the exploration and production (E&P, or discovery and drilling) of petroleum within Myanmar to MOGE, a SOE wholly under the Ministry of Electricity and Energy (MoEE), giving it exclusive rights to carry out all oil and gas operations with private contractors.[24] According to the Foreign Investment Law (2012), any foreign company that wants to work in the oil and gas sector must enter into a joint venture (JV) with MOGE or a private Myanmar company.[25] There is, however, no mandatory requirement regarding the percent stake in a JV held by the state. This pipeline project is a JV project between CNPC and MOGE.

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19 Yimou Lee, Chen Aizhu, and Shwe Yee Saw Myint, "Beset by Delays, Myanmar-China Oil Pipeline Nears Start-Up," *Reuters*, last modified March 21, 2017. https://www.reuters.com/article/us-myanmar-china-oil/beset-by-delays-myanmar-china-oil-pipeline-nears-start-up-idUSKBN16S0XF.

20 Chen Aizhu and Aung Hla Tun, "New China Refinery Faces Delay as Myanmar Seeks Extra Oil Tax: Sources," *Reuters*, last modified October 10, 2016. https://www.reuters.com/article/us-china-myanmar-oil/new-china-refinery-faces-delay-as-myanmar-seeks-extra-oil-tax-sources-idUSKCN12A0JF.

21 "China Opens Delayed Myanmar Oil Pipeline to Get Mideast Crude Faster," *Bloomberg*, last modified April 11, 2017, https://www.bloomberg.com/news/articles/2017-04-11/china-opens-delayed-myanmar-oil-link-to-get-mideast-crude-faster.

22 Lee, Aizhu, and Myint, "Beset by Delays, Myanmar-China Oil Pipeline Nears Start-Up."

23 "Overview of the Myanmar-China Oil & Gas Pipelines," China National Petroleum Corporation, accessed October 21, 2021, https://www.cnpc.com.cn/en/myanmarcsr/201407/f115a1cc6cdb4700b55def91a0d11d03/files/dec09c5452ec4d2ba36ee33a8efd4314.pdf.

24 "Myanmar EITI Annual Activity Report," Myanmar Extractive Industries Transparency Initiative, (November 2016): 53, https://eiti.org/document/myanmar-eiti-annual-progress-report-20152016.

25 Myanmar Investment Commission, *The Foreign Investment Law The Pyidaungsu Hluttaw Law*, 3rd Waning of Thadingyut 1374 ME, https://www.moj.go.jp/content/000112674.pdf.

For the gas pipeline project, MOGE and five other companies formed the SPV SEAGP, which is responsible for the pipeline's operation and management. The five companies in the gas SPV are: the Korea Gas Corporation (KOGAS), the Korean POSCO Daewoo International Corporation (Daewoo), Indian-owned ONGC CASPIAN E&P B.V., GAIL India Ltd., and the South-East Asia Gas Pipeline Company Ltd. (SEAP), a Hong Kong-based company owned by CNPC. The Myanmar government's MOGE only owns 7.365 percent of total shares in the SPV, while the Chinese-owned CNPC-SEAP is the major shareholder and can make final decisions as the operator (See Table 1).[26]

The oil pipeline is jointly invested and constructed by MOGE and the SEAOP, which is also responsible for the operation and management. CNPC owns 50.9 percent of the SEAOP shares, while MOGE holds 49.1 percent (See Table 1).

The oil and gas projects have the same four subcontractors: India-based Punji Lloyd and state-owned CNPC subsidiaries China Petroleum Pipeline Engineering Co., Ltd. (CPP), CNPC Chuanqing Drilling Engineering Company Limited (CCDC), and Daqing Oilfield Engineering Co., Ltd. More detailed information about the subcontractors' precise roles in the projects has not been made available to the public.

**Table 1: Percent Ownership of the Oil and Gas Pipeline Projects' SPVs**

| **Southeast Asia Gas Pipeline Co. Ltd. (SEAGP)** | | | **Southeast Asia Oil Pipeline Co. Ltd. (SEAOP)** | |
|---|---|---|---|---|
| **Name of Companies** | **Share (%)** | | **Name of Companies** | **Share (%)** |
| CNPC-SEAP | 50.9 | | CNPC-SEAP | 50.9 |
| Daewoo International Corporation | 25.04 | | MOGE | 49.1 |
| ONGC Videsh Ltd. | 8.347 | | | |
| MOGE | 7.365 | | | |
| GAIL India Ltd. | 4.1735 | | | |
| KOGAS | 4.1735 | | | |

*Source: Various.*[27]

26 "Who We Are," South-East Asia Gas Pipeline Company Limited," accessed October 18, 2020, https://www.seagp.biz/who-we-are/.

27 "Who We Are," South-East Asia Gas Pipeline Company Limited," accessed October 18, 2020, https://www.seagp.biz/who-we-are/; CNPC, "Caring for Communities Along the Myanmar-China Oil & Gas Pipelines," accessed October 28, 2021. https://www.cnpc.com.cn/en/CaringforcommunitiesalongtheMyanmarChinaOilGasPipelines/CaringforcommunitiesalongtheMyanmarChinaOilGasPipelines.shtml.

