



BRIEFING

OPEN FOR BUSINESS?

CORPORATE CRIME AND ABUSES
AT MYANMAR COPPER MINE

AMNESTY
INTERNATIONAL



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**AMNESTY
INTERNATIONAL**



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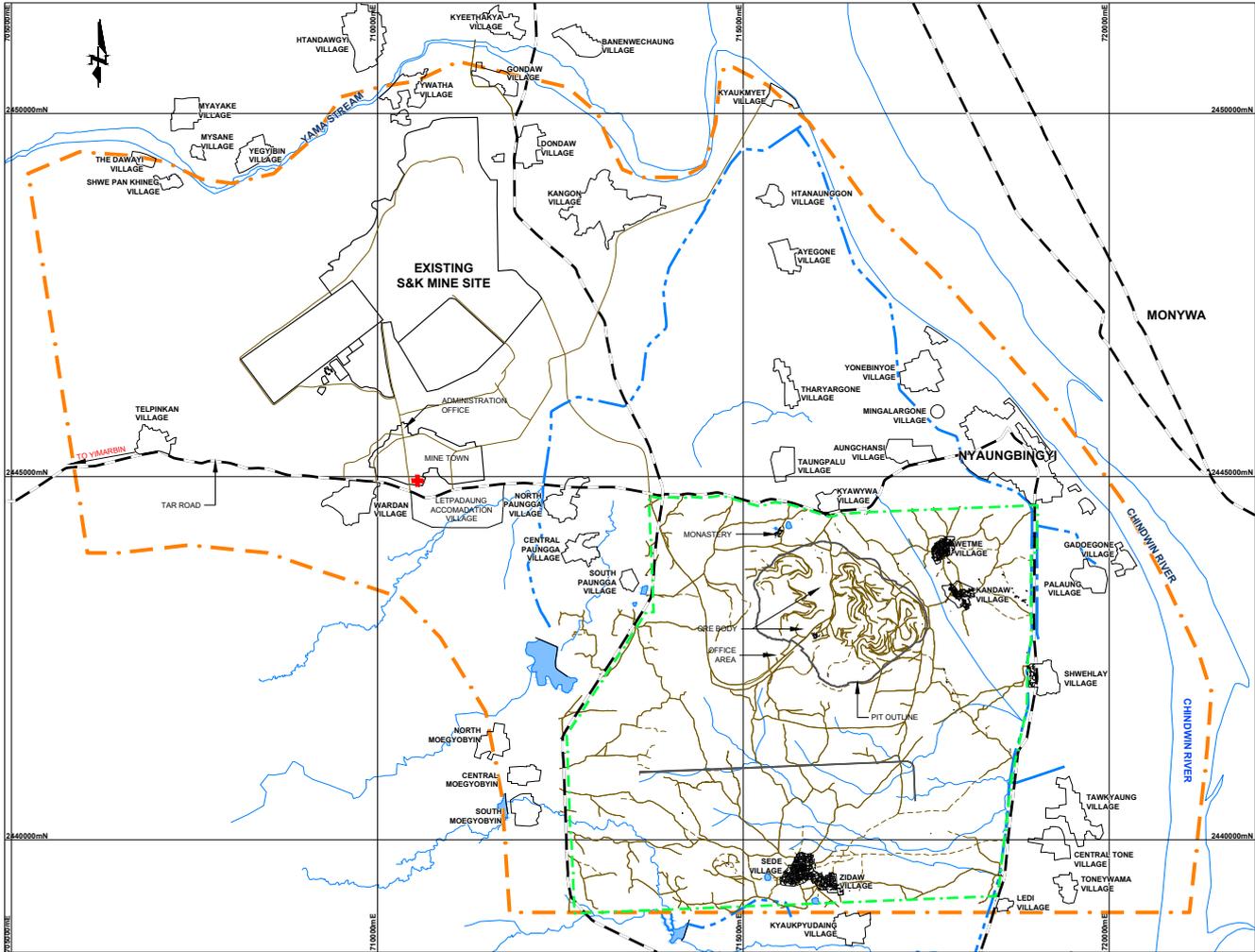
cover picture: Farmers confront riot police at the site of the Letpadaung copper mine near Monywa in Central Myanmar on 22 December, 2014. On the same day a protester was shot and killed by police. Local people are protesting against forced evictions from their land to make way for the mine.
Credit: AP photo

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OPEN FOR BUSINESS?

CORPORATE CRIME AND ABUSES AT MYANMAR COPPER MINE

Diagram taken from the Environmental and Social Impact Assessment of the Letpadaung Project, May 2014, prepared by Knight Piésold Consulting for Myanmar Wanbao Mining Copper Limited.



Knight Piésold
CONSULTING

LETPADAUNG COPPER PROJECT
ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT
PROJECT LOCALITY PLAN

Ref: PE701-00022/13
Figure 1.2

LEGEND:

- HOSPITAL
- EXISTING CANAL
- EXISTING MAIN ROAD (SEALED)
- EXISTING ROAD/TRACK (UNSEALED)
- STUDY AREA EXTENT
- LEASE BOUNDARY

NOTES:

SCALE (METRES)
1:50,000 (AS SHOWN BY OTHER MAPS)

BACKGROUND

Starting in 2012, economic sanctions that had been imposed on Myanmar by Western countries were substantially eased, opening the country up to foreign investment. This followed the election, in 2011, of a civilian government and the announcement by President Thein Sein of a range of political and economic reforms.

Myanmar has a vast wealth of oil and gas reserves, mineral resources and precious gems, but its extractive industries are underdeveloped, hampered by a lack of investment and modern technology. That is now set to change as international oil, gas and mining companies are increasingly entering the country.

Foreign investment in the extractive sector has the potential to bring social and economic benefits to Myanmar. However, extractive industries also carry specific risks for human rights, in particular because these industries often require the expropriation of land and generate harmful waste materials that require careful management. Human rights advocates within and outside Myanmar are concerned that basic safeguards - both to protect communities affected by extractive activities and to ensure revenues are used to benefit the population as a whole and not just the minority of elites – are not yet in place.

Moreover, the economy of Myanmar is still dominated by the interests of Myanmar's military and powerful individuals known as 'cronies'. The involvement of Myanmar's military in the economy has not been subject to meaningful reform and the roots of this involvement go deep. For decades military-led governments gave preferential access to business opportunities to military-connected business interests - including the military-owned conglomerate, the Union of Myanmar Economic Holdings Limited (UMEHL) and a small group of elite businessmen (the cronies).

For foreign corporations doing business in Myanmar, the rewards and the risks are substantial. Both companies and their home state governments have a responsibility to ensure that investment in Myanmar does not result in human rights abuses or the plundering of the country's wealth, as has happened in so many other countries rich in natural resources.

Amnesty International has examined the human rights impact of one major mining operation - the Monywa project - made up of the Sabetaung and Kyisintaung (S&K) and the Letpadaung copper mines, in Sagaing Region in Myanmar. The project began operating in the 1980s with the S&K mine and continues today with different foreign and domestic companies involved. During an extensive one year investigation, Amnesty International examined incidents that are specific to the Monywa project, as well as some of the wider structural issues – such as the legal framework for acquisition of land and environmental protection – that will affect other extractive projects in Myanmar.

