



The Social Responsibility of China's OFDI and NGOs' Engagement

Taking the Myanmar Letpaduang Copper Mining Project as an Example

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Abbreviation

AI	Amnesty International
CBOs	Community-Based Organizations
CFPA	China Foundation for Poverty Alleviation
CSD	Community Social Development
CSR	Corporate Social Responsibility
CSOs	Civil Society Organizations
CTUM	Confederation of Trade Unions of Myanmar
DICA	Directorate of Investment and Company Administration
EIA	Environmental Impact Assessment
ECL	Environmental Conservation Law
EITI	Extractive Industries Transparency Initiative
ESIA	Environmental and Social Impact Assessment
FDI	Foreign Direct Investment
FFI	Fauna & Flora International
GEI	Global Environment Institute
GMS	Greater Mekong Subregion
IR	International River
ILO	International Labor Organization
INGO	International Non-Governmental Organization
LIC	Letpadaung Investigation Commission
LCMP	Letpadaung Copper Mining Project
MCRB	Myanmar Centre for Responsible Business
MECF	Ministry of Environmental Conservation and Forestry
ME-1	Mining Enterprise No. 1
MIC	Myanmar Investment Commission
MICCL	Myanmar Ivanhoe Copper Corporation Limited
MLESS	Ministry of Labor, Employment and Social Security
MOC	Chinese Ministry of Commerce
MOF	Ministry of Energy
NDRC	National Development and Reform Commission
NEAC	National Environmental Affairs Commission
NGO	Non-Governmental Organization
OFDI	Outward Foreign Direct Investment
SLF	Sustainable Livelihood Framework
SWIA	Sector-Wide Impact Assessment
S&K	Sabetaung Copper Mine and Kyisintaung Copper Mine
UMEHL	Union of Myanmar Economic Holdings Limited

Executive Summary

Thanks to the implementation of “going global” strategy, China's OFDI has kept growing steadily, which not only accelerated economy growth of host countries and created employment for local people, but also helped to improve local infrastructure conditions such as transportation, communication, drainage, healthcare and schools. However, Chinese companies still need to improve their capacity to realize sustainable development, especially in the areas of localization, environmental protection, community development, labor rights and information disclosure, among other areas.

It's an important duty and opportunity for Chinese NGOs to promote the socially responsible development of China's OFDI. Through cooperation and monitoring, Chinese NGOs can contribute to the implementation of China's OFDI policies and regulations, and promote the communication between Chinese government, companies and stakeholders in the host countries to realise a win-win situation.

However, Chinese NGOs are still in the initial phases of internationalization. These NGOs, which pay attention to China's OFDI, are very limited in both number and capacity. To encourage more Chinese NGOs to engage in the responsible development of China's OFDI, we need to provide supports to NGOs with more knowledge in this field. However, there are still few studies which analyze the complicated stakeholders that Chinese companies face on the ground at the micro level with research on the institutional framework of host countries at a macro level.

Therefore, this research identified Myanmar as the targeted country and the LCMP as an example to explore social and environmental law and policy framework as well as social and environmental impacts of FDI in Myanmar. Meanwhile, we try to analyze the conflicts, challenges and the complicated relations between stakeholders in the case and summarize the lessons and experience for Chinese companies.

Findings

In general, the social and environmental impacts of China's OFDI in Myanmar had no obvious difference from other foreign investments, but as China invested more in resource-intensive industries including hydropower, petroleum & natural gas as well as mining sectors, the problems brought about upon local communities, the environment and labor rights caused by China's investment are more obvious. Moreover, most Chinese companies are in the beginning stage of “going global” and lack awareness, capacity and mechanism to cope with social and environmental issues. These limitations have triggered and worsened the conflicts between Chinese companies and stakeholders.

Taking the LCMP as example, the project has aroused broad concern and wide stakeholders' engagement due to the crucial change of Myanmar institutional context and the complex background and problems in the history of the project. In the ongoing conflicts, Myanmar government was both the supervisor and partner of the project, and their immature governance frame and capacity added to the severity of the conflicts. In an environment of relaxed social regulation, civil society (NGOs and CBOs) had the chance to express their demands, which broadened the concern about and supervision of the project from greater society. However, as the directly affected subjects, the villagers had varied demands, which were characterized by diversity and contradiction with each other.

How to respond to the external political change and balance stakeholders' demands is a great challenge for Chinese companies. Sticking to the sole criterion of abiding by local laws and regulations is not enough for Chinese companies to attain social license. Especially in developing countries like Myanmar, it has formed a rather complex legal system and framework, which is still in a stage of rapid change after the periods of colonization, civil war and democratic transition. However, Chinese policies on OFDI pay more attention to prior approval and lack effective supervision on the operation of projects, leading to a situation in which they cannot support companies to cope with social and environmental problems.

Conclusion

Looking at the lessons and experience of the LCMP, it is important that Chinese companies need to work with third party especially NGOs to carry out ESIA and community consultation based on the rules of FPIC, to dynamically evaluate and monitor the demands and attitudes of stakeholders and set up mechanism for affected groups to express their demands, which will help companies to lower social and environmental risks and better their reputation.

This is a good opportunity for Chinese NGOs, which are capable of recognizing the demands of stakeholders such as the communities and NGOs from bottom to top and finding an acceptable manner to communicate with Chinese government and companies and organizing dialogues between companies and stakeholders. They can also contribute to improving the legal and policy system of the host countries and improve the governance capacity of local government so that local government can provide a stable environment for investment and supervise companies' social and environmental performance efficiently.

Though these are important chances for Chinese NGOs in the process of “going global”, many requirements are put forward on NGOs. It not only requires Chinese NGOs to understand the social and environmental impacts brought by investments more comprehensively and deeply, but also to understand the restraints and challenges Chinese companies are facing in host countries. This knowledge is crucial for Chinese NGOs to define strategy in this field. Besides, it is also necessary for Chinese NGOs to understand the politics, laws and policies, culture and customs of host countries, especially the demands and power of communities and NGOs. However, Chinese NGOs that meet such requirements are currently very few, and most of them need improvement on capacity and practices. Based on the findings and conclusions, we propose the following suggestions to the Chinese NGOs and companies.

1. Suggestions to Chinese NGOs

Chinese NGOs should pay attention to OFDI and international development agendas while devoting themselves to local issues and sharing information with civil society in host countries about Chinese policies and decision-making mechanisms, which will support these organizations to communicate with Chinese government and companies efficiently.

Chinese NGOs should communicate with Chinese companies more extensively to understand companies' challenges and capacity limitations, to identify what they can contribute to the real problems, and to study the macroscopic context such as the politics, legal systems, culture and civil society of host countries, and

to analyze the power and demands of stakeholders and assess the potential risks and feasibility of their strategy and plans.

Chinese NGOs could contribute to monitoring the social and environmental performance of China's OFDI and share with Chinese companies about the international standards, best practices and experience which will support Chinese companies to improve social and environmental policies.

2. Suggestions to Chinese companies

When investing in developing countries with weak legal systems, Chinese companies could adopt international social and environmental standards to eliminate the potential risks caused by political unrest and legal reform in host countries.

Chinese companies should cooperate with NGOs to assess the social and environmental impacts dynamically, to analysis the power relationships among stakeholders and get their feedbacks on companies' social and environmental policies.

In the initial stage of the project, Chinese companies should make efforts actively to understand the demands and requirements of affected stakeholders especially local villagers and NGOs, to balance the interests between local government and other stakeholders, and to set up regular communication and complain mechanism to respond to stakeholders' demands.

Chapter 1

Introduction

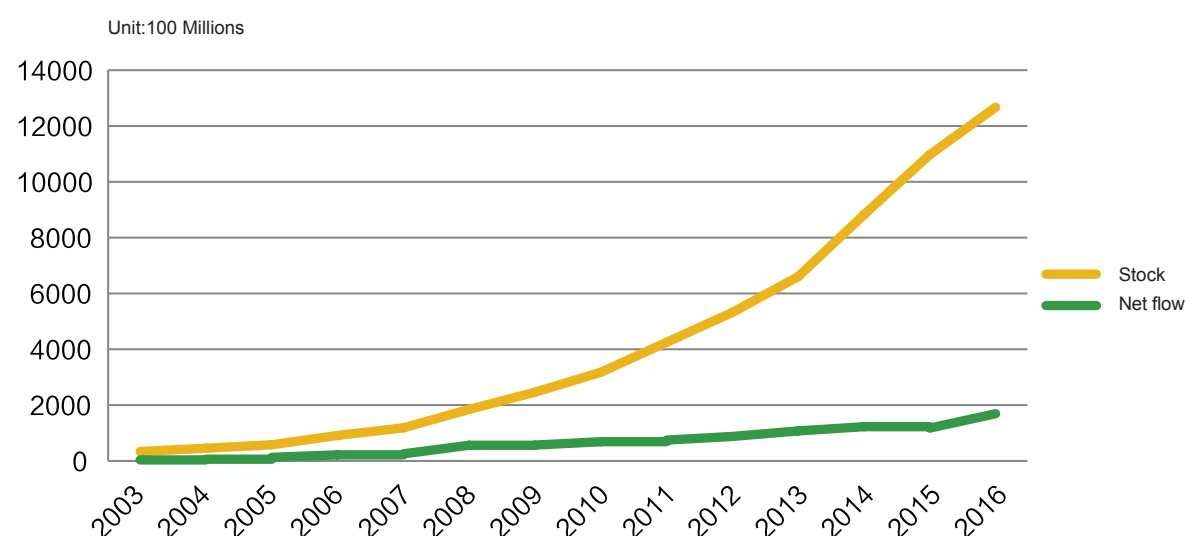


1.1 Background

1.1.1 Basic Facts and Problems on China's OFDI

Thanks to the implementation of “going global” strategy, China's OFDI (Outward Foreign Direct Investment) has kept growing steadily. In 2003, China's OFDI net flows were \$2.85 billion and the investment stock was \$33.2 billion. By 2014, the net flows had increased to \$123.12 billion, with an average annual growth rate of 47%, while investment stock has increased to \$882.64 billion ^[1].