Diagram 1: Structure of the Gas Pipeline Project

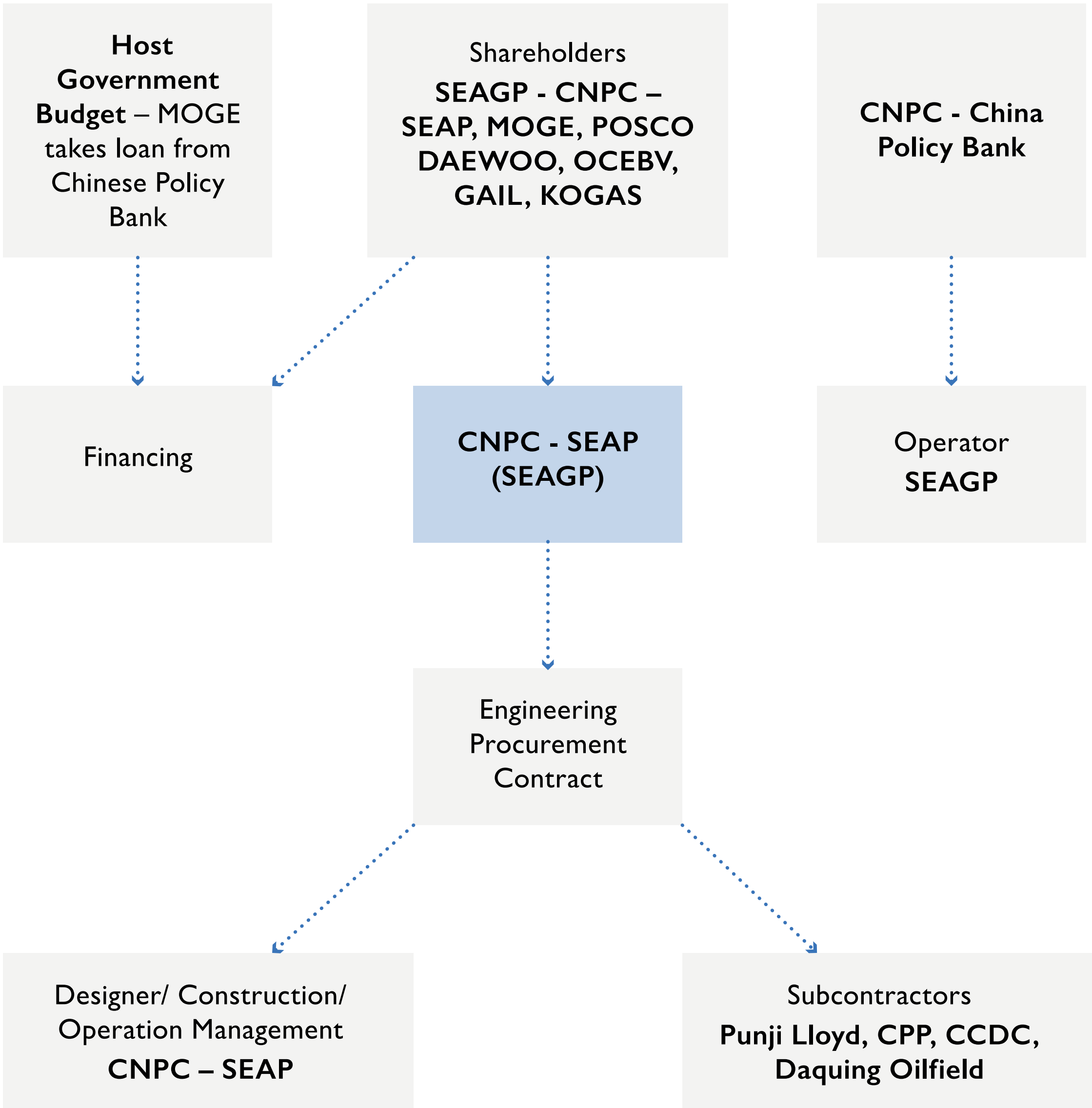
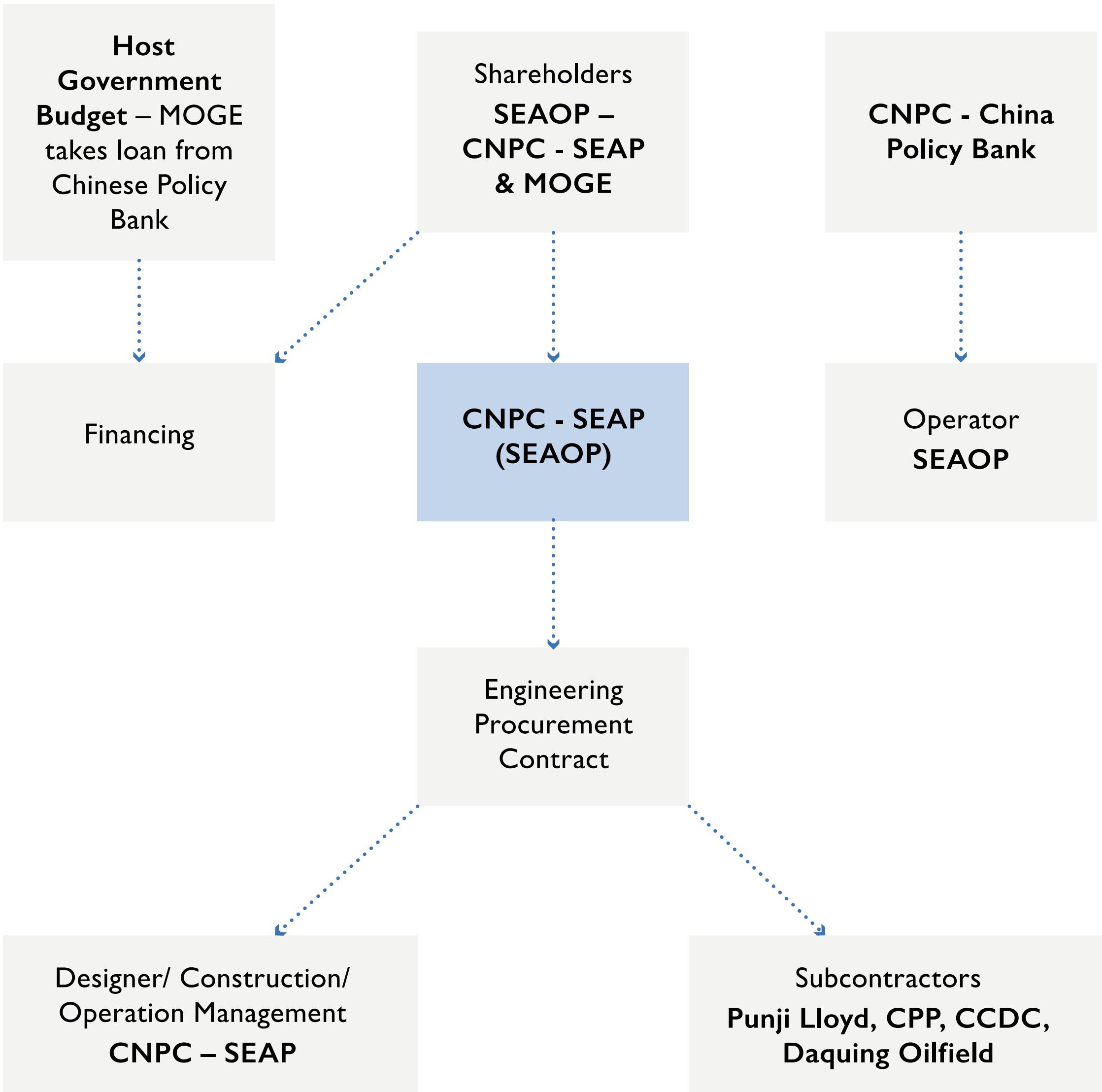