Since its inception and throughout its various changes in ownership the Monywa project has been characterised by serious human rights abuses and a lack of transparency. Thousands of people have been forcibly evicted by the government with the knowledge, and in some cases the participation of foreign companies. Environmental impacts have been poorly assessed and managed, with grave long-term implications for local people's livelihoods and health. Protests by communities have been met with excessive force by police; in 2012 Myanmar violated international law when police officers used incendiary white phosphorus munitions to attack peaceful protestors, causing horrific injuries. Part of the attack was launched from inside the compound of a subsidiary of the Chinese company, Wanbao Mining Ltd.

Amnesty International's detailed findings are presented in *Open for Business? Corporate Crime and Abuses at Myanmar Copper Mine*, Index: ASA 16/003/2015. The report, which includes responses received from companies to Amnesty International's findings, is available at: www.amnesty.org/en/library/info/ASA16/003/2015

THE MONYWA MINE

Large deposits of copper are located in the mountains in the Monywa district in Central Myanmar. These deposits have been developed as two, linked, mining operations - the Sabetaung and Kyisintaung (S&K) mine and the Letpadaung mine, which is currently being built. In 1978, a Myanmar government-owned enterprise, Mining Enterprise No. 1 (ME1), started developing the S&K deposits. In 1996 the project became a joint venture between ME1 and Ivanhoe Myanmar Holdings Ltd., a subsidiary of the Canadian mining company Ivanhoe Mines Ltd. (Ivanhoe Mines, now renamed Turquoise Hill Resources). The joint venture - in which both held a 50% interest - was called the Myanmar Ivanhoe Copper Company Limited (MICCL), and was registered in Myanmar. MICCL built the S&K mine and a solvent extraction and electrowinning plant (where copper is extracted and turned into copper cathodes) that was fully operational by the end of 1998. In 2010 – 2011 the Monywa project was taken over by UMEHL and Wanbao Mining Ltd (Wanbao Mining), a subsidiary of China North Industries Corporation (NORINCO). UMEHL constructed a sulphuric acid factory right next to Kankone village, which became operational in 2007, to supply acid to the S&K mine.

The Letpadaung mine was developed far later than S&K – beginning in 2011. Letpadaung is operated under a production sharing agreement between UMEHL and Myanmar Wanbao Mining Copper Limited (Myanmar Wanbao, a wholly owned subsidiary of Wanbao Mining). The production sharing contract for the Letpadaung mine was modified in 2013 to give 51% of the profits of the mine to the government, represented by ME1.

THOUSANDS OF PEOPLE FORCIBLY EVICTED

“I THOUGHT THEY CANNOT TAKE AWAY LAND LIKE THIS NOW THAT WE ARE A DEMOCRACY”

– 37 year old villager who was forcibly evicted from his farmland for the Letpadaung Mine

In order to make way for the S&K mines, the Myanmar government has forcibly evicted – without any consultation, due process, compensation, resettlement and legal remedies – thousands of people in the area, and deprived them of their main source of livelihood. The land was nationalised in 1996-1997 under the Land Nationalization Act of 1953. The government used a provision in Myanmar’s Code of Criminal Procedure to restrict access to land with a criminal penalty for anyone who failed to comply. Those evicted received no compensation or alternative land. Many had no choice but to work as manual labourers on other people’s farms in order to survive.

Although the government of Myanmar carried out the forced evictions, this does not absolve from responsibility the companies that benefited from these human rights violations. The agreement that established the joint venture between Ivanhoe Mines and ME1 in 1996 specifically referred to the fact that ME1 would be responsible for ensuring access to the land needed for the mine and factory. Ivanhoe Mines, which could not have been unaware that people lived in the area and were heavily dependent on the land for livelihood, did not build in any safeguards to ensure that the land acquisition did not involve forced evictions and other human rights violations. Moreover, none of the companies involved – Ivanhoe Mines, ME1 or their joint venture MICCL – took any action to rectify the situation. On the contrary, they built a business operation on the foundations laid by the forced evictions.

Further evictions were carried out for the Letpadaung mine between 2011 and 2014. The project involves the complete relocation of four villages. As of May 2014, 245 households from the four villages had been moved to resettlement sites, but 196 households have refused to move. The project also involves the acquisition of 6785 acres of land, mostly farmlands, from 26 other villages, and Myanmar Wanbao has taken over approximately half of these lands. The 196 households who

refused to move and villagers whose land has not yet been taken over by the company remain at risk of forced evictions after the company announced on 22 December 2014 that it will extend its working area.

The government deliberately misled people about the evictions for the Letpadaung mine. Villagers told Amnesty International that, in December 2010, the local authorities informed them that machines would be taken through their farms and they would be given compensation for damage to crops. No mention was made of land acquisition or evictions. The villagers only realised what was happening when, in 2011, Myanmar Wanbao began construction on part of their farmlands and the Code of Criminal Procedure was once again used to restrict people's access to their farms. A government appointed Commission that looked into some of the social and environmental impacts of the Letpadaung mine, confirmed that officials had not given the people transparent explanations when confiscating the land and "for that reason the local populace thought that they were receiving compensation only for the crops". It also found that the alternate houses provided by Myanmar Wanbao were of inferior quality and that people were given urban style houses and plots, without land to keep cattle.

Following the Commission's report and community protests over the situation, Myanmar Wanbao offered people further compensation. However, the company has not adequately addressed the loss of livelihoods, which is a long-term problem as almost all of the affected people were dependent on farming for their livelihoods and as a source of food.

In 2013 and 2014, consultations on the project were carried out with the villagers by teams of people appointed by Myanmar Wanbao and by an external consulting company which undertook

Farmer protesters sit on the ground in front of a line of armed police during their protest at the site of the Letpadaung copper mine, 22 Dec 2014.



the Environmental and Social Impact Assessment (ESIA) for the mine. The consultations that have been undertaken have been deeply flawed and villagers who have refused to relocate were expressly excluded from the consultation process on the government's instructions.

The company has proceeded with its construction work, fencing and bulldozing of crops, in the absence of safeguards required under international human rights law, leading to further forced evictions. A 30 year old woman farmer told Amnesty International that "large mounds of materials have been dumped [by Myanmar Wanbao on the land taken over for the project] and we are worried that chemical pollution from these materials will affect the land and make it impossible to grow crops." On 7 March 2014, Myanmar Wanbao assisted the police in carrying out forced evictions in Ohn Thone Pin village by providing bulldozers to raze the villagers' crops. These evictions were not related to the mine and were apparently done in order to build accommodation for the police. It is not clear why Myanmar Wanbao provided assistance to the police to evict people for a purpose entirely separate to its operations.

Myanmar Wanbao, UMEHL and ME1 failed to respect the human rights of the villagers to food and housing in the way in which consultation, land acquisition, compensation and resettlement were carried out. By blocking people's access to the land through constructing fences and buildings, and dumping materials on the farmland, Myanmar Wanbao has also itself carried out forced evictions.