After 13 years of consecutive rapid growth, China's OFDI net flows ranked second over the world in 2015 and reached \$ 170.1 billion in 2016. Up to the end of 2015, 20.2 thousand domestic investors in China have established 30.8 thousand companies out of the country (territory), 50.4% of which were state-owned enterprises and 49.6% were private-owned enterprises ^[2].



Graph 1.1 The trend of China's OFDI net flow and stock from 2003 to 2016
Sources: 2003-2016 Statistical Bulletin of China's Outward Foreign Direct Investment

China's OFDI not only accelerated economy growth of host countries and created employment for local people, but also helped to improve local infrastructure conditions in areas such as transportation, communication, drainage, healthcare and schools. However, Chinese companies still need to improve

their capacity to realize sustainable development, especially in the areas of localization, environmental protection, community development, labor rights and information disclosure, among others ^[3].

According to the reported events, the conflicts

that Chinese companies were encountering usually occurred in resource-intensive industries, such as hydropower, extraction, agriculture and infrastructure sectors. The occurrence of these conflicts was closely related to the difference of legal context, community development, culture and beliefs between China and host countries, and the companies' awareness and capacity to fulfill Corporate Social Responsibility obligations ^[4].

Chinese government has issued a series of policies to strengthen the regulation of Chinese companies' investments overseas targeting to risk management, foreign exchange, security, labor rights as well as environmental protection. Some state-owned enterprises have improved their internal social and environmental policies according to these policies. However, most companies have less knowledge of them. The Chinese government needs to improve the regulation mechanism to make these policies implemented on the ground effectively ^[5].

Considering Chinese companies' behaviors on one hand, they didn't fully conduct the Environmental and Social Impact Assessment (ESIA) and Due Diligence which are necessary to prevent and manage social and environmental risks. On the other hand, Chinese companies, especially state-owned ones, usually pay more attention to the consultation with local government rather than other stakeholders, such as local communities, trade unions, and NGOs, etc, which made it harder for companies to find out the hidden danger facing their own development. The method of solely relying upon governments is not enough for Chinese enterprise to tackle the social and environmental risks, problems and challenges that they are encountering overseas.

1.1.2 The Importance of Chinese NGOs' Engagement

It's NGOs' specialty and capacity to cope with social

and environmental issues. For Chinese NGOs, they can work to promote the responsible development of Chinese OFDI. Through cooperation and monitoring, Chinese NGOs also can contribute to the implementation of Chinese OFDI policies and regulations, promoting the communication between Chinese government, enterprise and stakeholders in the host countries to realize a win-win situation ^[6].

Recently, Chinese government has paid more and more attention on the role of NGOs in the field of international cooperation. The important role of Chinese NGOs engaging education, healthcare, poverty reduction, biodiversity and ecological protection issues abroad was mentioned in the official documents such as Vision and Actions on Jointly Building Silk Road Economic Belt and the 21st-Century Maritime Silk Road ^[7] issued in 2015, Suggestions on Reforming the Management System of Social Organizations and Promoting the Healthy and Orderly Development of the Social Organization ^[8] issued by the State Council of China and Comments Sought on Administrative Measures for Application and Implementation of South-South Cooperation Assistance Fund Projects (for trial implementation)(Drafts for Comments) ^[9] issued by Ministry of Commerce in 2016.

However, the number and capacity of Chinese NGOs, which pay attention to responsible investment of Chinese companies, were very limited. Firstly, till 2014, the amount of China's NGOs dealing with foreign affairs was 529, accounting for 0.09% in the total number of NGOs that year. Very few of those organizations have carried out projects and established offices in the overseas. The status of Chinese NGOs abroad was usually described as “no office, no full-time employees, no regular projects, and no steady funds” ^[10].

Secondly the capacity of Chinese NGOs to carry out projects in foreign countries is limited. To be

1 From the perspective of industry, in 2015, China's OFDI mainly flowed to the leasing and service sector (24.9%), financial sector (16.6%), manufacturing sector (13.7%), wholesale and retail sector (13.2%) and mining sector (7.7%). In terms of geographical distribution, China's OFDI in 2015 mainly flowed to Asia (74.4%), Latin America (8.6%) and North America (7.4%). The investment in Africa accounted for 2%, a year-on-year decrease of 7%. The investment in countries covered by the Belt and Road Initiative, however, grew rapidly.

2 The Chinese NGOs in this research refer to non-government organizations in China, including social organizations, foundations, private non-enterprise entities and organizations with business registration which aim to solve social problems.

engaged in overseas affairs requests NGOs not only to have certain language skills (English or local languages), but also need to understand the social, cultural and legal system of host countries. The capacities of communication and project managing abroad are also necessary. Currently individuals with skills that meet these requirements in Chinese NGOs are very few.

Lastly, International affairs Chinese NGOs mainly engaged included assistance and education projects, just a few organizations have started to pay attention to the impacts of China's investments overseas including Global Environment Institute (GEI), Greenovation Hub as well as Green Watershed. For example, GEI signed a memorandum with Sinohydro Group Ltd. in the Laos Nam Ngum Hydropower Project, and helped to organize experts from China to carry out biogas construction in local communities affected by the reservoir flood of the NN5 hydropower station.

1.1.3 The Questions Raised

China's OFDI may take place in many countries and regions with different political systems and culture around the world. However, Chinese NGOs are just in the initial phase of internationalization. To encourage more local NGOs to engage in the responsible development of Chinese OFDI, we need to provide supports to NGO practitioners with more knowledge in this field. Chinese NGOs not only need to learn China's OFDI policies, and the political, economic, social and culture of the host countries in a macroscopic context, but also understand the concrete social and environmental issues that China's OFDI faces in a microscopic view. Based on existing studies from Chinese perspective, there is limited research taking account of both these two aspects.

Many studies conducted by Chinese researchers

mainly have targeted to the strategy, policies, features and risks of China's OFDI. On one side, these studies contribute to improving the government's management system and advantages of China's OFDI. On the other side, some experts pointed out that Chinese government's mechanism to regulate OFDI is not binding, especially in supervising middle-and-small-sized companies.

There are also some studies focusing on specific case or industry to research the social and environmental impacts of Chinese investments. Such as Fauna & Flora International (FFI), International River (IR) and other NGOs analyzed the social and environmental impacts caused by China's OFDI in the Southeast Asian countries^[11].

In General, the studies made by Chinese scholars and think-tanks usually study the "going global" issues from a macroscopic perspective, but seldom make a thorough inquiry regarding the complex backgrounds and the conflicts among stakeholders that the certain enterprise was facing in different host countries, while NGOs' studies on China's OFDI focus more on the social and environmental impacts which was mostly advocacy-oriented and lack analysis of complicated contexts.

This research analyzes the social, environmental, legal context and civil society development of host country, describes the impacts caused by Chinese investments from the macro perspective. Meanwhile, we analyze the problems and challenges Chinese enterprises have faced from the micro perspective through case study to answer the questions including how particular context has influenced the decisions and behaviors of Chinese companies, how the conflicts among companies and stakeholders have been generated and resolved, what roles the NGOs from China and host countries have played between companies and the communities, and so on.

1.2 Research Objectives

For Chinese NGOs "going global", especially to engage in promoting the sustainable development of China's OFDI, it is necessary to acknowledge the political, social, economic and cultural background of the host countries at both the macro and the micro levels. However, China's OFDI covers 188 countries and regions around the world, and the researches and analyses on the general situation are usually too broad.

Therefore, this research identifies Myanmar as targeted country and the Letpadaung Copper Mining Project as an example (see 1.3.1), and aims to improve the Chinese NGOs' understanding of social and environmental law and policy frameworks of the host country as well as the social and environmental impacts of FDI in Myanmar. This research also tries to analyze the conflicts, challenges and the complicated relations between stakeholders that Chinese companies faced. We hope that this research can provide reference for China's NGO to explore their strategy and plan in this field.

1.3 Methodology

1.3.1 The Object of Study

The social and environmental problems haunting Chinese companies mainly broke out in Southeast Asia, Latin America and Africa. We kept our eyes fixed on GMS (the Greater Mekong Subregion) countries with the following considerations. Firstly, GMS³ is an important region for China to push ahead The Belt and Road Initiative in the Southeast Asian

area. From 2013 to 2015, China's stock of investment in this region grew by 41.7%⁴, and the scale will be further expanded. Secondly, compared to African and Latin American countries, the similarity between China and Southeast Asia is higher, which helps us understand the social and cultural background of the host countries better. Besides, GMS is relatively near China geographically, which lowers travelling costs.

Among GMS countries, we again narrowed down the target countries to Cambodia, Laos and Myanmar. Thailand and Vietnam have showed a newly fashionable status among investing countries. While with the improvement of their legal systems, more and more investment from China is flowing to other three countries of Cambodia, Laos and Myanmar.

After narrowing down the potential target countries, we started to collect cases about how Chinese companies had encountered social and environmental problems and resistance from local communities and NGOs in these countries. Based the cases, we finally identified Myanmar Letpadaung Copper Mining Project (abbreviated as LCMP) as the target.

The LCMP was quite influential in China and international community, involving many stakeholders including local communities, NGOs and the government of the host country. The Chinese companies there encountered great conflicts with the communities and NGOs that was very valuable for us to analyze the issues from community development, environmental protection and labor rights perspectives.

3 The Greater Mekong Subregion (Abbreviated as GMS) refers to 6 countries and regions in the Mekong Valley, including Cambodia, Vietnam, Myanmar, Thailand, and Yunnan Province. In 1992, with the ADB's suggestion, 6 countries in the Lantsang-Mekong Valley initiated the GMS mechanism to enhance economic ties between member countries and promote economic and social development in the subregion. Using the GMS Economic Corridor Forum to facilitate the development of the GMS Economic Corridor will be a major platform to promote the Belt and Road Initiative in Southeast Asia, and China's investment will continue to grow rapidly with it.

4 Calculated on the basis of Statistical Bulletin of China's Outward Foreign Direct Investment 2013-2015.

Though the political context in Myanmar is complex, there is more space for civil society organizations (CSOs) after the diplomatic transformation, which led this country to become a high-risk area for Chinese companies. In the case study, we aim to analyze the issues including: 1) the complicated backgrounds that Chinese companies faced in the host country and the power relation among different stakeholders; 2) figuring out what roles NGOs played in the process of conflicts between Chinese companies and local communities; 3) lessons that the Chinese company had learned.