Diagram 2: Structure of the Oil Pipeline Project




There is a long history of Western sanctions on Myanmar's energy sector in an attempt to cut off revenue to MOGE, which is a significant source of income for the Myanmar government. Due to the lack of foreign investment stemming from the sanctions placed on Myanmar's oil and gas industries at the time when the project was initiated, there was no competitive tender process.[28] Additionally, concession agreements for mega extractive industry projects were signed on a bilateral basis, and unsolicited proposals, including the proposals for the oil and gas pipelines, were submitted directly to the Myanmar government's ministries without passing any open tender process. At that time, these bilateral deals were typically considered not beneficial to the host country and its government because of an absence of a transparent or competitive procurement process, resulting in high-risk factors such as corruption and political capture.

28 "US Senators Call for Sanctions on Myanmar Oil and Gas Enterprise," *The Irrawaddy*, last modified April 28, 2021, https://www.irrawaddy.com/news/burma/us-senators-call-for-sanctions-on-myanmar-oil-and-gas-enterprise.html.

# Project Cost and Financing

## Financing Structure

The estimated cost for the oil and gas pipelines was USD $1.5 billion and USD $1.04 billion, for a total cost of USD $2.54 billion.[29] MOGE took out USD $850 million in loans from Chinese lenders for the oil pipeline (accounting for 56.6 percent of the estimated total cost of USD $1.5 billion), according to a 2018 Myanmar Times report.[30] However, Myanmar EITI reported a loan of USD $1.1 billion (RMB7.4 billion) from CDB at a 4.5 percent interest rate in November 2010.[31] MOGE also borrowed USD $560 million for the gas pipeline (accounting for 53.8 percent of the estimated total cost of USD1.04 billion), according to Myanmar Times.[32] This includes a USD $166 million (Euro 119 million) loan from CDB at the same interest rate, according to Myanmar EITI.[33] The source of the remaining funding is unclear.

Information about the loans from CDB is also limited. According to Myanmar EITI, these loan contracts are not published on the MOGE website, and the Myanmar EITI Secretariat has been unable to obtain a copy of the contract. As of March 31, 2018, the outstanding CDB loan balance for the gas pipeline was USD $88.7 million (Euro 72 million) and) USD $756.2 million (RMB 4.8 billion) for the oil pipeline.[34]

## Concessions and Control of the Project Structure

Notably, MOGE's shares in the SPVs are not equivalent to loans it seems to have taken out for the projects. While MOGE took out loans accounting for at least 56.6 percent of the oil pipeline's estimated cost, it holds 49.1 percent of the shares in the associated SPV (SEAOP SPV). Conversely, while MOGE took out loans accounting for 53.8 percent of the gas pipeline's estimated cost, it only holds 7.365 percent of the shares in the associated SPV (SEAGP SPV). In both cases, Chinese-owned CNPC-SEAP holds a controlling share in the relevant SPV, allowing it to make final decisions as the operator.