PROTESTS AND REPRESSION

"I WAS ON FIRE ON MY BACK AND ONE ARM, ALSO MY LEGS"

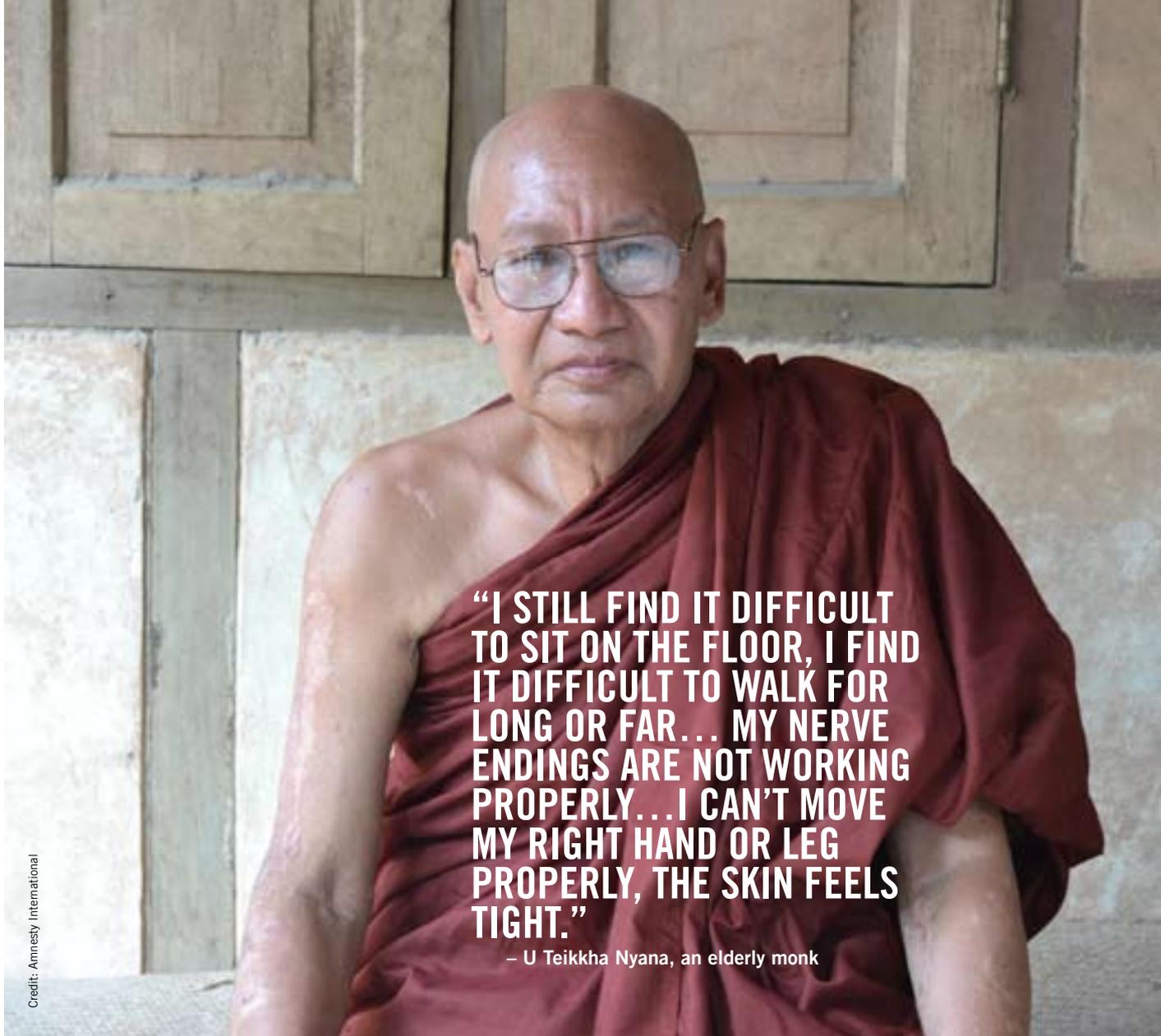
– U Teikkha Nyana, an elderly monk who suffered severe burns after being struck by a white phosphorus munition

Community protests about the Letpadaung mine have, on multiple occasions, been met with excessive use of force by the police. Protestors have suffered serious injuries and on 22 December 2014 one woman, Daw Khin Win, was shot and killed by the police. One of the worst incidents, involving a deliberate attack on peaceful protestors by police, occurred in November 2012. During that month protest camps had been set up around the mine area and hundreds of monks from nearby monasteries joined the community activists. The main protest camp was located outside the Wanbao compound near the mining area. On the night of 29 November, at least three trucks of police and a fire engine were seen entering the compound. Police officers asked people to leave the camps. When the protestors did not leave, the police initially used fire hoses to spray them with water at high pressure and then started throwing 'fire bombs', later identified as white phosphorus incendiary munitions. White phosphorus is a toxic substance, sometimes used by the military in various types of ammunition as an incendiary agent and as a smoke screen (it spontaneously catches fire in air and produces clouds of irritating white smoke). Its use in civilian policing and against unarmed protestors is completely contrary to international law on the use of force.

Amnesty International's investigation has revealed that the police attack was launched from inside Myanmar Wanbao's compound. The police sprayed people with fire hoses from inside the compound and protestors saw the police come out of the compound throwing 'fire bombs' at them. The police continued to throw incendiary white phosphorus munitions at the protestors despite seeing people's clothing and bodies catch fire, and even threw incendiaries at people who were leaving the camps. Between 110 and 150 people were injured as a result of this attack by the police on protestors. Many were burnt severely. Photographs of the victims show multiple and widespread burns. Some victims have been left with life-long, painful injuries and scarring. Amnesty International concluded that the use of white phosphorus munitions against the protestors amounted to torture because of the purposiveness of the attack (to punish and intimidate protestors) and the severe pain and suffering it inflicted on people. Torture is a crime under international law.



Credit: DVB Association



Credit: Amnesty International

“I STILL FIND IT DIFFICULT TO SIT ON THE FLOOR, I FIND IT DIFFICULT TO WALK FOR LONG OR FAR... MY NERVE ENDINGS ARE NOT WORKING PROPERLY... I CAN'T MOVE MY RIGHT HAND OR LEG PROPERLY, THE SKIN FEELS TIGHT.”

– U Teikkha Nyana, an elderly monk



this page: U Teikkha Nyana, who suffered severe second and third degree burns after being hit by a white phosphorus munition thrown by the police on peaceful protestors on 29 November 2012. These images were taken in March 2014. He has had to undergo multiple surgeries and skin grafts, because of the burns he suffered.

opposite page: Exploded munition collected from the site (of the attack on peaceful protestors by Myanmar police on 29 November 2012). Justice Trust organised for the canister to be tested in Bangkok, and the results confirmed a phosphorus residue, consistent with a white phosphorus munition.

Amnesty International's investigation also concluded that Myanmar Wanbao provided material assistance to the police in the commission of the attack against peaceful protesters. The company has failed to produce any evidence that – at the minimum – it ascertained the police's plans and sought guarantees that any use of force would comply with international standards, before allowing a large contingent of police to use its premises.