1.3.2 Methods and Team

We applied literature review and field research method in this study. We reviewed second-hand literature sources such as papers, reports, books and articles to get a comprehensive understanding of China's policies on OFDI and Chinese investment in Myanmar, Myanmar's policies on foreign direct investment (FDI), and the background of LCMP, etc. Based on these literatures, we carried out the fieldwork to interview stakeholders in Myanmar.

Sampling and Interview

The stakeholders including host country government, NGOs and communities involved in LCMP were very complicated who have different interests, power, understanding of and attitude towards social and environmental issues. Given our limited time and resources, we identified interviewees through snowball sampling method. The semi-structured interviews were carried out through online meetings and face-to-face interaction. The concrete categories and quantities of interviewees are as follows in Table 1.1.

The interviews were mainly designed to understand:

- a) the whole conflict process of LCMP and the different roles of stakeholders.
- b) the concrete impacts that LCMP had brought to the local communities.
- c) stakeholders' demands, and what measures the governments and NGOs can take in future, etc.

We designed different interview outlines for different stakeholders:

a) with companies, we aimed to understand what problems, challenges they had faced during the investing process, what measures they had taken to handle these challenges and what experience and lessons they had gained;

b) with NGOs, we aimed to understand what fields they had paid attention to, the findings of their research on the case, the actions they had taken and the outcomes, their attitude towards Chinese companies, etc;

c) with the villagers, we mainly aimed to understand their attitude towards the company and the project, how they had been influenced, what measures they had taken to respond and how they had communicated and negotiated with the company, etc.;

d) with researchers and think-tanks, we tried to understand how they understood the existing problems, etc.

The Team

The team was composed of researchers from Social Resources Institute (SRI), Guangxi Biodiversity Research and Conservation Association (BRC), and Beijing Riyao Xingqi Social Work Service Centre (in preparation). These three are all Chinese local NGOs, and separately focused on three fields of community development, environmental protection, and labor rights. The members of the team with research skills could communicate with interviewees in English, but no one speaks the Burmese. We used English as working language when the interviewees could speak English, and a Chinese-Burmese interpreter helped us when the interviewees could not speak English.

1.3.3 The Limitations

The number of villager interviewees is limited in this research. Since the LCMP was still a sensitive project in Myanmar, the tensions between

the company and local communities were not eliminated, and the villagers are still very cautious and alert to the arrival of Chinese. As a result, we only visited one old village affected by the LCMP and two new villages. We found villagers and monks who fight against the project to interview only through the introduction by middlemen.

Additionally, we couldn't include more interviewees also because of the limited time. A 6-day trip was not enough for the fieldwork to cover more interviewees. It also was a challenge for us to get information for 3 fields we analyzed at the same time especially when the interviewees had short time to be interviewed. Meanwhile, the only one Chinese-Burmese interpreter was also a limitation for us to carry out interviews separately in the local communities.

The vigilance of interviewees also affected the quality and depth of information we collected. For most interviewees, it was the first time meeting with us. Some of them were quite alert to our NGO identity. What's more, we are living and working in China and do not have opportunity to stay longer in Myanmar to understand better the social and cultural background of Myanmar which to some extent had affected our understanding and analysis on the problems. Besides, the language barrier was also a challenge.

In terms of methodology, the case study method lacked representativeness, and its conclusion and suggestions were limited to other cases. Moreover, with the LCMP's complicated historical background, not all its features were representative. We attempted to combine it with other cases to summarize the typical characteristics of Chinese companies.

Table 1.1 The categories and quantities of the interviewees

Categories	Interviewees
Local communities	9 villagers from 5 villages (2 new ones and 3 old ones) ⁵
International NGOs	4
Myanmar NGOs and Community-Based Organizations (CBOs)	7 (5 national, 1 regional and 1 community-based organisation)
Researchers and think tanks	3
Members of the LCMP Investigation Commission	2
companies' representatives	3

⁵ In the LCMP, 4 villages needed to be relocated to 2 new villages built by Chinese company. The old ones refer to the original places of residence, and the new ones refer to the villages that the villagers moved in. The detailed information is demonstrated in Chapter 3.

Chapter 2

The Social and Environmental Impacts of FDI in Myanmar

From a macro perspective, this chapter will firstly present FDI development in Myanmar, which helps us understand the characteristics of China's investment in Myanmar from a historical view. Secondly, we'll try to analyze Myanmar laws and policies related to social and environmental issues on FDI, and the development of civil society to understand the external systematic context Chinese companies face in Myanmar. Lastly, we'll summarize the social and environmental impacts that FDI caused in Myanmar generally, and try to compare the similarities and differences between Chinese investments and other countries'. These contents will provide a reference frame for Chinese NGOs to understand the host countries' macro context.

2.1 The Development of FDI in Myanmar

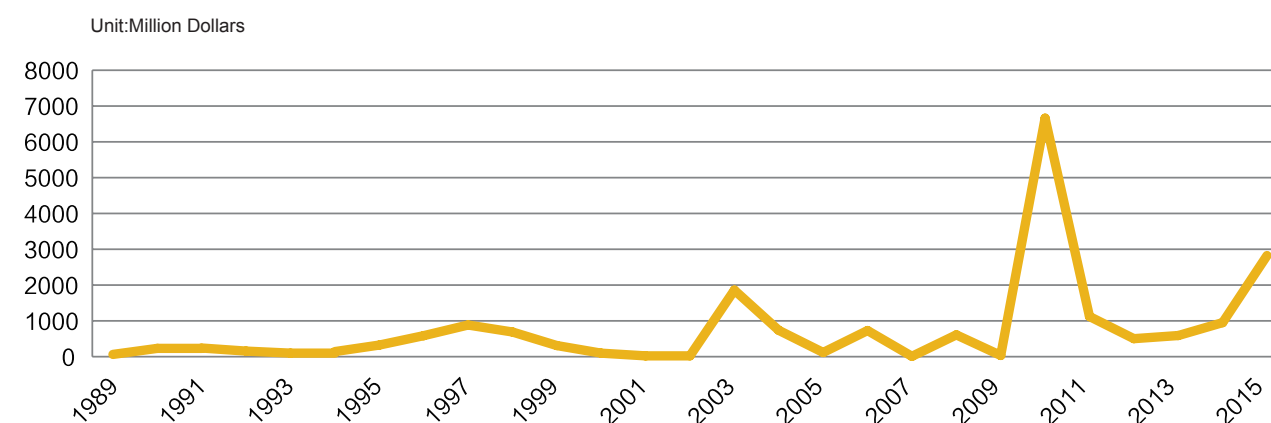
After World War II and domestic riots, Myanmar finally declared itself to be an independent country, but seemed to have never recovered thoroughly from the economic and political crisis. In 1962, political crisis led to a military coup, from when the Union Revolutionary Council headed by General Ne Win gained power. They tried to establish an enclosed socialist country and enact many radical economic and social policies, such as making all the industries state-owned except agriculture. In

1987, this attempt ended in failure. The military junta started to transition the socialist economy to a market-oriented economy.

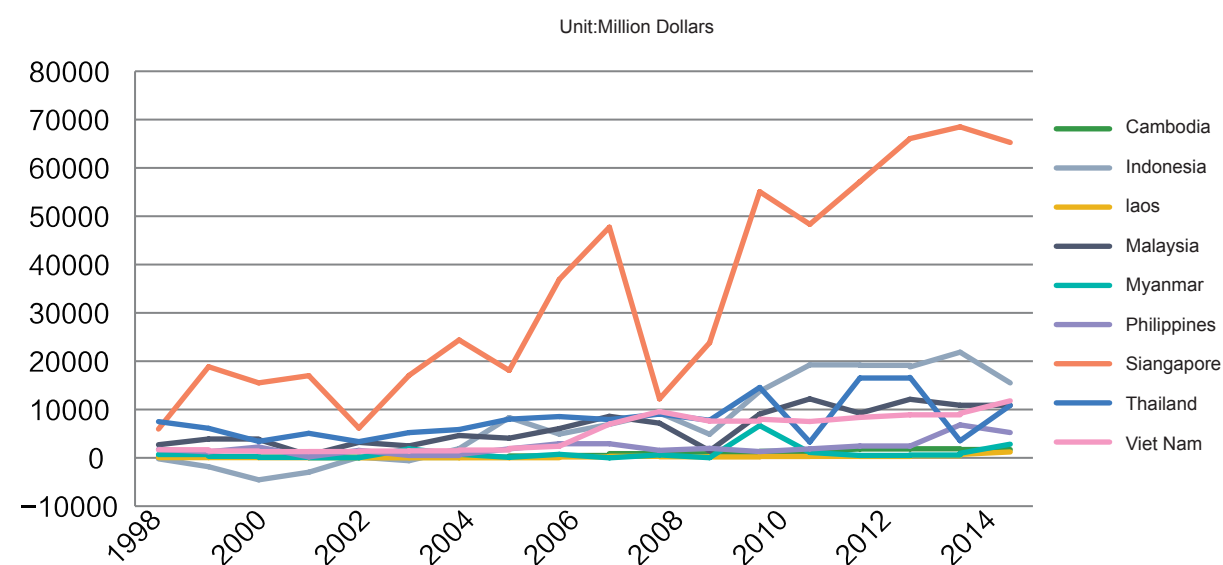
In Myanmar, FDI started to develop from the market-oriented economy reform in 1988, which encouraged the private sectors to grow and made the entrance of FDI possible. In this section, we'll briefly analyze the main phases and characteristics of FDI in Myanmar, and the impacts they had brought in the 3 aspects of community development, environmental protection and labor rights.

2.1.1 The Development Phases of FDI in Myanmar

As shown in Graph 2.1, the scale of FDI in Myanmar started to grow from 1988, and the rate of increase reached 302% in 1990. However, due to political and human rights limitations, many western countries discontinued bilateral development projects and imposed sanctions on Myanmar, which made its economy isolated away from the western and global economy. Right after the new government came to power in 2010, the scale of FDI increased rapidly. According to the characteristics of FDI in Myanmar, we divided it into two phases, namely the Initial Phase and the Development Phase.