Notably, repayment for both loans was contracted to begin five years after the agreement was signed in 2010, according to the EITI 2017-2018 report.[35] However, during this time, the oil pipeline remained non-operational, despite being finished in 2014. This indicates that when the oil pipeline remained dormant and made no revenue, Myanmar was still required to pay back the loans to China. The financial agreement has not been made publicly available, obscuring the transparency of the projects. However, the Obligation Agreements signed by Myanmar and China indicate that CNPC

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29 Bo Kong, "The Geopolitics of the Myanmar-China Oil and Gas Pipelines," in *Pipeline Politics in Asia: The Intersection of Demand, Energy Markets, and Supply Routes*, ed. Edward Chow, Leigh E. Hendrix, Mikkal E. Herberg, Shoichi Itoh, Bo Kong, Marie Lall and Paul Stevens, NBR Special Report 23 (Seattle, WA: National Bureau of Asian Research, September 2010). https://www.andrewerickson.com/2010/10/the-geopolitics-of-the-myanmar-china-oil-and-gas-pipelines/.

30 Chan Mya Htwe, "Oil and Gas Responsible for half of Myanmar's Debt."

31 "Myanmar EITI Report 2017-18," 328.

32 Chan Mya Htwe, "Oil and Gas Responsible for half of Myanmar's Debt."

33 "Myanmar EITI Report 2017-18," 328.

34 Ibid.

35 "Myanmar EITI Report 2017-18," 328.

was responsible for the construction and operation of the pipelines. Furthermore, the rights to the franchise, tax remission, crude transit, import and export customs clearance, and the right-of-way operation of the oil pipeline belong to CNPC.[36]

In addition, the project's sponsor, CNPC, managed the whole project cycle (from design, construction, and operation) through financing with the CDB and its subsidiary, SEAP served as an Engineering Procurement Contractor (EPC), reducing the transparency of the project. As a result of Western sanctions, there was no competitive tender for the EPC contract, creating an environment favorable for Chinese contractors. These two factors create a risk of cost inflation, as state-owned CNPC was both a project sponsor and contractor, and the project was funded by the state-owned CDB.

### Myanmar Government Revenues from the Project

While oil and gas contribute $1.4 billion in annual revenue, representing about 10 percent of total government revenues, MOGE is also "responsible for half the country's debt."[37] There are three sources of revenue for MOGE from the oil and gas transportation sector, in addition to commercial tax paid to the Internal Revenue Department (IRD): profit sharing, pipeline tariff fees, and right of way/land fees (see Figure 2). Annual revenues from SEAGP and SEAOP are USD $402 million (gas) and USD $46 million (oil), including transit fees of nearly USD $150 million annually.[38] The total USD $448 million in revenues from these two pipelines represent about a third of Myanmar's estimated USD $1.4 billion annual revenue from oil and gas in 2021. However, as of March 2018, MOGE still owed USD $440.3 million (Euro 384.97 million) in principal for the gas offshore and onshore (SEAGP) pipeline, in addition to USD $124.2 (Euro 108.58) million in interest. Additionally, MOGE owes USD $937 million (RMB 6.4 billion) in principal for the onshore oil pipeline (SEAOP), plus USD $212.8 million (RMB 1.5 billion) in interest.[39] Therefore, while MOGE is receiving revenues from these two SPVs, some of this revenue is dedicated to the repayment of the SPVs' loans.

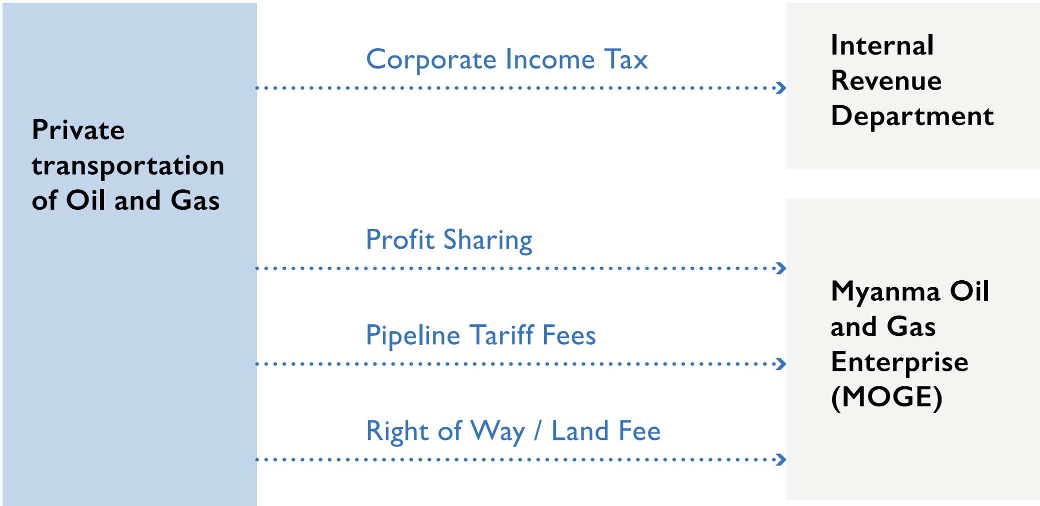
36 "Rights and Obligation Agreement Signed of Myanmar-China Crude Pipeline," China National Petroluim Corporation, last modified December 21, 2009. http://web.archive.org/web/20120210220235/http://www.cnpc.com.cn/en/press/newsreleases/RightsandobligationagreementsignedofMyanmar%EF%BC%8DChinaCrudePipeline.htm.