Amnesty International has also documented a pattern of arrests of activists and community members, who participated in or organised peaceful protests related to the Letpadaung mine. The government has extensively used provisions of the Peaceful Assembly and Peaceful Procession Law and the Penal code to charge and imprison peaceful protesters. On 30 December 2014, four activists were arrested for participating in a peaceful protest outside the Chinese Embassy in Yangon. They were calling on the Myanmar authorities to carry out an investigation into the death of Daw Khin Win. All four are currently detained in Insein prison.

ENVIRONMENTAL IMPACTS

“WHEN I WAS YOUNG, WE WERE ABLE TO DIG SHALLOW WELLS AND THE WATER WAS CLEAN. NOW IT IS NOT LIKE THAT”

– Villager in his fifties, interviewed by Amnesty International in March 2014

There are 26 villages located within five kilometres of the S&K and Letpadaung mines, with a population of approximately 25,000 people. Some 36 villages will be affected, to varying degrees, by the Letpadaung mine. The majority of people living in the villages rely on agriculture, including seasonal work on farms, for their livelihood. There are no other major industries or manufacturing facilities in the area. The villages are extremely poor and the loss of or damage to agricultural land and other natural resources can have a devastating impact on those who rely on subsistence agriculture.

Any mining operation can have negative human rights impacts if environmental risks are not properly managed. In the case of the Monywa project, these risks are exacerbated by the higher than normal acid forming potential of the copper sulphide deposits being mined. Acid and heavy metals discharges from the mining operations have the potential to severely impact groundwater and the streams and rivers that local communities rely on. Such discharges can severely harm or kill fish and other aquatic life, and metals contained in the acidic discharges can be toxic to humans and wildlife. Acidic discharges can also create long-lasting and far-reaching problems because of the difficulty of cleaning up the damage and the potential for it to contaminate other water bodies. Other risks associated with the mine include contamination of soil through windblown dust and spills, air pollution, particularly emissions of dust and pollutants such as sulphur dioxide and nitrogen oxide, and noise pollution from the operation of machinery and transport vehicles. All of these risks are magnified by the close proximity of the mines, waste storage and other facilities and the sulphuric acid factory to the villages, agricultural land and the river. The high risk of acidic discharges from the mines and the close proximity of the villages to the mines places a greater onus on the companies to adequately manage and mitigate the environmental impacts of the mines.

Companies have failed to meet this requirement from the first mining operation onwards. The earlier ME1 mining operations discharged hazardous copper tailings (waste from the mining operations) in 1995 and 1996 over a large area of land (over 150 acres) and into the Chindwin River. Hazardous tailings can still be found in the area, close to people's homes, almost twenty years later. MICCL, Myanmar Yang Tse Copper Limited (another subsidiary of Wanbao Mining that now operates the S&K mine) and the Myanmar authorities have not fully cleaned these areas, despite being aware that local people were engaging in artisanal mining (known as dohtar in Myanmar) using these hazardous tailings. Amnesty International visited Monywa in March 2014 and took two samples of sediments



from the area where tailings were discharged and submitted them for testing. The testing established that the sediment is extremely acidic and contains very high levels of copper. Environmental and health experts consulted by Amnesty International stated that the acidic nature and high copper content of the hazardous tailings poses high health risks for the artisanal miners who have been manually handling this waste and refining copper from it. The metals found in the sediment can also pose health risks for other people if they are found to be present above certain levels in drinking water or in mineral dust that people may breathe in.

None of the companies involved have undertaken a comprehensive assessment of the pollution caused by the hazardous tailings discharge and other contaminated areas left by the old ME1 operations, and the impacts these have or could have on people living in the area.

MICCL and Myanmar Yang Tse have reported various environmental incidents, and some of them pose serious risks to people living in the area. They include groundwater contamination reported by MICCL, and a report by Myanmar Yang Tse of the collapse of the foundation of a waste dump following an earthquake. MICCL, ME1, Ivanhoe Mines and Myanmar Yang Tse have not monitored the effects of these environmental incidents on people living in the vicinity of the mine. No information was shared with local communities on the environmental incidents that were recorded and mitigation measures that were adopted. There was also no governmental investigation into these incidents.

There is considerable anxiety amongst the villagers around the mining area about the impact of the S&K mine on their water, farmlands and health. Villagers interviewed by Amnesty International stressed their concerns about the safety of the water in the wells that they use, and the drop in

opposite: **A dump truck operating at the S&K mine. November 2012.**

below: **A truck unloads materials above the area where mounds of hazardous copper tailings have remained since the 1990s. December 2012.**



groundwater levels which makes it harder for them to dig wells for water. Limited testing of groundwater in the area by a public health laboratory at the villagers' request points to a deterioration in water quality next to Kankone village from 2003 to 2012, and the need for a comprehensive study of groundwater and surface water in the villages around the project. Communities have also highlighted concerns about acid mist from the S&K mine, which they say has resulted in corrosion of roofs in some villages near the mine and people's eyes stinging. Despite this, the authorities have not carried out any environmental monitoring of the mine's operations, leaving this to the companies themselves.

The Myanmar authorities should not have allowed a new and larger mining operation, the Letpadaung mine, to be developed without ensuring that there was remediation of pollution caused by the S&K mine and the negative impacts of such pollution on people's rights to water and health. MEI, Ivanhoe Mines and Wanbao Mining have also failed to ensure that there was a process in place to stop and remediate pollution caused by older operations before entering into a new phase of operations.

ABOVE THE LAW: UMEHL'S SULPHURIC ACID FACTORY

“SOMETIMES THERE IS A VERY STRONG SMELL FROM THE SULPHURIC ACID FACTORY, PEOPLE CANNOT STAY IN THE VILLAGE AT THOSE TIMES. OUR EYES TEAR UP AND WE COUGH. IT DEPENDS ON THE DIRECTION OF THE WIND.”

– Villager who lives close to the sulphuric acid factory



Most of the sulphuric acid needed for the S&K mine is supplied by a sulphuric acid factory operated by UMEHL. The sulphuric acid factory is a few kilometres west of the S&K mine, and is located about 200 metres from Kankone village and a short distance away from the local school. It is surrounded by farmlands that are cultivated by local villagers. A factory that produces hazardous chemicals should never have been located so close to people. People living in Kankone village have complained to the management of the factory and the authorities about a strong smell from the factory, which they say makes them cough and their eyes water. Many villagers complain of respiratory problems, skin problems and irritation in the eyes. They have also described damage to crops in fields adjacent to the factory. Testing done at the villagers' request shows high levels of sulphates in the soil, which though not conclusive in itself because of the lack of control sites, points to the urgent need for a comprehensive environmental study around the sulphuric acid factory and adjacent villages.

Despite the Letpadaung Investigation Commission's finding that UMEHL had set up and operated the factory since 2007 without obtaining permission from the Ministry of Industry, the government did not take any action to hold UMEHL to account. To the contrary, in July 2013 the Ministry simply gave UMEHL the necessary permission to continue operations. The government did not carry out or require any assessments to be undertaken of the possible impacts of the factory, nor did it consult the communities living near the factory who have repeatedly asked for it to be stopped and moved. The government's failure to act demonstrates its unwillingness to hold UMEHL accountable, despite its blatant disregard of the law.