Graph 2.1 The trend of FDI in Myanmar from 1989 to 2015
Sources: UNCTAD STAT



Graph 2.2 The comparison of FDI scale between Myanmar and other Southeast Asian countries
Sources: UNCTAD STAT

2.1.1.1 The Initial Phase: from 1988 to 2009

In this Phase, most foreign investors were on the fence, and the investment scale was not yet in full swing. What's more, the sanctions from the west limited the overall investment scale to a relatively low level. According to Myanmar official statistics, from 1988 to the end of 2009, the overall FDI scale was \$ 16.057 billion⁶. Compared to other Southeastern Asian countries, such as Cambodia, Laos, Malaysia, Philippines, Singapore and Thailand, the scale of FDI that Myanmar received was the lowest contemporarily, accounting less than 1% in the total scale of FDI of Southeastern Asian countries (as shown in Graph 2.2) ^[12].

2.1.1.2 The Developing Phase: from 2010 till now

In 2010, the General Election was held in Myanmar, and the power was handed over from the military to a civilian government, which started to carry out a series of critical reforms in political, economic and

social fields ^[13]. In the economic field, Myanmar greatly boosted market-oriented reform, drafted and enacted a new Foreign Investment Law and Foreign Investment Rules, and provided more foreign-investor-friendly policies. In 2014, Myanmar mended and enacted a new Economic Zone Law, which boosted the planning and constructing of the three economic zones of Dawi, Thilawa and Kyaukpyu ^[14].

Learning from Graph 2.1, due to the reform, the FDI scale increased dramatically in 2010, namely from \$27.15 million to \$6.669 billion, and the total investment scale from 2010 to the end of July 2016 was \$48.043 billion, 3 times as much as the scale during 1988-2009^[15]. However, this increase was realized by the increase in large-scale investment projects, instead of an increase in investment project numbers ^[16]. The development of FDI in Myanmar is still not stable which declined greatly

6 Source: Myanmar Directorate of Investment and Company Administration. The link is <http://www.dica.gov.mm/en/data-and-statistics>.

7 The statistics of Myanmar's FDI can be divided into two kinds: one is the approved projects and amounts of the year calculated by the Myanmar Investment Commission, the second is the actual investment amount calculated by Myanmar's Central Bureau of Statistics. The first is released directly by the Myanmar Investment Commission; the second is indirectly released through ASEAN, UNCTAD, World Bank and IMF. Therefore, the statistics from two sources differ greatly.

Table 2.1 The main sectors, the number of projects, approved amount and proportion sorting of FDI in Myanmar (up to September 2016)

Sequence	Industries	The Number of Projects	Approved Amount (\$100million)	Proportion
1	Petroleum & natural gas	154	224.1	34.49%
2	Electric power	11	198.1	30.49%
3	Manufacturing	668	72.47	11.15%
4	Transportation & communications	38	52.26	8.04%
5	Real estate	37	31.11	4.79%
6	Mining	71	28.97	4.46%
7	Hotel and tourism	65	25.41	3.91%
8	Animal husbandry and fishery	37	5.46	0.84%
9	Agriculture	19	2.49	0.38%
10	Industrial infrastructure	4	2.03	0.31%
11	Construction	2	0.38	0.06%
12	Other service industry	49	6.9	1.06%
	Total	1155	649.72	100%

Sources: Directorate of Investment and Company Administration (DICA)

during 2011-2012 and saw a small-scale increase in 2013-2014.

2.1.2 The Industrial Structure of FDI in Myanmar

The industrial structure of FDI in Myanmar was quite determined by its commercial and natural environment. Against a backdrop of political unrest and western sanctions, the commercial environment of Myanmar was truly challenging for foreign investors, for they may always be haunted by corruption, the random nature of policy making, lack of an independent judicial system, shortages of electric power, strict import and export controls and complex foreign currency reform ^[17]. So, it is natural that Myanmar hasn't been popular for investment in certain industries, such as capital-intensive industries.

According to the official statistics from the Myanmar government, up to September 2016, the sector

that absorbed most FDI was petroleum & natural gas, accounting for 34.39% in total and the amount involved was \$22.41 billion. The second is the electric power industry, which absorbed 30.49% of FDI amounting to \$19.81 billion. As for other sectors, the FDI proportion on manufacturing, transportation & communication, real estate and mining were 11.15%, 8.04%, 4.79% and 4.46% respectively (see table 2.1).

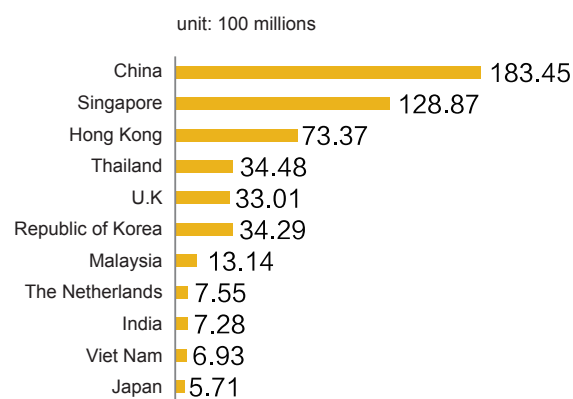
The resource-intensive industries are Enclave Investment, and were relatively less influenced by the macro-economic context ^[18]. Where a commercial environment is less important, these industries rely more on the resources that they need, namely the globally scarce and geographically intensive natural conditions such as valleys and natural gas, etc. ^[19]. Myanmar is a country with advantageous natural conditions and rich resources, possessing not only many kinds of minerals (such as tin, tungsten, zinc, aluminum,

antimony, manganese, gold, silver and precious stone and jade), but also a great standing stock of petroleum and natural gas across inland and coastal areas. These precious resources and advantages attracted many foreign investors who preferred to consider the challenges of commercial environment to be in secondary position.

2.1.3 China's Investments in Myanmar

In the development of Myanmar's FDI, China played an important role. Especially during the period of economic sanctions by western countries, China was the main investor in Myanmar. Many other countries began to invest in Myanmar just after the democratic reform.

According to the official statistics from Myanmar government, until September 2016, totally 875 companies from 41 countries and regions had invested in 12 sectors in Myanmar, with a total investment amount of \$54.121 billion. Concluding from investment stock, China ranks first in all countries investing in Myanmar. The number of Chinese companies was 122 with the amount of \$18.345 billion, accounting for 33.9% in total (see Graph 2.3). Regarding the investment flows, in



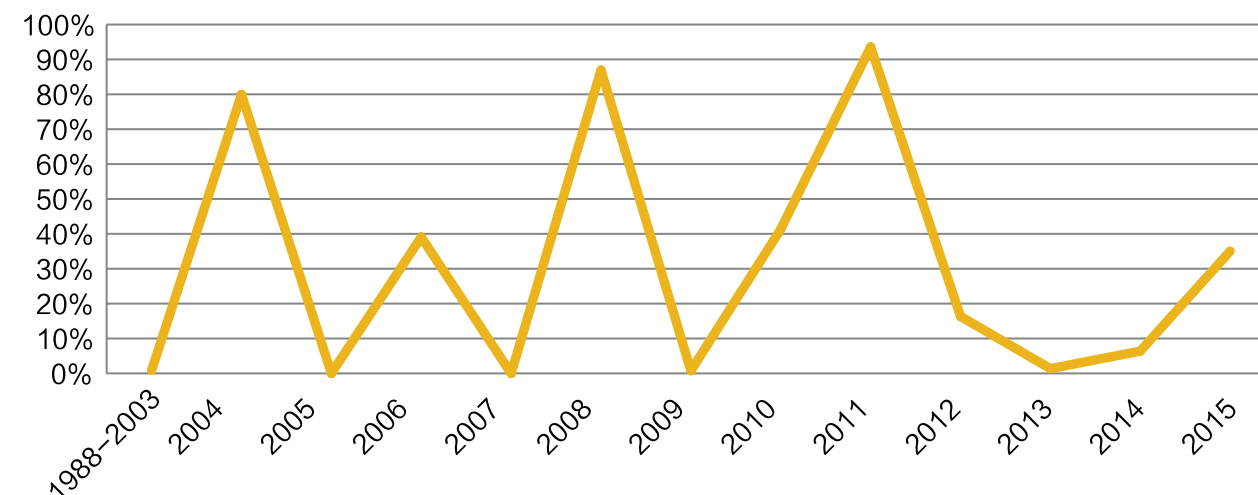
Graph 2.3 The main foreign investors of Myanmar and the investment stock (up to Sep. 2016)
Sources: DICA

2011, China's investment accounted for the highest proportion of FDI scale in Myanmar, namely 93.6%. From 2012 to 2013, China's investment scale in Myanmar dropped greatly and increased again during 2014-2015.

After 2012, surpassing China, Singapore became the No.1 foreign investor in Myanmar with the highest investment net flow and annual 50% proportion in the total investment flows. However, the scale of Chinese investment in Myanmar might be underestimated, since Chinese investors also invested through Hong Kong and other third-party countries such as the Cayman Islands and British Virgin Islands^[20]. For instance, Hong Kong raised its investment scale in Myanmar greatly through the Chinese-Burmese natural gas and petroleum pipeline projects^[21].

As it showed in Graph 2.4, China's investment flows in Myanmar were characterised by being volatile. Compared to other foreign investors, the projects that China invested in Myanmar were always large-scale and focused on hydropower, petroleum and natural gas and the mining industries^[22]. According to the statistics of Chinese embassy in Myanmar, the investment in hydropower industry accounted for 63% of China's total investment in Myanmar, followed by petroleum & natural gas's 25% and mining's 11%.

The investment projects in those sectors are different from those in manufacturing and communication industries. They are large in capital scale but small in number. For example, there were 668 foreign-invested manufacturing projects in Myanmar, with their approved capital amount accounting for 11.15% of the total. But there were only 11 foreign-invested power projects, with approved capital amount accounting for 30.49% of the total. Table 2.2 showed the industries China invested in and the number of investing companies.