37 Chan Mya Htwe, "Oil and Gas Responsible for Half of Myanmar's Debt."

38 "Myanmar EITI Report 2017-18," 316; "How Much Money Does Myanmar's Military Junta Earn from Oil and Gas?" *Myanmar Now*, last modified June 3, 2021. https://www.myanmar-now.org/en/news/how-much-money-does-myanmars-military-junta-earn-from-oil-and-gas.

39 "Myanmar EITI Report 2017-18," 324.

Figure 2: Payment Flows in the Oil and Gas Transportation Sector




*Source: Created by BRI Monitor*

## Project Issues

### Corruption and the Pipeline's Social and Environmental Impact

The issues with the gas and oil pipelines are abundant. Human Rights Watch, Earth Rights, the Myanmar-China's Pipeline Watch Committee, and other journal articles have released several publications revealing human rights violations, environmental degradation, and improper land compensation issues associated with these pipelines.[40]

During the military rule between 1988 to 2011, Myanmar ranked very low on Transparency International's Corruption Perception Index (CPI). For example, in 2008, Myanmar ranked 178 and just above the lowest ranking country of Somalia.[41] Corruption was institutionalized and widespread at that time. In this case, corruption allowed for the confiscation of land from original landowners.

40 Thiri Shwesin Aung, Thomas B. Fischer, and John Buchanan, "Land Use and Land Cover Changes along the China-Myanmar Oil and Gas Pipelines – Monitoring Infrastructure Development in Remote Conflict-Prone Regions," *PLOS ONE* 15, no. 8 (August 2020): 2, https://doi.org/10.1371/journal.pone.0237806;

"Burma: Natural Gas Project Threatens Human Rights," *Human Rights Watch*, last modified March 24, 2007, https://www.hrw.org/news/2007/03/24/burma-natural-gas-project-threatens-human-rights;

"Chinese Oil Company Linked to Human Rights Abuses in Burma (Myanmar)," *EarthRights International*, accessed October 5, 2021, https://earthrights.org/media_release/chinese-oil-company-linked-to-human-rights-abuses-in-burma-myanmar/.

41 "Corruption Perception Index 2008," Transparency International, accessed October 5, 2021, https://www.transparency.org/en/cpi/2008.

Proper public consultation for infrastructure projects was uncommon at the time of the project's initiation: public consultation was later introduced into the civilian-run China-Myanmar Economic Corridor Joint Committee, but this has been abrogated under the SAC following the February 2021 coup.[42] There appears to have been no public consultation for these projects. Local farmers were unaware that their lands would be confiscated: they were told that they could not farm during the construction phase but believed that their lands would be given back after the project's completion. Communities also did not have the opportunity to study, consult, and negotiate with the authorities. Citizens had to sign legally binding agreements without the chance to read them.

According to the Myanmar China Pipeline Watch Committee, which conducted extensive interviews with villagers and communities along the pipeline route, officials took advantage of the farmer's lack of land ownership registration certificates during the construction phase. Farmlands were confiscated or compensated at lower prices, and many farmers lost their livelihoods.[43] Most local farmers did not know the exact amount of compensation stipulated in the contracts and thus could not ascertain any difference between the contracted amount and the amount they received. In some cases, the area of land confiscated was more than needed to construct the pipelines. Land grabbing issues in Myanmar also arose in the Dawei Special Economic Zone (Dawei SEZ) at the Thai-Myanmar border and other projects.[44]

Although there were laws related to land acquisition requiring an Environmental Impact Assessment and Strategic Impact Assessment, corrupt officials at various levels of administration violated these laws with impunity. By not complying with environmental regulations, the proper disposal of soils and waste during the construction phase caused soil erosion, disrupted the currents of rivers, causing landslides, leading to the destruction of countless farms.[45]

### Debt Burden

As discussed above, the Myanmar government has dealt with a considerable debt burden due to the oil and gas pipeline projects (nearly $1.5 billion). The project's 4.5 percent interest rate is among the highest of Myanmar's bilateral loans, making repayment more difficult. Myanmar's debt to the Chinese government represents a substantial amount of government spending: according to Myanmar-based analysts, Chinese loans account for "as much as USD $500 million annually in both principal and interest."[46] Some Myanmar officials and analysts have recognized the risk of Chinese loans. At a 2020 news conference, Auditor General Maw Than said, "The truth is the loans from China come at higher interest rates compared to loans from financial institutions like the World Bank or the IMF."[47] Moving forward, strong public oversight of BRI projects will be critical to ensure the country's economic vitality.

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42 Lin Htet Myat, "Myanmar Junta Sells Resources to Neighbors in Exchange for 'Legitimacy'," *The Irrawaddy,* last modified June 15, 2021. https://www.irrawaddy.com/opinion/guest-column/myanmar-junta-sells-resources-to-neighbors-in-exchange-for-legitimacy.html.

43 "In Search of Social Justice Along the Myanmar-China Oil and Gas Pipeline," Myanmar China Pipeline Watch Committee, (January 2016): 63, https://www.mata-nrg.org/wp-content/uploads/2016/07/In-Search-of-Social-Justice-along-Myanmar-China-Pipeline_English-Version_18012016.pdf.

44 "Land grabbing in Dawei (Myanmar/Burma), an (Inter)National Human Rights Concern," Transnational Institute, last modified October 9, 2012, https://reliefweb.int/report/myanmar/land-grabbing-dawei-myanmar-burma-inter-national-human-rights-concern.