UMEHL has abused the right to health of people of Kankone village by illegally setting up and operating a factory producing hazardous chemicals, which poses severe risks to people's health and the local environment. In order to ensure a safe minimum separation distance from people, the sulphuric acid factory should be moved to another location. The operations of the factory should be



above: The sulphuric acid factory operated by the military-owned conglomerate, the Union of Myanmar Economic Holdings Limited (UMEHL). The factory is located close to Kankone village and farmlands. Between 2007 and 2013, UMEHL operated the factory illegally. June 2013.

opposite: Sign outside the UMEHL Moe Gyo sulphuric acid factory. (Moe Gyo means Thunder in English). August 2013.

immediately stopped until a new location is identified and a comprehensive assessment is undertaken in consultation with affected communities.

International standards on the rights to health and water require, amongst other things, that governments enact and enforce laws to prevent pollution of air, water and soil by companies. The government has failed to put in place a regulatory and monitoring framework to protect people from pollution from the Monywa project and the Sulphuric Acid Factory which can negatively impact their rights to water and health. Even when concerns have been raised by local communities with the authorities - repeatedly in relation to ground water and the sulphuric acid factory - the government has failed to ensure an independent investigation into these concerns.

INADEQUATE ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT FOR THE LETPADAUNG MINE

**“APPROXIMATELY 1 BILLION TONS OF WASTE ... [WILL BE] GENERATED OVER
THE PROPOSED 30 YEAR MINE LIFE”**

– ESIA for the Letpadaung mine

Amnesty International requested an environmental scientist with many years' experience to review the final draft version of the Environmental & Social Impact Assessment (ESIA) for the Letpadaung mine, dated May 2014, published by Myanmar Wanbao. Although the Letpadaung mine, S&K mine

and the Sulphuric Acid Factory have shared ownership, the ESIA did not look at the cumulative impacts of these three interrelated projects on people living in the area. This is a major omission considering the similarities between the Letpadaung and S&K deposits and unresolved community concerns about the S&K mine and the Sulphuric Acid Factory. It is also contrary to the International Finance Corporation safeguards with which the ESIA claims to comply, which require an assessment of cumulative impacts.

The expert analysis of the ESIA has also revealed various flaws, including the failure to include the final designs of key infrastructure for waste storage and for processing of the copper ore. This infrastructure poses high risks to the environment and local communities and the final design should have been communicated in the ESIA for public scrutiny. This also means that as yet there is no certainty of how the final design will ensure that mine components can withstand earthquakes, a key concern considering the project is located in an earthquake zone.

The social and health assessment is extremely superficial. For instance, the ESIA acknowledges that there are higher than normal incidences of certain respiratory ailments linked to existing air quality in the project area. It also notes that existing mining operations were contributing to dust being generated but does not collect data on the S&K mine or assess whether this is contributing to people's respiratory ailments. Wanbao Mining which owns the companies operating both mines should have ensured that these health impacts were examined in detail and remedial action taken as appropriate. This is one of many areas where concerns were highlighted about the existing S&K mine operations, including in the consultations that were conducted with the villagers, but not addressed either in the ESIA or by Wanbao Mining.

below: Inside the S&K mine.

opposite: Mounds of sediment from hazardous copper tailings, off the Pathein-Monywa road, discharged by Sabetang and Kyisintaung (S&K) mine in 1995 and 1996. The tailings pose high health risks for local artisanal miners who manually extract copper from them. March 2014.



There is no analysis of gendered impacts of the project, including loss of common and grazing land and lack of employment opportunities for women. There are also no specific assessments of the implications of the project for each village or on particular groups of people, and the solutions suggested are vague, without clarity on whether they will be definitively adopted.

The ESIA relies on a voluntary approach by the company and to date, the Myanmar government has not adopted adequate environmental safeguards or built the technical capacity of the Ministry of Environmental Conservation and Forestry to regulate risks associated with such a large and environmentally sensitive project. People living around the mine need to know that the crucial elements of the environmental management plan for the project are not left to the discretion of the company and only based on a voluntary assessment and commitments, which may only be partially monitored and enforced by the government.

LACK OF TRANSPARENCY AND OPAQUE SALE OF ASSETS

The failure to fully disclose the environmental risks and impacts of both the S&K and Letpadaung mines is emblematic of a wider lack of transparency and accountability around the whole Monywa project. For example, the transfer of ownership of the Monywa project to a Chinese-Myanmar military partnership occurred at a time when US, EU and Canadian economic sanctions applied to all dealings with UMHEL and the Myanmar military. Ivanhoe Mines has never explained how its former interest in the Monywa project ended up in the hands of the UMHEL-Wanbao Mining partnership. An examination of the company's behaviour reveals that it used entities in secrecy jurisdictions, seemingly in an effort to evade scrutiny of its dealings in relation to its Myanmar assets.

In 2006, Ivanhoe Mines announced its intention to divest its interest in the Monywa project in Myanmar. It established the Monywa Trust, described as an independent third-party trust, and transferred ownership of the Monywa assets to the Trust. It stated that the purpose of the Trust was to facilitate the future sale of its Myanmar assets and to ensure that the process did not involve a breach of economic sanctions relating to Myanmar. Ivanhoe Mines did not reveal which jurisdiction the Trust was established in. However, based on company searches carried out in multiple countries, Amnesty International believes the Trust was registered in the British Virgin Islands, a British Overseas Territory and established secrecy jurisdiction.

Ivanhoe Mines claimed that it had no involvement in the Myanmar joint venture (MICCL) after February 2007. However, information from US Embassy cables published by Wikileaks revealed that Ivanhoe Mines remained involved in discussions about the sale of the Myanmar assets in 2008, after the establishment of the Trust. The same cables also reveal that a well-known 'crony', Tay Za, was involved in negotiating the sale. Further investigations by Amnesty International found that the Trust was not an independent Trust and that Ivanhoe Mines had set up what was described as "a protector company" in Barbados. This company had oversight of the Trust. A director nominated by Ivanhoe Mines, who was also an employee of Ivanhoe Mines, sat on the board of the protector company. These facts were not disclosed in Ivanhoe Mines' public filings before the US and Canadian regulatory bodies.