Graph 2.4 The trend of approved China's FDI flows to Myanmar (1988-2015)
Sources: DICA

Table 2.2 The main industries China's invested in Myanmar and the number of projects and characteristics^[23]

Industry	Projects	Companies	Main characteristics
Hydropower	44	26	a) mainly invested in by state-owned companies, with only 3 private companies out of 26 companies; b) mainly distributed in upper Myanmar, especially the upper reaches of Irrawaddy and Salween Rivers
Infrastructure and petroleum and natural gas	20	7	a) mainly invested in by state-owned companies; b) project included road & bridge construction, petroleum & natural gas pipeline and special economic zone construction
Mining	7	13	a) were middle-and-large-scale projects and invested in by state-owned companies; b) the number of small-scale mining projects was hard to count, which were mostly carried out by investors from Sichuan and Yunnan Provinces, and mainly distributed in the middle, north and northeast part of Myanmar.

2.2 The Institutional Environment

Institutional Environment is the basic political, legal and social rules of production, exchange and distribution. For Chinese companies that tend to invest overseas, it is necessary to know the characteristics of the host country's institutional environment, upon which decisions are based to cope with the potential problems and risks. In the same way, for Chinese NGOs that are willing to promote the responsible development of China's OFDI, it's also necessary to have an intimate

knowledge of local laws and make efforts under the concrete policies frame. Therefore, in this section we'll mainly give a summary on Myanmar's social and environmental law frameworks and development of the civil society in Myanmar.

2.2.1 Social and Environmental Laws

Since 1876, the legal framework of Myanmar went through 4 periods, namely the British colonial period (1824-1948), post-independence period (1948-1962), military government period (1962-2011) and period of reform (since 2011). New laws, rules

and policies overlapped on the original ones and formed different legal frameworks that were greatly separated from each other^[24].

Regarding FDI, Myanmar government enacted the Foreign Investment Law of Myanmar in 1988, and started to draft and mend related laws on foreign investment from 2012. In October 2016, the Myanmar Assembly of the Union officially enacted Myanmar Investment Law, which combined Myanmar Foreign Investment Law 2012 and Myanmar Citizen Investment Law 2013 and granted foreign investors the same treatment with Burmese citizens legally^[25]. According to the new Myanmar Investment Law, the government formed a Myanmar Investment Committee and set up an appeal-and-mediation system, which assures minimisation of conflicts before the conflicts evolve into legal disputes.

Moreover, Myanmar government also amended the laws related to land tenure, environmental protection and labor rights. In this sector, we will introduce the reformation of these laws.

2.2.1.1 Laws of Land Tenure

Before 2011, there were 73 laws and policies in total in the field of land governance in Myanmar, which were influenced seriously by British colony. The UK promulgated the Lower Burma Land and Revenue Act in 1876 and introduced its property system to Myanmar. Another important law issued in British colonial period was the Land Acquisition Act established in 1894, which laid the legal foundation for the compensation of government land expropriation. This was the only law about land expropriation before 2012.

After Myanmar's independence from UK, the 1947 Constitution confirmed that "the nation is the owner of all natural resources and land", which were once again reiterated in the 1974 Constitution and the 2008 Constitution. The Land Nationalization Act

established in 1953 abolished landlordism and nationalized all land to lease it to laborers.

During the period of the military junta, General Ne Win proposed "Myanmar's socialist path", and enacted the Tenancy Law in 1963, which identified farmers as "tenants". In the same year, the Farmer's Right Protection Law was enacted to prevent any parties except the government to acquire land due to farmer's debts.

To realize market-oriented reform, Myanmar government approved the Duties and Rights of the Central Committee for the Management of Culturable Land, Fallow Land and Waste Land in 1991 to encourage private investment in the agricultural sector. In fact, for villagers who lived on land, much land was not deserted. This document legalized the government's action to reallocate a large amount of land.

During Myanmar's transition period, the government formulated the state-mediated capitalism policy to allocate lucrative transactions to the military groups, including companies such as Union of Myanmar Economic Holdings Limited (UMEHL) and Myanmar Economic Corporation, governmental agencies and affiliated companies. These transactions included gas and oil exploitation, hydropower station, road and other infrastructure construction and agricultural investment, all of which requested people to leave their land.

After the 2011 election and soon after President Thein Sein took office, the Myanmar Congress approved two laws including the Farmland Act, which replaced the Land Nationalization Act (1953), and the Vacant, Fallow and Virgin Land Law. The two laws identified that only land certification could safeguard people's land rights. Only land with certification could be traded or transferred in the land market, and with no official certification, people could not hold the legitimate land rights.

However, it would take several decades for all land certifications to be issued in the whole country, especially in high mountain areas inhabited by ethnic minorities where people still rely on the customary land ownership system to use collective land^[26]. These two new laws grant the government power to identify vacant, fallow and virgin land^[27]. According to existing evaluation, the two laws have provided a legal basis for foreign investment to get land, especially to invest in industrialized agricultural production. And Myanmar government generally acquiesces in unauthorized actions, which eventually become semi-official permissions^[28]. According to the research of OECD, most investment projects involved property right disputes, including forced expropriation that government and companies acquired land with political pressure, but without enough compensation to enable farmers to attain a basic standard of living^[29].

2.2.1.2 Laws of Environmental Protection

The earliest environmental regulation department in Myanmar was the National Environmental Affairs Commission (NEAC), initiated by the Ministry of Foreign Affairs in 1990, which was transferred to Myanmar Forestry Department in 2005. In 2010, the Forestry Department was restructured as Ministry of Environmental Conservation and Forestry (MECF), which is now the official coordinating agency for environmental affairs in Myanmar. During the

period of NEAC's management, two laws on environmental protection were drafted but finally not approved by the government. Consequently, the policies about environmental protection at that time were mainly made at the industry level with mixed and various standards and far from enough to deal with the increasingly complex environmental protection problems. As for various issues such as management of waste, land usage and biodiversity, the concrete laws and actions differed from each other^[30].

In 2012, the Assemble of the Union approved the Environmental Conservation Law (ECL), which was a remarkable symbol for environmental protection in Myanmar. Based on this, MECF enacted Environmental Conservation Rules in 2014 as the concrete executive rules for ECL 2012, which clearly defined that the FDI projects should carry out and submit an EIA Report, an Resettlement Action Plan as well as an Environmental Management and Monitoring Plan to the MECF^[31]. In 2016, MECF issued the concrete Environmental Impact Assessment Procedure and Environmental Quality (Discharge) Standards^[32].

However, some interviewees from our fieldwork pointed that the EIA regulations in Myanmar were quite in disarray and lack uniform standards. The MECF, Myanmar Investment Commission (MIC),

Box 1. Main environmental protection laws from 1990-2006

- a) The Forest Law 1992 mainly dealt with the protection of public forest, the effective control and management of forestland, and the construction of forest parks, etc.
- b) The Myanmar Mines Law 1994 specified that the companies or individuals should take necessary measures to reduce the negative environmental impacts when they exploit mineral resources.
- c) The Union of Myanmar Public Health Law 1972 defined the requirements on air quality and environmental safety.
- d) The Protection of Wildlife and Conservation of Natural Areas Law 1994 was the specialized law for the protection of animal & plant and natural conservation zones.
- e) Conservation of Water Resources and Rivers Law 2006 was the regulations for water resources protection.

and the Ministry of Energy (MOF) separately set rules for Environmental Impact Assessment (EIA), and the requests differed from each other in many ways. The interviewees claimed that the staffs in MECF were too short to effectively supervise the implementation of environmental management plan for every project. A interviewee from Chinese company also said that they didn't receive timely feedbacks from the government after they submitted the EIA report. Besides, according to the regulations, both the process and results of EIA should be disclosed. However, we can only get EIA reports from companies, but not from the website of Myanmar government.

2.2.1.3 Laws of Labor Rights

Before the democratic transition in Myanmar, there were fewer measures to protect labor rights, especially the forced labor problem, which were very intense. The laws at that time usually became the foundation for employers to violate the labors' rights. For example, both Town Act (1970) and Village Act (1908) empowered the government to hire local people for the public affairs^[33].

From 2011, a serious labor laws reform has been going in Myanmar. According to the statement of the representative from Ministry of Labor, Employment

and Social Security (MOLESS), there are 17 laws on labor rights in Myanmar now, among which 6 were issued during 2011-2014; 4 were issued during the British colonial time from 1923 to 1948, 4 were issued during 1951-1959 and another 1 was issued in 1999. And in the current system, different laws regulate different issues: some are based on industries, such as the Factories Act; some are based on the type of labors, such as the Dock Labor Act; and some are directed at issues, such as the Minimum Wage Act^[34].

Myanmar government has improved the protection of labor rights through laws reform. Thanks to this change, after being banned 10 years, the Confederation of Trade Unions of Myanmar (CTUM) obtained a legal identity and began to work again in 2012. Currently it has 630 branches and 44886 members. Besides, by 2015, nearly 1500 labor unions were set up, among which most were established within companies in agriculture and manufacturing sectors^[35]. Although Myanmar government is speeding the reform paces on labor laws, workers and employers used to lack consciousness in labor rights, and the new laws are quite fragmentary and inconsistent. It still will take a long time for Myanmar government to comprehensively improve labor rights protection^[36].

Box 2. The labor laws issued during 2011-2015

- a) The Labor Organization Law 2011 identifies that workers have rights to establish labor unions, stage a rally and go on a strike, which means to legalize labor union and strikes.
- b) The Settlement of Labor Dispute Law 2012 stipulates that employers who employ over 30 workers should establish a Workplace Coordinating Committee (WCC).
- c) The Social Security Law 2012 promotes companies to set up health and social security insurance systems, household aid insurance systems as well as unemployment security systems, and stipulates that employers who employ over 5 workers should provide social security for employees, and set rules for industrial injury compensation.
- d) The Minimum Wage Act 2013 stipulates the minimum wage level (450 kyats per hour, 3600 kyats for 8 hours per day), equal pay for equal work between male and female employees and the days for public holiday and paid holiday, etc.
- e) The Employment and Skills Development Law 2013 stipulates that within 30 days from the start of employment, the employer should sign a paper contract with employees, etc.

2.2.1.4 Summary

Going through different periods of colonization, civil war and the transition of civil government, Myanmar has formed a very complex legal system and framework. No laws or policies, in the fields of land, environment or labor rights can escape frequent modification in such a period of reform. Chinese companies should pay attention and adapt to the external changing trend, especially in the aspects of social and environmental strategies, for those modification and reform may have an important impact on their investment decision. Just in this transition period, Chinese NGOs have chances to contribute to the improvement of the social and environmental laws and policies in Myanmar based on their expertise and experience. They can also supervise or support Chinese companies to adapt to these legal modifications.