45 Ibid.

46 "Myanmar Cautioned About Costly Borrowing From China." *Radio Free Asia*, last modified June 10, 2020, https://www.rfa.org/english/news/myanmar/costly-borrowing-06102020151951.html.

47 "Myanmar Cautioned About Costly Borrowing From China,"

According to the Transnational Institute, "scrutiny of the costs of BRI projects, their financial viability, and their sources of financing will be particularly critical to ensure that the Myanmar government avoids a disproportionately high debt burden.'"[48] The risk is especially high as Western sanctions against Myanmar have further exacerbated the country's dependence on Chinese investment, which could allow Chinese lenders to set higher rates.

### SOE Governance

SOE governance in Myanmar was problematic during the initiation phase of this project, further reducing transparency. According to the Natural Resource Governance Institute's 2013 worldwide Resource Governance Index, only SOEs in Turkmenistan disclosed less information than Myanmar's MOGE.[49] Beyond the overarching issue of transparency, there are a number of legal, oversight, financial disclosure, and revenue retention issues with Myanmar's SOEs, particularly in the extractive sector, given their significant share of public revenues and public expenditures.[50] In addition, although registered as private companies, the military-owned companies Myanma Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC) play quasi-official roles by giving access to mining projects and distributing the benefits of extraction.[51]

### Lack of Public Disclosure of SOE Revenues

The extractive sector's SOEs account for a significant portion of Myanmar's balance sheet, making up 20 percent of public revenues and 15 percent of public expenditures in the 2015–16 fiscal year. SOEs are predominant in this sector: according to a March 2019 Myanmar EITI report, SOEs collect nearly 80 percent of the extractive sector's revenue and are mostly managed by ex-military officers.[52] MOGE plays a major role as a recipient of revenues resulting from oil and gas contract provisions. It is responsible for taking and marketing the state's share of profits from oil. There is no state participation in the equity of the oil and gas companies.[53]

SOEs receive budget allocations designed to meet all of their operating costs except for raw material purchases, which are to be paid from SOE accounts. However, MOGE does not receive government allocations due to its large profits from the oil and gas sector, reducing transparency into its operating costs. There are no clear rules governing the MOGE expenditures and MOGE's use of its retained profits. MOGE is required to submit a summary statement of revenues and expenditures to MOPFI annually. However, data on the revenues, transfers, or expenditures of the extractive sector's SOEs (including MOGE) are not systematically published and are difficult to analyze.

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48 "Selling the Silk Road Spirit: China's Belt and Road Initiative in Myanmar," Transnational Institute, 9.

49 Patrick R.P. Heller. and Lorenzo Delesgues,, "Gilded Gatekeepers: Myanmar's State-Owned Oil, Gas and Mining Enterprises," Natural Resource Governance Institute, (January 2016): 39, nrgi_myanmar-state-owned-enterprises_full-report.pdf (resourcegovernance.org).

50 "State-Owned Economic Enterprise Reform in Myanmar: The Case of Natural Resource Enterprises," Natural Resource Governance Institute, (January 2018), https://resourcegovernance.org/sites/default/files/documents/state-owned-economic-enterprise-reform-in-myanmar-policy-options.pdf.

51 Ibid.

52 "Myanmar EITI Report 2017-18."

53 Ibid.

Of particular concern with respect to the extractive sector SOEs is the revenue retention rule by which MOGE alone transferred USD $1.4 billion to its OA in the 2013–14 fiscal year.[54] Under the 2012 SOE reform conducted by the 2010–2015 government's administration, SOEs were allowed to transfer a large proportion of their profits to the Myanma Economic Bank (another SOE) by opening OAs, making them financially independent. These SOEs transferred assets away from the government into OAs while leaving their liabilities on the government's balance sheet. The first EITI report in 2015 indicated that more than 50 percent of revenues collected were kept in separate "Other Accounts" shielded from public scrutiny instead of being transferred to the state budget.[55] These OAs were, namely Union Fund Accounts (UFA-OAs), separate bank accounts to retain a portion of net profits created in 2013 under General Thein Sein's government. Like other SOEs, MOGE also has OAs and operates with its own funding. In the fiscal year of 2017–2018, MOGE transferred about USD $504 million into these "Other Accounts."[56] OAs were meant to be abolished by the cabinet directive issued in June 2019.[57] This directive required SOEs to transfer all of their OA balances to Union Budget Fund Accounts for priority expenditure items such as health and education and close their OAs, but as of 2020, MOGE's OAs are still in use.[58]

### Weak Regulatory System

SOEs bring in nearly half of Myanmar's revenue, spend half of the government's budget, and manage much of the economy. Although formal supervisory institutions exist in Myanmar, they do not have the legal mandates and resources to subject SOEs to proper checks and balances. [59] Instead, relevant ministries play both a regulator and an implementer role; the ministries regulate industries while also carrying out projects using the SOEs under their control. This means that while ministries act as the nation's regulatory institutions, they also act as the operating agencies of SOEs and hold overlapping roles and responsibilities since they are the owners. This creates a conflict of interest as SOE managers are free to sign concession contracts. As a result, SOE managers exercise broad discretionary power in signing concessional agreements, making them the gatekeepers to natural resources for foreign investors. [60]

54 Ibid.

55 "Myanmar EITI Annual Activity Report July 2015 – June 2016," Extractive Industries Transparency Report, (November 2016): 7, https://eiti.org/files/documents/myanmar_eiti_annual_progress_report_2015-2016.pdf.