If funds or economic resources were made available to Tay Za or UMEHL (even indirectly) in connection with the sale of the Myanmar Assets, the Trust may have committed an offence under UK law on economic sanctions related to Myanmar (as applied to the British Virgin Islands). Similarly, Ivanhoe Mines may have breached applicable Canadian economic sanctions because of its oversight of the Trust and failure to regulate the Trust's sale of the 50% in MICCL at a time when it knew, or should have known, that this sale would make property available directly or indirectly for the benefit

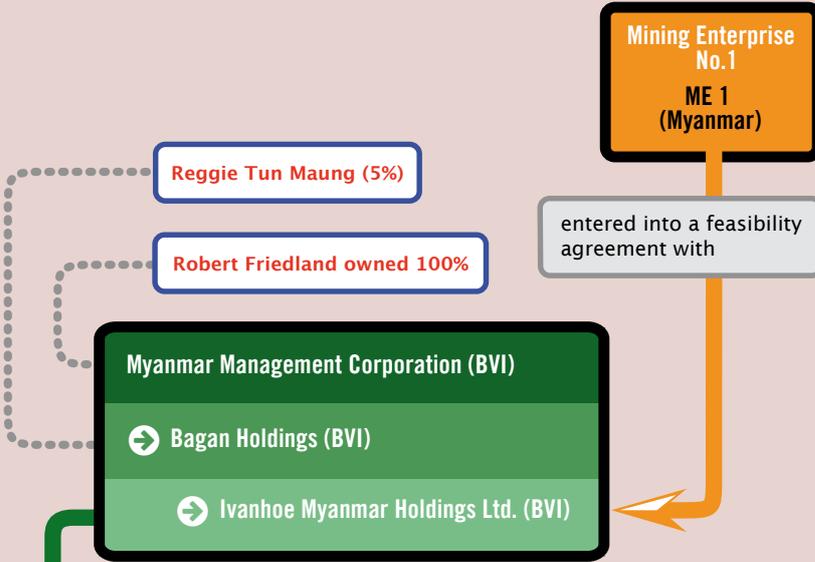


Credit: Amnesty International

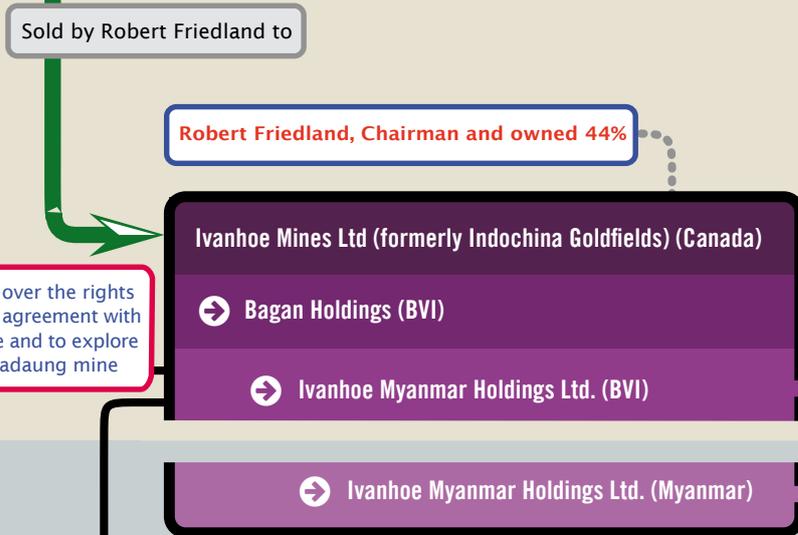
PASS THE PARCEL: TIMELINE AND CORPORATE RELATIONSHIPS

February
2007

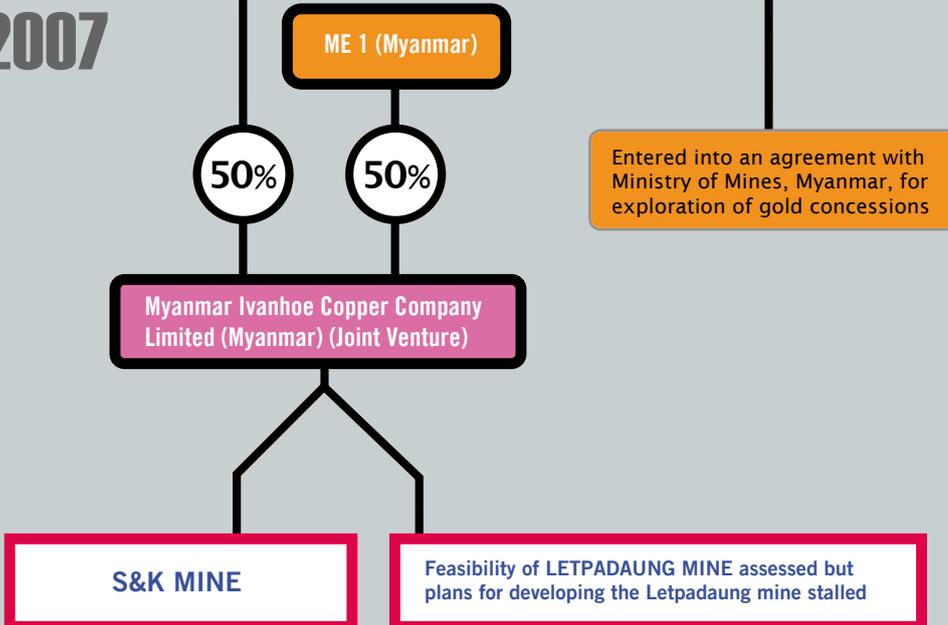
1994



1995



1996-
2007



THE TRUST:
Ivanhoe Mines created a trust, the location and trustees are a secret

transferred to the trust

June 2010 onwards

Ivanhoe Mines announces trust sold the Myanmar Assets in July 2011 including its 50% stake in the Monywa Copper Project, buyer(s) not disclosed

No information on how UMEHL was able to enter into a production sharing contract in June 2010 if it did not own all the Monywa project and if trust had not yet sold Ivanhoe Mines 50% stake

Union of Myanmar Economic Holdings Limited (UMEHL) (Myanmar)



- China North Industries Corporation (NORINCO), China
- ↻ Wanbao Mining Limited, China
- ↻ Hong Kong Wanbao Mining Copper Limited
- ↻ Myanmar Yang Tse Copper Limited
- ↻ Myanmar Wanbao Mining Copper Limited

Entered into a production sharing contract about the Monywa project (agreement is not public) but appears to cover both the S&K mine and the rights to develop the Letpadaung Mine

operates the mine but production sharing and ownership arrangements not published

ME 1 (Myanmar)