2.2.2 NGOs' Development in Myanmar

Considering China's OFDI in Myanmar, apart from the local legal framework's restriction on Chinese companies' behaviours, the development and power of civil society is also a crucial factor. Especially after Myanmar realized its democratic transition, NGOs have been playing a gradually more significant role. They are a newly emerging force not only in the political transition of Myanmar, but also in social and environmental fields such as community development, health care, disaster assistance and education, etc. Therefore, it's very important for us to understand the development of Myanmar NGOs.

2.2.2.1 History

In Myanmar, the history of NGOs' development can be traced back to the local mutual aid organizations. During the British colonial period, charitable organizations with religious nature occupied a very important position in Myanmar under the influences of Buddhism and Christianity. The earliest NGOs

were set up in late 1800s, among which Kayin Baptist Home Mission Churches Association was the umbrella for many Christian units.

During 1948-1962, Myanmar government approved a certain space for NGOs. Religious, cultural and social welfare organizations could run outside the system, so the number of NGOs increased dramatically in cities like Rangoon and Mandalay. However, being impacted by the nationalism born in the colonial period, some organizations were ordered to be closed or controlled by the government, and only some informal organizations which were regional and based on community survived. After Ne Win's coup in 1962, Myanmar became a highly-centralized state. The space for NGOs narrowed down sharply. Consequently, there were rarely new organizations set up, even international NGOs were subject to strict scrutiny.

In 1988, after the abolishment of the single-party system, Myanmar government started to allow the establishment of clubs, foundations and other social organizations, among which the Community-Based Organizations (CBOs) could be set up with no registration required. At that time, the New Military Regime didn't adopt a repressive attitude on NGOs and approved them with a certain space if their activities were not political. In early 1990s, dozens of international NGOs carried out assistance projects in Myanmar, in the fields of providing safe drinking water, medical equipment, education, hygiene, Micro Credit and care for HIV-AIDS, and so on. Considering the possible political impacts brought by the international NGOs, Myanmar government didn't develop relevant sustainable development policies to support their growth. Independent international NGOs and professional associations were only legal after being registered under the Company Act.

During the period of 1990-2010, local NGOs in Myanmar secured important chances to develop

and double their growth trend due to the relaxation of restrictions on association by the military government and Cyclone Nargis in 2008. During Cyclone Nargis, NGOs played a very important role in rescue because they not only avoided the inefficiency brought by the complex bureaucratic decision process, but also could establish smooth communication channels with local communities. According to the statistics, the number of NGOs before the disaster was less than 10, but it grew to over one hundred after the cyclone.

2.2.2.2 Status in Quo

According to the statistics of Asia Foundation, in 2009 there were 270 NGOs and over 210 thousand CBOs in Myanmar. Till to 2012, Myanmar Interior Minister pointed out in presentation that the number of local NGOs was 278 in Myanmar, and the number of international NGOs was 53, among which only 6 were registered in the Ministry of Interior and the other 47 were not^[37].

According to different standards, NGOs can be divided into several types. For instance, based on the scope of activity, they can be divided into international NGOs, national NGOs and regional NGOs. And based on the field, there are 67 fields that Myanmar NGOs are involved including education, hygiene, drinking water, agriculture, livestock breeding, food supply, natural disaster alleviation, society and environmental protection, and so on. NGOs in different fields set up diverse types of networks, and they play an important role in promoting the sharing of information and resources and collective actions. In terms of strategy, Myanmar NGOs can be divided into two types: guiding and providing rescue service. The former provides capacity building for vulnerable groups through trainings or education, and the latter provides food, shelter or medical service for people in need^[38].

As for fund resources, Myanmar NGOs can raise

funds in two ways: internationally and domestically. According to the statistics of Asia Foundation, 42% of local NGOs received funds from international NGOs. Some scholars hold that the percentage of Myanmar NGOs that receive international funds was higher than this.

However, due to the lack of NGO laws, Myanmar local NGOs always meet with great difficulties when identification is needed for securing aids from international organizations. They can't get support from assistance funds from other countries, and there are usually no other channels to contact other funders. Many NGOs even get funds from Singaporean illegal private banks or smuggling materials in border regions^[39].

Currently, the ceaselessly gushing FDI was mostly concentrated in natural resource sections, which has become an important acting sphere for Myanmar NGOs such as Renewable Energy Association Myanmar with over 70-year history, which was an important actor to promote Myanmar government to make laws in environmental protection field. Besides, there are many Myanmar NGOs also playing roles in the postponed Myitsone Dam and so on.

2.2.2.3 Chinese NGOs in Myanmar

The works Chinese NGOs doing in Myanmar are focusing on the assistance, community development and advocacy on Myanmar policies, such as China Foundation for Poverty Alleviation (CFPA) and GEI. CFPA was the only one Chinese NGO officially registered as an International NGO (INGO) in Myanmar in 2015. They plan to implement the Paukphaw Scholarship Project in the following 4-5 years to provide a 4-year scholarship for Burmese university students⁸.

GEI is engaged in promoting policy-making with more consideration on environmental and social impacts of FDI as well as doing community

development projects in Myanmar. Through seminars, GEI has introduced the concepts, policy frames of sustainable development and the environmental articles in international investment agreements and so on to the senior officials of Myanmar government. At the community level, GEI conducted rural community development projects. They assessed the implementation of the Small Agricultural Loan Project of China EXIM Bank, and proposed improving measures and suggestions, aiming to push and attract loans to support the small or medium-sized green and sustainable business projects in Myanmar⁹.

2.2.2.4 Summary

Though the space to development differed in the history, NGOs contributed a lot to the quick development and democratic transition in Myanmar. Being influenced by western values and strategies, Myanmar NGOs that actively participated in the political activities and companies' FDI could negotiate and consult with the government and the companies on behalf of the vulnerable groups.

The active Myanmar NGOs and their network played a key role in supervision on FDI, which promoted companies to have better social and environmental performance through imposing external pressure. However, the Myanmar government's management on NGOs still needs to be improved. And for Chinese enterprises, how to balance and meet different NGOs' appeals is important when they represented separate groups and are not regulated properly by government.

Currently, there are lots of works to do in advancing the mutual understanding and dialogue between

Chinese companies and Myanmar NGOs. However, the number of Chinese NGOs that are working in Myanmar is very few. If there are more Chinese NGOs planning to engage in this field, it's necessary for them to understand better about Chinese companies' social and environmental impacts and identify its own position and strategy to play their roles.

2.3 Social and Environmental Impacts of FDI in Myanmar

With growing global influence, China's OFDI attracts more and more attention. In Myanmar, China's investments seem to be the typical negative cases. However, in the context of overall FDI in Myanmar, Chinese companies' impacts were not actually unique. Especially under the regime of military government, the projects invested by South Korea, France and other countries were also controversial in the community development, environmental protect and labor rights fields, etc. Through literature reviews, this section will analyze the impacts of FDI in Myanmar and the characteristics of Chinese companies' impacts comparing to other countries' FDI¹⁰.

2.3.1 Impacts on Communities

Different industries may affect local communities in diverse ways, while resource-intensive industry is the sector that is related most closely with the livelihoods and resources of local communities. Consequently, in this section we'll analyze what impacts the industries of petroleum & natural gas, mining, hydropower and agriculture that foreign investors were most interested in had brought on Myanmar local communities.

8 Sources: the official website of CFPA: <http://www.cfpa.org.cn/project/GJProject.aspx?tid=23>.

9 Sources: the official website of GEI: <http://www.geichina.org/?controller=Articles&action=View&aid=145>.

10 Since there are more studies highlighting the negative impacts of FDI in Myanmar, it is hard to balance the degrees of positive and negative impacts. We will not conclude that the FDI is good or bad in general.

Up until now, there have been many studies focusing on the impacts on communities of FDI in Myanmar, which presented the facts from different perspectives. For instance, the Myanmar Centre for Responsible Business (MCRB) has carried out the Sector-Wide Impact Assessment (SWIA) upon the mining, petroleum & natural gas, tourism and hydropower industries^[40], while organizations like IR and Earthrights International had analyzed the impacts of these industries through case study.

In this research, we use the Sustainable Livelihood Framework (SLF)¹¹ which was developed by the

Department for International Development (DFID) to analyze the impacts on local communities caused by FDI in Myanmar. SLF is a useful tool to analyze the factors affecting rural community livelihood. The capital pentagon is the core component of SLF, and is used to show the capital and factors that influence individual livelihood (livelihood capital), including human capital, physical capital, natural capital, social capital and financial capital.

Table 2.3 shows that Myanmar's FDI had varied impacts on communities' livelihood capital, and the positive impacts and negative impacts are on

Table 2.3 The positive and negative impacts on livelihood capital of local communities caused by FDI in Myanmar

Livelihood capital	Positive impacts	Negative impacts
Natural Capital		a) Villagers lost natural resources such as land, forest and fishery, and it was hard for them to get sufficient compensation and an alternative way to sustain livelihoods. b) The industrial rubbish and waste water brought by investment projects had polluted local farmland and fishery resources
Social Capital		a) Villagers' cemeteries were forced to be moved, and their religions and cultural customs were not respected.
Financial Capital	a) Villagers got stable income employed by investors. b) The price increase of land and food meant more income for those villagers' who owned land and sold food.	a) The entry of immigrants led the price increase of land and food, making the poor unable to afford expensive land and food. b) local small retailers were also attacked by competition from foreign investors.
Physical Capital	a) The investors improved the medical facilities and services for the communities, and the health and safety consciousness of villagers had been raised. b) The local transportation, communication and electric power conditions had been improved. c) The social benefits including education and elder-oriented service were improved.	
Human Capital	a) The investments created more employment and contributed to improve vocational skills for local people.	

Note: the blank spaces mean less data revealed rather than no impacts.