56 "Myanmar EITI: SOE Reforms Underway in the Extractives Sector," Extractive Industries Transparency Initiative, last modified May 28, 2020, https://eiti.org/blog/myanmar-eiti-soe-reforms-underway-in-extractives-sector.

57 This followed a 2018 report by the Renaissance Institute, a think tank under the National League for Democracy (NLD) government from 2015 to 2021, and the Natural Resources Governance Institute on state-owned economic enterprises in the extractive industries. The report recommended the reallocation of OA balances to the Union Budget Fund for priority expenditure items such as health and education, which will promote inclusive growth. "State-Owned Economic Enterprise Reform in Myanmar: The Case of Natural Resource Enterprises;" "This government was left with a huge mess," *Frontier Myanmar*, last modified July 27, 2018, https://www.frontiermyanmar.net/en/this-government-was-left-with-a-huge-mess/.

58 "Commodity Trading in Myanmar, Case Study: Oil and Gas," Myanmar Extractive Industries Transparency Initiative, (September 2020): 21, https://myanmareiti.org/sites/myanmareiti.org/files/publication_docs/meiti_commodity_trading_report.pdf.

59 "Policy Options: State-Owned Economic Enterprise Reform in Myanmar: The Case of Natural Resource Enterprises," Renaissance Institute and Natural Resource Governance Institute, (January 2018): 3, https://resourcegovernance.org/sites/default/files/documents/state-owned-economic-enterprise-reform-in-myanmar-policy-options.pdf.

60 "Gilded Gatekeepers: Myanmar's State-Owned Oil, Gas and Mining Enterprises."

MOGE and the Oil and Gas Planning Department (OGPD) are examples of the overlap between regulator and operator roles. OGPD is responsible for policy formulation and the coordination and development of energy programs. At the same time, both OGPD and MOGE are responsible for tendering oil and gas blocks, managing contracts, and exploring, producing, and selling the products.

As of 2021, SOE regulation in Myanmar has not improved. As Myanmar transitioned from military rule to democracy, active or ex-military officials continued to hold many top-level government staff positions in SOEs. Some still have dual roles, both as business partners in operations and as regulators.[61]

### Lack of Public Information Regarding Concessional Contracts

In 2016, MOGE started to disclose some of the information on the pipeline projects, such as total production figures for each offshore field, crude oil and gas volumes for export and domestic use, production sites currently under production sharing contracts, and companies engaged.[62] However, detailed information on the terms and conditions of concessional contracts, such as block numbers, operator names, country of origin, activities (study period, exploration, and production), Myanmar Investment Commission (MIC) permit numbers, commencement and expiry dates, company statuses (active/pending), locations, and share interest percentages, are currently not publicly available.

This project began as a joint venture agreement made under the military government, a period when no information was available to the public. To date, the Myanmar EITI report identifies the Myanmar–China Oil and Gas Pipeline Project as "Non-Communicated" (NC), meaning the SPVs have not provided any data to Myanmar EITI. The two SPVs are disclosed as Hong Kong-registered companies on the Directorate of Investment and Company Administration's (DICA) Myanmar EITI Beneficial Ownership Disclosure website.[63] However, both SEAOP and SEAGP have one beneficial owner, and no other joint venture partners are included—not even MOGE.

## Recommendations

This case study has shown that Chinese investment may allow Chinese entities to secure contracts as a condition of funding. As a result, the entire project cycle may be managed or controlled by Chinese entities, reducing transparency. Western sanctions limit financing alternatives, allowing Chinese investors to charge higher rates than other lenders or international institutions. Governance weaknesses in Myanmar SOEs have the potential to enable SOE managers to both award and manage projects that work in their own interest rather than in the interest of the people. Hence, it is essential for Myanmar to implement SOE reforms and enact appropriate laws to improve transparency, commercial viability, and profit retention rules, and build parliamentary capacity for SOE oversight and management.

61 Ibid.

62 Moore Stevens, "EITI Report for the Period of April 2015-March 2016 Oil, Gas, and Mining Sectors," Myanmar Extractive Industries Transparency Initiative, (March 2018): 179, https://eiti.org/files/documents/meiti_report_2015-2016_final.pdf.

63 "Myanmar takes steps to reveal the owners of extractive companies," EITI, last modified March 19, 2020, https://eiti.org/news/myanmar-takes-steps-to-reveal-owners-of-extractive-companies.

The discussion of project issues and SOE governance in this case study, together with reports issued by the Renaissance Institute, the Natural Resource Governance Institute, and EITI, highlight the need for a rigorous assessment of unsolicited proposals by independent third parties, the transparency of the whole project cycle and civil society's access to project information, and the establishment of proper public consultation processes and accountability with respect to corruption.[64] In addition, SOE reforms, including proper oversight, are crucial to the infrastructure development in Myanmar. Therefore, the following recommendations are provided for consideration in future infrastructure projects.

1. Strengthen the PPP Center in Naypyitaw for assessing both solicited and unsolicited proposals in accordance with rules and regulations in the Project Bank Notification (2018). This Project Bank Notification and regulatory framework for PPPs and infrastructure investments were evolving during the NLD government's tenure; they need to be amended when and where necessary in order to be on par with ASEAN PPP Principles and OECD guidelines.