51%

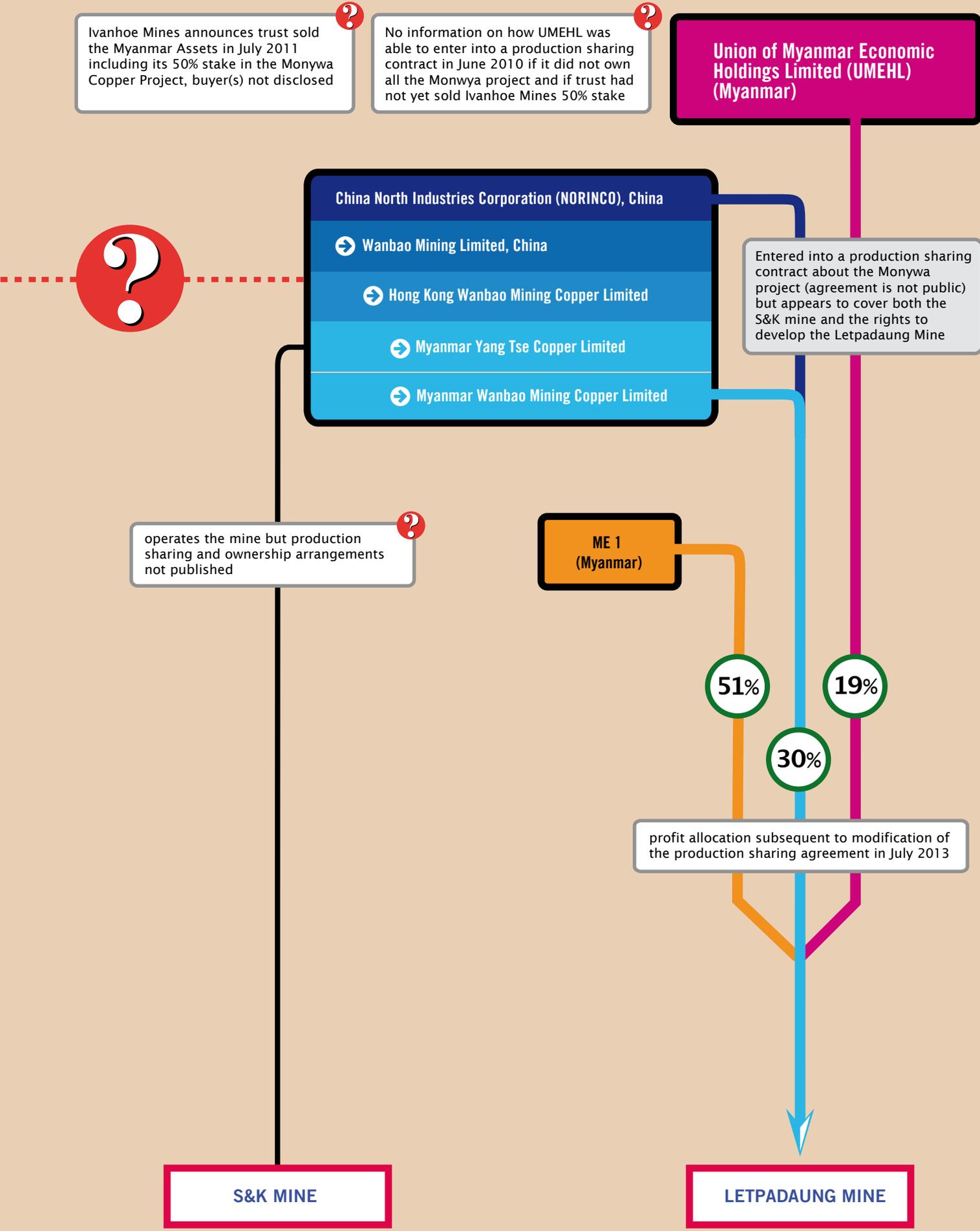
19%

30%

profit allocation subsequent to modification of the production sharing agreement in July 2013

S&K MINE

LETPADAUNG MINE



of UMEHL or Tay Za. US economic sanctions may also have been breached if any US nationals were involved in these transactions.

All of the information collected by Amnesty International leads to the conclusion that Ivanhoe Mines set up a Trust to allow it to dispose of the stake in MICCL in a manner which would enable it to evade any public scrutiny and applicable and future sanctions related to Myanmar. Ivanhoe Mines has attempted to exploit legal loopholes in multiple jurisdictions to keep the Trust and all transactions related to the sale of the 50% stake in MICCL, and other Myanmar Assets, shrouded in secrecy. It has never responded to the Wikileaks' revelations about its continued involvement in MICCL and negotiations for the sale, including the use of Tay Za as a broker for the sale. More than seven years after the Trust was set up, people affected by the Monywa project still do not know who sold the project to whom and the agreements reached – if any - between the different entities as to their respective responsibilities for any human rights, environmental and other damage.

Moreover, the sale of its former stake in the Monywa project may not be the only activity whereby Ivanhoe Mines or its subsidiaries may have breached economic sanctions. Ivanhoe Mines has stated that until December 2006 MICCL sold all of the copper produced at Monywa to Marubeni Corporation (a Japanese trading company). Amnesty International has obtained copies of two internal MICCL reports, dated December 2003 and January 2004, which contain details of MICCL's monthly actual sales of copper. The list of entities to whom copper was sold reads like a 'who's who' of the Myanmar security forces and related establishments. Copper was sold to, amongst others, a number of military intelligence units, the Special Branch, and various state-owned enterprises in which the military has a significant stake, such as the Myanmar Gems enterprise. Also on the list of buyers is the Union Solidarity and Development Association, an organization suspected to be involved in several human rights abuses including the crackdown on peaceful demonstrators and Buddhist monks and nuns during the Saffron Revolution in 2007 and an attack on Daw Aung San Suu Kyi and her and her supporters in 2003. If the copper supplied by MICCL was used by the Myanmar military and related entities listed above for military activities or the manufacture, maintenance or use of any restricted goods, this could amount to "assistance" contrary to economic sanctions under UK law which applied to the British Virgin Islands. If so, Ivanhoe Mines' British Virgin Islands subsidiaries may have committed an offence under UK law (as applied to the British Virgin Islands).

The Canadian, US and UK authorities should investigate all transactions around the sale of the 50 % stake in MICCL as well as Ivanhoe Mine's other assets in Myanmar to assess if sanctions or other regulations have been breached by the Trust, Ivanhoe Mines and/or directors of Ivanhoe Mines. The US and Canadian authorities should also investigate Ivanhoe Mines' failure to disclose relevant information in the company's public filings.

CORPORATE COLLUSION IN ABUSE

The government of Myanmar is responsible for the serious human rights violations that have taken place at the Monywa project over many years. It has forcibly evicted people and has not put in place safeguards to protect mine-affected communities from environmental pollution which can impact their rights to water and health, amongst other rights. It has shown an unwillingness to monitor or hold companies accountable and this has been exacerbated by the role of UMEHL in the project.

The companies involved also bear responsibility. Despite a history of human rights violations surrounding the mine, a Canadian company, and subsequently a Chinese company, have invested without undertaking appropriate due diligence to ensure that past abuses were remediated and future abuses prevented. They have profited from abuses that they knew or should have known were happening, and have in certain cases themselves abused rights by participating in forced evictions or failing to remediate environmental pollution.

The system that enabled the transfer of the Monywa project to a business venture that involved Myanmar military interests, without any transparency as to how such a sale occurred, is emblematic of the lack of accountability that exists around allocations of concessions and contracts in the extractive industry in Myanmar.

The people of Myanmar must not see a resource curse unfold as it has done in so many other countries where powerful economic interests profit from a context where regulation is weak, the government is unwilling to hold powerful political interests accountable and there is no transparency. The home states of multinational corporations must ensure that these corporations do not unjustly enrich themselves at the expense of Myanmar's poorest people. The home states of companies involved in the Monywa project – Canada and China – have failed to do so.

**Villagers protest against the mining project during a visit by Myanmar opposition leader Aung San Suu Kyi
March 13, 2013.**



CONCLUSION AND RECOMMENDATIONS

The government has undertaken some legal reforms related to land acquisition and environmental protection since the Letpadaung project was set up. While this is positive the reforms do not go far enough. People still lack protection against forced evictions and other human rights violations linked to land acquisition for commercial uses. Myanmar also lacks adequate environmental standards and the technical capacity to regulate the environmental impacts of extractive and other environmentally sensitive projects, leaving it to companies to determine how they manage these projects. This approach is deeply flawed, leaves people at risk of corporate human rights abuses and denies them the ability to hold companies accountable and obtain effective remedies.