11 Under the SLF framework, livelihood is not only a means for income, but the combination between available resources and activities for living. These resources may include personal skills and abilities, land, deposits, equipment and official organizations and non-official social networks that can support activities.

different capital classes. The positive ones are on financial capital, material capital and human capital. Companies provided employment to ensure communities have stable income and improved locals' human capital through technical training. Companies also invest more in infrastructure, power and education to increase physical capital of the communities. However, the negative impacts are on natural capital and social capital. Relocation and land expropriation deprived villagers from their sustainable source of livelihood and existing social network. The prices of land and food increasing due to the entry of investing companies, which increased the financial capital of villagers who own these resources, but weakened the purchasing power of villagers who lack these resources. Besides these impacts on livelihood capitals, FDI in Myanmar that did not fully respect villagers' rights of Free, Prior and Informed Consent (FPIC) principle was frequently criticized.

In general, the impacts of China's OFDI on communities had no obvious difference from other foreign investments. But since Chinese companies invested in more resource-intensive industries that involved more land expropriation and relocation, the problems caused by them were more severe. Land expropriation is one of the most influential issues to communities, which not only changed villagers' source of livelihood and living conditions but also affected religious activities when the graveyards, pagodas and temples were moved.

However, with the state ownership of land, the land expropriation and compensation plans of companies should abide by the government's political objectives in host countries. Consequently, companies are not the only decision-makers for these plans. The government, on the other hand, would follow local laws and strike a balance between the objectives of attracting FDI and maintaining social stability. Therefore, in terms of

this issue, companies found it hard to rectify the negative impacts caused by land expropriation, rather, they exerted positive impacts by supporting local infrastructure, improving public service and other community development programs.

2.3.2 Impacts on Environment

Myanmar is in the Indo-Burmese Region, which is one of the 34 biodiversity hotspots across the world. The unique geological structure nurtures rich resources of petroleum, natural gas and minerals. Since the natural resources were exploited extensively from 1988, more and more impacts were brought upon the environment of the country. Instead of working separately, these impacts appeared to be in multidimensional and complicated relationships, associated with industrial and technological standards, the value and technical capacity of investors, and closely connected with the environmental laws and policies of Myanmar^[41]. On one hand, the advanced technology brought by foreign investors may improve the efficiency of resource utilization and circulation, playing a positive leading role for local environmental protection. On the other hand, the incomplete laws, rules and relatively low environmental standards are also incentives to attract some investors especially in the high-pollution and high-discharge industries^[42].

With the study of relation between international investment & trade and environment, this research will give an analysis on the environmental impacts that FDI brought to Myanmar from four aspects, namely scale effect, structure effect, technology effect and regulation effect^[43].

2.3.2.1 Scale Effect

In the Initial Phase, most foreign investors were riding on fence, and the investment scale was not yet in full swing. What's more, the sanctions from western countries limited the overall investment scale in a relatively low level. As described above,

compared to other Southeastern Asian countries, the scale of FDI that Myanmar received was the lowest contemporarily which means the impacts of FDI on environment were limited.

While in the Developing phase, as rapidly grew in scale, the extraction industry generated more and more pollutants, and also consumed more non-renewable resources such as petroleum and minerals. However, it is hard to analyze the concrete negative impacts here since the air testing facilities in some big cities of Myanmar had just been established and no environmental monitoring statistics now.

2.3.2.2 Structure Effect

In the Initial phase, the main industries that FDI flowed to included hydropower (32.16%), petroleum & natural gas (22.64%), manufacturing (10.35%) and mining (8.7%)^[44]. Compared to the initial phase, the proportion of hydropower station (27.83%) and mining (3.12%) declined, while the proportion of petroleum & natural gas (32.37%) and communications and transportation industry (7.7%) increased dramatically, and the manufacturing was basically stable (remained at 9.72%) in the developing phase^[45].

The industry structure of FDI in Myanmar determined the inevitable impacts on local environment. Apart from increasing the consumption over the non-renewable resources like petroleum and minerals, these investments affected the biodiversity of local communities as well as the culture and religion of original residents^{[46][47][48]}. For example, the construction of hydropower stations made damages on large-area habitats and resulted in a decline of biodiversity^[49]. Besides, massive solid rubbish and wastewater were produced polluting the water and soil^[50].

Compared to other countries' FDI, China's investments mainly flowed to hydropower,

petroleum & natural gas and mining industries which located in northern and central parts of Myanmar. Kachin State attracted much Chinese investments because of rich water resources. Meanwhile, the biodiversity in Kachin State is very high but with a very fragile ecological environment. Consequently, some stakeholders claimed that the construction of hydropower station in Kachin State caused large-scale habitat degradation and the extinction of some species.

Similarly, the Sagaing Region and Mandalay Region, located in the midland of Myanmar, also attracted large amount of China's FDI. Most of the mining projects were in these regions, including the Dagongshan Nickel Project and the Monywa Copper Mine Project. The environmental impacts that brought by the mining industry was also clear. The process of exploiting and minerals processing produced massive of solid garbage and waste water, which might make the environment deteriorate dramatically. What's more, the mineral resource itself is non-renewable.

2.3.2.3 Technology Effect

In the initial phase, the industrial foundation of Myanmar was relatively weak, and the technology was very outmoded in general. The introduction of modern technology from FDI was helpful for the local environmental protection. For instance, in 1998, since Ivanhoe Mines (a Canadian company) took over the mining project of Sabetaung Copper Mine and Kyisintaung Copper Mine (S&K) from the Mining Department of Myanmar, they improved the copper smelting technology which dramatically increased the output rate of copper mine and reduced the pollution on the environment. Ivanhoe Mines also published the first EIA report in Myanmar^[51]. Being regulated by international or motherland environmental standards, some foreign companies paid more attention on the impacts they brought to local environment.

In the developing phase, the environmental impacts brought by foreign investors attracted more and more concerns in Myanmar. Some large-scale international companies started to pay more attention to their internal environmental management. In 2014, MCRB carried out an assessment on environmental, social and human rights impacts of the petroleum & natural gas industry through the method of SWIA. They pointed out that before Myanmar enacted the Environmental Conservation Law 2012, the companies that had taken initiative to carry out EIA were mainly the international companies^[52]. However, this didn't bring about enough of a model effect to Myanmar companies. Meanwhile, the positive technology effect was quite limited comparing to the negative impacts caused by FDI when they focused on resources-intensive industries.

2.3.2.4 Regulation Effect

As FDI grew in scale, Myanmar government was more and more aware of environmental impacts of foreign investments, and started to improve the laws and regulations continually. The enactment of environmental protection laws played a significant role on pushing foreign investors to pay attention to environmental protection. However, there were still lots of defects in actual implementation of these laws.

MCRB carried out an investigation from in 2013 in the petroleum & natural gas sectors in Myanmar and found that only 58% of the offshore mining blocks companies and 26% onshore mining blocks companies had carried out EIA. The companies that invested in onshore mining blocks were usually relatively small-scale, so they fell behind the offshore mining blocks companies in implementing the EIA regulations^[53].

There is a theory claim that when the economic growth reaches a certain stage, the positive impacts

FDI has brought to host countries will surpass the negative impacts, so the correlation between FDI and environmental impacts appears as an inverted "U" curve^[54]. Currently, the scale of FDI in Myanmar is still continuously growing, and the scale effect is playing the main role. At the same time, the government's regulation and industry structure in Myanmar hasn't been improved yet. So it is the stage of the upper part of the inverted "U". While being viewed in a long term, if the industry structure of FDI transfers from pollution-intensive sectors to more clean ones, or when the catalytic role of positive technology effect and structure effect is in the dominant position, the environmental impacts of FDI will possibly evolve to be net positive.

2.3.3 The Impacts on Labor Rights

In Myanmar, the labor rights issues are one of the big challenges for responsible business. In the past 50 years, the establishment of independent labor unions and employer organizations were forbidden, and laws on protecting labor rights were abolished or limited. Forced labor and child labor problems were very common under the enforcement of military government^[55]. Against this background, FDI in Myanmar brought quite different impacts on labor rights in the initial phase and developing phase.

FDI brings an important spillover effect to local companies, which affects the labor rights situation in host countries greatly^{[56][57]}. We divide the effect that FDI produced on labor rights into 2 types, namely a) the Collusion Effect which means FDI will weaken the labor rights when the foreign companies conspire with local companies in host countries; b) the Demonstration Effect which means FDI brings new management models and international standards to protect labor rights which encourages the local companies to execute higher standards^[58].

2.3.3.1 Collusion Effect

In the initial phase, FDI mainly caused a collusion effect in Myanmar, which intensified the forced labor¹² situation. In the era of military government, international companies usually came to Myanmar cooperating with the companies affiliated to the military, especially in mining and hydropower industries. Consequently, the FDI projects seldom benefited locals and usually used forced labor^[59]. In 1997, based on an investigation, International Labor Organization (ILO) found that Myanmar government used forced labor "widely and systematically". And the military government ignored the recommendations proposed by ILO at that time^[60].

In the initial phase, many international companies were condemned to use forced labor in Myanmar. Total S. A (France)¹³ jointly developed the Yadana Gas Field¹⁴ project with Myanmar Oil & Gas Companies, and was disclosed to use 15 forced labourers and have a villager of the Karen ethnic group raped^[61]. Total eventually provided compensation for the victims. Additionally, it was disclosed by Earthrights in 2009 that in the corporate social responsibility (CSR) project of Daewoo International (South Korea) Burmese military continued forcing local villagers to work for the construction of the medical clinic while Daewoo was aware of this fact^[62].

Projects invested by Chinese companies were also condemned to use forced labor. Yunnan Machinery Import and Export Corporation and Myanmar Ministry of Electricity and Energy developed jointly the 1st stage power station project of Shweli River. To connect the transmission tower and line, many

roads in the villages were cleared, improved or reconstructed. It was disclosed by a Myanmar NGO that during the construction of the roads, over 300 villagers were forced to work^[63].

In these cases, though the foreign investors were not the direct user of forced labor, the investment projects cooperation with the military increased the possibility that labor rights were violated.

2.3.3.2 Demonstration Effect

In the developing phase of FDI in Myanmar, namely after the democratic transition was completed, the forced labour cases declined but there were still risks while the child labour problems were still common^[64]. However, in this stage, the impact brought by FDI was transferred from the collusion effect to the demonstration effect, and international standards were introduced to protect labor rights in Myanmar.

