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To: Mr. Khew Sin Khoon  
Chief Executive Officer  
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From: The International Commission of Jurists (ICJ)

Subject: Request for disclosure of Environmental Impact Assessment (EIA) in Kyaukphyu Special Economic Zone (SEZ)

Date: 6 April 2015

Dear Mr Khiew Sin Khoon,

I write on behalf of the international Commission of Jurists to enquire about the activities of CPG Corp. at the Kyaukphyu Special Economic Zone in Rakhine State, Myanmar.

The ICJ understands that CPG Corp. has won the tender for the Kyaukphyu SEZ in Rakhine State, Myanmar. We write to inquire if CPG Corp. has undertaken an EIA in Kyaukphyu relating to the SEZ and if so, to request that the EIA and any related social and environmental management plans be shared with us and be made publicly available.

Composed of 60 eminent jurists and lawyers from all regions of the world, the ICJ promotes and protects human rights through the Rule of Law, by using its unique legal expertise to develop and strengthen national and international justice systems. As part of its work in Myanmar, the ICJ has worked with the Directorate of Investment and Company Administration, the Attorney-General's Office, and the Union Supreme Court of Myanmar, as well as civil society organizations, to strengthen and support local efforts at ensuring that investment protects and promotes the rule of law, human rights and the environment. In this regard, the ICJ has been following the

development of the three SEZs in the country, visited the SEZ sites, and has conducted research on their impact on human rights and the environment.

We understand from civil society organizations based in Kyaukphyu as well from local communities that residents in Kyaukphyu have raised concerns that include the following:

(ii) Lack of **Access to information:** Local community members have complained there has been a lack of access to information relating to projects being implemented in the Kyaukphyu SEZ;

(ii) Insufficient **Consultation and Consent:** Local community members have alleged there has not been free prior informed consent received from affected local communities regarding the major components of the SEZ and on decisions directing affecting their lives and livelihoods (i.e. loss of land, jobs, relocation and compensations);

(iii) Insufficient **Compensation:** Local community members claim there has not been sufficient transparency in the settling of compensation rates, and inadequate rates of compensation;

(iv) Forced **Resettlement:** Local community members have voiced concerns about inadequate arrangements for resettlement;

(v) **Environmental damage:** Local community members have voiced concerns regarding the potential for environmental damage that constructions of dams may cause to nearby rivers and farmlands.

Myanmar law establishes the necessity of an EIA for foreign investments in the country. The Myanmar Foreign Investment Law (at 17(h)), as well as the Myanmar Citizens Investment Law (at 15(f)) state that the duties of a domestic investor include "carrying out not to cause environmental pollution or damage in accordance with existing Laws in respect of investment business."

The Myanmar Investment Committee, exercising the powers conferred to it under the Foreign Investment Law, Section 56(b), has issued Notification 50/2014, which classifies economic activities for which EIAs are required. The Kyaukphyu SEZ project's proposed activities, such as the construction of the industrial area itself, would fall under several of these classified types.

Within international law, it is well established that States have procedural obligations in relation to protection of the environment, including duties to assess environmental impacts and to make environmental information public.

The United Nations (UN) Guiding Principles on Business and Human Rights, unanimously endorsed by the Human Rights Council, underscore the duty of business enterprises to respect human rights and to avoid infringing on the human rights of others and to address adverse human rights impacts with which they are involved. The importance of EIAs is also underscored by the following: Equator Principles (Principle 2), OECD Guidelines for MNCs (VI: Environment, at Article 3), and the IFC Performance Standards on Environmental and Social Sustainability (Performance Standard 1).

The Kyaukphyu SEZ will have significant effects on the environment and on the rights of local communities. Impact assessments are important before a project is approved in order to identify potential impacts, assess alternatives, and avoid or mitigate serious human rights and environmental violations. Typically, they would lead to the formulation of environmental and social management plans to be applied throughout the duration of a project to identify specific risks and deal with them effectively.

The ICJ requests that CPG Corp. clarify the current status of the EIA studies on the Kyaukphyu SEZ. If the EIA has been completed, the ICJ requests that the EIA be made public soonest. If the EIA is incomplete, please clarify when the EIA is expected to be finished and what plans you have to make the EIA results accessible to affected communities and to the public.

I look forward to your response and cooperation in this important matter. Please do not hesitate to contact me if you have any comments or questions.

Thank you.

Sincerely,



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