The Monywa project is a cautionary tale. The government of Myanmar needs to urgently act to prevent further human rights abuses and to provide an effective remedy for the human rights abuses that people have already suffered. The government must put in place adequate legal frameworks on land acquisitions, environmental protection and the policing of protests before signing off on any further large-scale projects that will impact human rights. It must also be willing to monitor, regulate and provide remedies against companies and investigate its own officials. As the Monywa project starkly demonstrates, self-regulation by companies is not the answer.

The government of Myanmar has taken some positive steps forward and there are people within the government who are committed to the reform process. However, much more needs to be done if investment in Myanmar is to be an effective means of improving the lives of poorer people in the country. This cannot happen unless the government is willing to ensure that human rights are protected and abusers accountable.

Home state governments must establish mandatory requirements for companies to undertake due diligence prior to investing or undertaking business operations in Myanmar. The seriousness of the ongoing human rights situation in Myanmar and the lack of adequate national safeguards underlines the importance of enhanced human rights due diligence by companies investing in the country.

RECOMMENDATIONS TO THE GOVERNMENT OF MYANMAR

- Immediately halt the construction of the Letpadaung mine and suspend the project until environmental and human rights concerns are resolved in genuine consultation with all affected people.
- End forced evictions and ensure that no evictions are undertaken unless all procedural safeguards required under international human rights law have been put in place.
- Require UMEHL to move, as a matter of urgency, the Moe Gyo Sulphuric Acid Factory to a location where it is at a minimum safe distance from inhabited areas and with full disclosure of all safety measures to be taken prior to, during and post move. In the interim, stop the operations of the factory as a precaution.
- Require Myanmar Wanbao and its joint venture partners to address the shortcomings in the Letpadaung ESIA in consultation with all affected people.
- Require Myanmar Yang Tse to undertake a full assessment of existing pollution at the S&K site and clean it up. The process should be transparent, subject to independent monitoring and accomplished as fast as is technically feasible. Ensure that any negative impacts caused by the S&K mine are addressed before proceeding with the Letpadaung mine.
- Clean up all contamination outside the S&K mine site.

- Investigate and prosecute, in accordance with international standards for fair trials, any officials who were involved in the use of incendiary white phosphorus munitions against peaceful protesters on 29 November 2012.
- Investigate and take action against UMEHL for setting up and operating a sulphuric acid factory in breach of national laws.
- Ensure that all victims have access to effective remedies. This should include compensation for people whose homes and farms have been damaged and suffered injuries inflicted by the police, medical rehabilitation for those who require it, clean-up of pollution, and adequate relocation.
- Immediately drop all charges brought against persons for organizing or participating in peaceful protests, demonstrations and assemblies and release all persons who have been imprisoned solely for the peaceful exercise of their human rights.
- Urgently strengthen environmental safeguards to ensure that people are protected against pollution of water, air and soil by extractive and manufacturing industries and enact and enforce legislation prohibiting forced evictions.

RECOMMENDATIONS TO THE COMPANIES

- Wanbao Mining and UMEHL should make a public commitment to suspend all development and construction at the Letpadaung mine until human rights and environmental concerns are resolved.
- UMEHL should urgently relocate the Moe Gyo Sulphuric Acid Factory, fully disclose and remediate any negative impacts caused by its operations.
- Myanmar Yang Tse should undertake an assessment of existing pollution at the S&K site and clean it up.
- Myanmar Wanbao and UMEHL should ensure that all the villagers who were forcibly evicted for the Letpadaung mine receive adequate reparation, including compensation.
- Ivanhoe Mines (Turquoise Hill Resources) should disclose all the information it holds on pollution from the S&K mine and clean-up undertaken by MICCL. It is responsible for compensating people for environmental damage and forced evictions linked to its joint venture and should put aside funds for such compensation and engage with the government of Myanmar to ensure that compensation is paid.
- Ivanhoe Mines (Turquoise Hill Resources) should disclose all transactions related to the Trust and divestment of its Myanmar assets.
- All the companies should ensure that they have put in place processes to ensure human rights due diligence, in line with the UN Guiding Principles on Business and Human Rights.

RECOMMENDATIONS TO OTHER GOVERNMENTS

- The governments of Canada and China should immediately engage with Turquoise Hill Resources and Wanbao Mining to ensure that they comply with the recommendations above.
- The governments of UK, Canada and US should investigate all transactions around the sale of

Ivanhoe Mines' Myanmar Assets to the Trust, and to subsequent owners, to assess if economic sanctions or other regulations have been breached by Ivanhoe Mines or by UK, US or Canadian nationals involved in these transactions.

- All governments should institute legal and policy reforms to require companies domiciled or headquartered in the country to carry out adequate human rights due diligence throughout their global operations. These reforms should include mandatory requirements for enhanced due diligence prior to a company undertaking any investment or operations in Myanmar.



WHETHER IN A HIGH-PROFILE CONFLICT OR A FORGOTTEN CORNER OF THE GLOBE, **AMNESTY INTERNATIONAL** CAMPAIGNS FOR JUSTICE, FREEDOM AND DIGNITY FOR ALL AND SEEKS TO GALVANIZE PUBLIC SUPPORT TO BUILD A BETTER WORLD

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OPEN FOR BUSINESS?

CORPORATE CRIME AND ABUSES AT MYANMAR COPPER MINE

With the dismantling of economic sanctions, foreign investors are looking to enter Myanmar and the country is keen to show that it is now open for business. In particular, Myanmar's vast wealth of natural resources presents an attractive opportunity for multinational oil, gas and mining companies.

However, safeguards to protect communities affected by extractive activities are not yet in place, and the military remains closely involved with business activity in Myanmar. Foreign corporations doing business in the country face a high risk of colluding in human rights abuses if they do not take effective preventative action.

These risks are starkly illustrated by the example of one major mining operation - the Monywa copper project in central Myanmar, which has involved Chinese and Canadian mining interests. The project includes the notorious Letpadaung mine, which has sparked protests. In 2012 police used white phosphorus, a highly toxic and explosive substance, against peaceful protesters, an act amounting to torture, which is a crime under international law. In 2014 one woman died and several other people were injured when police opened fire on protesters.

Since its inception the Monywa project has been built on a foundation of forced evictions, environmental pollution and a lack of transparency. Thousands of people have been driven from their homes without adequate compensation or relocation. Hazardous waste discharged from the mine during the 1990s has still not been fully cleaned up, exposing people to serious health risks. Thousands more people are at risk of losing their homes and livelihoods in ways that violate international human rights law.

This report highlights wider structural issues - including the absence of a legal framework to protect people who are highly dependent on land for their livelihoods. It also highlights the involvement of companies in illegal activity. Investment can bring benefits to the people of Myanmar, but only if the existing abuses and the future risks are effectively addressed. The Myanmar government must investigate and remedy past abuses at Monywa, and impose stronger legal safeguards for the future. Investment in Myanmar must not come at the expense of the human rights of people living there; it is vital that home State governments require companies entering Myanmar to carry out enhanced due diligence.

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