2. The Project Bank's online website is a first step in the right direction for the transparency of infrastructure projects and national priorities. However, the Government of Myanmar needs to provide more information on planned infrastructure projects, especially in the pre-feasibility/feasibility stage, so that all the relevant stakeholders, including affected communities, can participate in public consultation processes with adequate information. This will also help protect Chinese investments against political risk because public sentiments against Chinese investments in Myanmar are very negative. Furthermore, right from the beginning of the project lifecycle, public access to information and public participation are very crucial for the successful implementation of Chinese investments in Myanmar.

3. Proper complaint mechanisms must be established with respect to specific projects for corruption control and to protect affected communities.

4. Concession contracts signed between MOGE and private investors, regardless of their country of origin, are assumed to be unfair by the public. For example, according to information released by Justice for Myanmar, MOGE has to pay all the taxes in the French Total pipeline project to the government of Myanmar on behalf of the pipeline SPV in which it has shares.[65] Therefore, SOEs' reforms, corporatization, or privatization with proper procedures and oversight are important for Myanmar's infrastructure development.

Under the current military regime, the chances of implementing these reform proposals are very slim. It is likely that natural resources will continue to be exploited for the military's survival and to consolidate power. In this situation, the most appropriate recommendation is that the Chinese government and its SOEs should not invest in exploitative investment ventures, as the risks associated with these projects are higher than before. Continuing to engage in exploitative investments and financially supporting an undemocratic government also poses a long-term political risk to Chinese investment in the country. The current perception of Chinese investment is that undermines the Myanmar people's struggle for freedom, democracy, and self-determination. If perception continues, this will be detrimental to China's long-term engagement in Myanmar.

64 "Policy Options: State-Owned Economic Enterprise Reform in Myanmar: The Case of Natural Resource Enterprises," Renaissance Institute and Natural Resource Governance Institute; "Myanmar EITI Report 2017-18," 355.

65 "IS TOTAL PROFITEERING IN MYANMAR?" Justice for Myanmar, last modified May 4, 2021, https://www.justiceformyanmar.org/stories/total-profiteering.

## Conclusion

Due to widespread corruption and lack of transparency, local communities have lost livelihoods, and insufficient land compensation cannot secure their future. Environmental degradation caused by the pipelines' construction has also negatively impacted local communities' sources of income. Overseeing proper assessments of pre-feasibility/feasibility studies by independent third parties (such as the PPP Center), securing access to project information, conducting public consultation with relevant stakeholders, setting up proper complaint mechanisms for the monitoring of the construction phase, and addressing issues such as corruption and SOE reforms are important for infrastructure development in Myanmar.

In these two projects, the Chinese state-owned enterprise CNPC and its subsidiary SEAP, as project sponsors and financiers, structured the project company SPVs to their advantage, while the project incurred over USD $1.5 billion debt with a high commercial interest rate. Although the Myanmar government receives transit fees, its debt burden for the projects does not match its share in the profit-making SPVs. Unbalanced benefits in these contracts are the consequences of governance deficits on the then-ruling military government's part, and all cannot be blamed on Chinese SOEs. Notably, future governments in Myanmar may have difficulty revising the concessions connected with this project: research by AidData and others on provisions commonly included in Chinese loans suggests that Chinese lenders could sue the future governments for a change in policy that results in loss of profits.[66]

Under the current circumstances of political violence and instability following the military coup of February 1, 2021, the risks for BRI projects and Chinese investment in Myanmar have increased exponentially. However, the military's SAC, just like the previous SPDC military regime, is using BRI projects to entice China for its political legitimacy and diplomatic support at the United Nations and in other international arenas. The SAC has even annulled requirements for the public consultation process in BRI projects and approved MIC permits for Chinese investments, including the Meelingyaing LNG-to-Power Project. Corruption and lack of transparency are becoming more prominent, and governance deficits will be much worse than in the deposed civilian-led government's time. The Chinese government should pay attention to the people's voices to ensure long-term sustainability and mutually beneficial relationships between the two countries as prescribed in BRI policy.

66 Anna Gelpern, et. al, "How China Lends: A Rare Look into 100 Debt Contracts with Foreign Governments," Peterson Institute for International Economics, Kiel Institute for the World Economy, Center for Global Development, and AidData at William & Mary, (March 2021), https://www.aiddata.org/publications/how-china-lends.

## What is BRI Monitor?

BRI Monitor is a collaborative effort by five civil society organizations in Southeast Asia and the Pacific: the Institute for Democracy and Economic Affairs (IDEAS) of Malaysia, Stratbase Albert Del Rosario Institute (ADRi) of the Philippines, Sandhi Governance Institute (SGI) of Myanmar, the Institute of National Affairs (INA) of Papua New Guinea and the Future Forum of Cambodia to promote transparency and accountability in major infrastructure projects funded through the Belt and Road Initiative (BRI) in the region.

These organizations have studied the regulatory environments governing these large infrastructure projects in respective countries, including public procurement, official development assistance, public private partnership (PPP), and more, to identify regulatory gaps. They have each researched a set of case studies to identify implementation gaps and governance gaps. Each case study assesses the level of transparency based on almost 40 data points, from basic project information to the tendering process to project completion. Last but not least, each organization maps out the structure of the projects in question in order to identify domestic and international entities involved in the project and to understand the degree of public financial exposure resulting from each project.

This website is intended to be a platform for the publication of our research outputs and as a knowledge repository. We also hope that the website can be used as a platform for knowledge sharing and a tool to advocate better governance of major infrastructure projects in the region.

BRI Monitor is supported by the Center for International Private Enterprise (CIPE).

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