Let's take Adidas' practice in Myanmar for example. At the beginning of the entry in Myanmar in 2005, Adidas invited stakeholders for consultation and discussed the labor rights standards they were using with the international organizations focusing on human rights such as ILO, local labor unions and Myanmar Ministry of Labor. Adidas not only requested their suppliers to follow its health and safety standards, but also enabled its suppliers to have the consciousness of respecting employees' freedom of association. Adidas also translated the working place standards into Burmese to ensure their suppliers to include these standards into the training for their new employees. Meanwhile, Adidas pushed the Myanmar government to improve their supervision mechanism to match the

12 According to ILO's definition, Forced Labor refers to situations in which persons are coerced to work through the usage of violence or intimidation, or by more subtle means such as accumulated debt, retention of identity papers or threats of denunciation to immigration authorities.

13 Total is a French energy company which is the 4th largest gas and oil company and the 2nd largest solar energy company in the world.

14 Yadana Gas Field is an offshore gas field in the Andaman Sea. Its shortest distance from Myanmar is only 60 kilometers, and it is located 40 meters under sea level. Its explored gas reserves reach 150 billion cubic meters, with a forecast production life of over 30 years.

company's standards^[65].

Though the demonstration effect of FDI improved the labor rights status in Myanmar, the impacts brought by this effect were still limited in informal business or medium-and-small companies. According to the investigation (2014-2015) done by MLESS, 75.6% labors were employed in informal business sectors^[66]. In these sectors, labors were not under the protection of Myanmar labor laws. Instead, they were discriminated and marginalized while their rights were violated. MCRB (2014, 2015, and 2016) carried out a research on the labor rights in the industries of Petrol & Natural Gas, Tourism

and Mining to conclude the main problems as showed in table 2.4.

2.4 Summary

In this chapter, we firstly reviewed the development of FDI in Myanmar which helped us to understand the characteristics of China's FDI in Myanmar. Then we analyzed the institutional factors that China's investments were facing in Myanmar, which included the legal reform and the rapid development of Myanmar NGOs. Lastly, we summarized on the social and environmental impacts brought by FDI in Myanmar, and horizontally compared the

Table 2.4 The main problems on labor rights in Myanmar^{[67][68][69]}

Aspects	Problems
Identity and contract	a) There was usually no paper contract. b) Labers worked as long-term casual workers. c) Companies didn't supervise their sub-contractor on the usage of labour rights standards.
Working time, wage, and benefit	a) Casual workers extended their working time as long as possible (over the legal maximum) to increase their income. b) The employers usually didn't pay for overtime work. c) The lowest wages could only pay for a basic living standard.
Health, Safety and Environment (HSE)	a) Companies and sub-contractors lacked HSE consciousness and trainings to workers. b) Companies didn't use equipment to secure workers. c) Most of companies didn't offer health insurance to workers, and few of them offer social security.
Freedom of association, collective negotiation and complaint mechanisms	a) The number of labor unions was small. b) Some workers didn't know the role of labor union and were afraid to join. c) The influences of complain mechanism were very limited.
Fair employment and equal treatment	a) Females earned less than males. b) Muslim employees might add tension to the relationship among laborers.

differences between investment from China and other countries.

The finding showed that China's investments in Myanmar were mainly concentrated in resource-intensive industries, which made the disputes in aspects of community development, environment

and labor rights more prominent. What's more, being in the initial phase of internationalization, Chinese companies are very immature in consciousness and capacity of social responsibility. In comparison, companies from developed countries have developed relatively mature mechanism to cope with social and environmental challenges

based on rich experience and lessons.

Besides, we found that the investment behaviors of companies and their impacts were closely connected to the land governance, government's attitude towards environmental issues and the status of the labor rights in host country. They are also closely connected to the governance capacity of the host government (such as the improvement, implementation and supervision of laws and policies). Keeping these relationships in mind, Chinese NGOs can then recognize where the problems lie and consequently take more efficient strategies.

Though the macro analysis can provide a broader angle of view, it's hard for us to secure a more

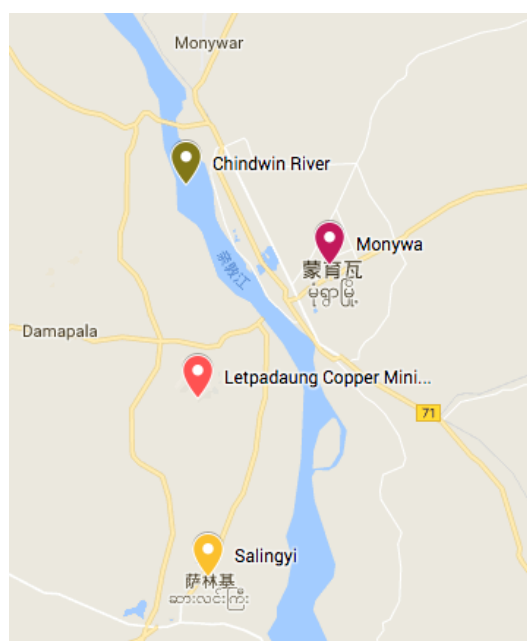
concrete understanding on certain issues. Hence, our study will carry out an analysis on the specific impacts and problems that China's investment in Myanmar caused by case, the LCMP. We expect to explore how the macro-scale institutional environment affected the micro-scale investment decisions and the communities, and try to understand the impacts brought by Chinese companies, the disputes between the company and the stakeholders as well as the mechanisms used to cope with the conflicts. We will present how the stakeholders, especially communities, NGOs and the government of host country played different roles in the investment process through this case study.

Chapter 3

Case Study: Letpadaung Copper Mining Project

3.1 Background

LCMP was in Salingyi Township, Monywa District, Sagaing Region, neighboring the Chindwin River, 120 km from Mandalay which is the second largest city of Myanmar (see Graph 3.1). It is the largest copper hydrometallurgy program under construction in Asia, with the total project investment of \$1.0 billion. Usually the LMCP is described as one part of the Sino-Myanmar Monywa Copper Mine Project together with the neighboring S&K projects.



Graph 3.1 The location of LCMP

Salingyi Township is very rich in mineral resources, especially the copper mine. The history of the exploitation of these resources can be traced to several centuries ago. The British who first noticed the rich mineral resources in Monywa in 1930s initiated the contemporary period of exploitation. Then in 1950s, Myanmar Geological Research Institute and the Yugoslavia Geological Exploration Team investigated and redefined the mineral

resources in this region. From then on, Monywa was exposed to endless exploitation^[70].

◆ In 1978, Mining Enterprise No. 1 (ME-1) owned by the Myanmar Department of Mines signed an exploitation contract with Niels Bohr Institute of Yugoslavia and started to jointly explore the S&K copper mine.

◆ In 1984, a processing factory was set up in this project, with the capacity of 8,000 tonnes/day. While being limited by the technology at that time, the factory was finally closed due to the low rate of return and poor economical effect.

◆ In 1994, ME-1 again signed a Feasibility Research Agreement with Ivanhoe Myanmar Holdings Limited¹⁵ (abbreviate to Ivanhoe), restarting to explore the S&K copper mine jointly. A pilot exploitation factory with capacity of 10,000 tonnes/ was set up in 1995.

◆ In 1996, Myanmar Ivanhoe Copper Corporation Limited (MICCL) was established, and it set up a processing factory with the cathode copper production capacity of 25 kt/a, which went on line in 1998. In 2004, the capacity increased to 39 kt/a. But in 2008, the MICCL was closed¹⁶.

◆ In 2007 and 2008, Wanbao Mining Ltd. organized two expert investigations separately, which reviewed the historical exploitation process, the feasibility reports as well as the copper mine production conditions of the Monywa Copper Mine Project, and finally defined a new exploitation plan.

◆ In 2010, Wanbao signed the cooperation agreement with Myanmar government, which pronounced that UMEHL and Wanbao would jointly operate the Monywa Copper Mine Project (including LCMP and S&K project). Specifically,

Wanbao will provide the funds completely and be in charge of the operation while UMEHL help to get government's permission and clear the land. After deducting the taxation and operation cost, UMEHL would get 51% of net profit and the 49% would belong to Myanmar Wanbao.

◆ In 2011, being authorized by Wanbao, China Nerin Engineering Co. Ltd. carried out the feasibility report. The LCMP was then officially initiated in March 2012.

◆ Till December 2016, the annual production goal of the LCMP was completed ahead of schedule, with a total 20-thousand-ton output of cathode copper^[71].

So far, the LCMP has stepped into stable production process. However, from 2012 to 2015, there twice occurred a "shutdown-restart", causing 1 killed and many injured. In December 2012, the former Myanmar president announced the establishment of the Letpadaung Investigation Commission (abbreviate to LIC), which was led by Aung San Suu Kyi. The investigation concluded that LCMP could proceed but Myanmar Wanbao had to improve its social and environmental performance. We will analyze the factors, which caused conflicts from the view of social and environmental impacts.

3.2 Social and Environmental Impacts

The scale of land expropriated in the LCMP was around 6964 acres (around 2818 hectare)¹⁷. To meet the land requirements of LCMP, people in the four villages of Sae Tae, Zee Daw, Wet Hmay

and Kan Daw (being called "old villages" by local villagers) had to be relocated to another two new villages, which were built by Myanmar Wanbao. There are 441 households need to be relocated. In the LCMP ESIA report, done by Knight Piésold, it was mentioned that 2746-hectare land were expropriated by LCMP from 30 villages^[72], which means the number of affected villages may be at least over 30¹⁸. In this section, we'll try to present the positive and negative impacts brought by LCMP from 3 aspects including community development, environmental protection and labor rights, and Myanmar Wanbao's actions to these impacts.

3.2.1 Impacts on Local Communities

The impacts on local communities the LCMP caused included two aspects. On one hand, the compensation on land expropriation and relocation (villages and pagodas) brought changes in people's livelihoods negatively and dissatisfied the stakeholders such as villagers and NGOs who were the main actors of the conflicts. On the other hand, Myanmar Wanbao's community development projects generated positive impacts on local communities. In this section, we'll try to analyze the impacts on local communities of LCMP by using SLF, and table 3.1 showed the main aspects of these impacts.

17 The land scale LCMP planned to expropriate was around 7687 acres according to the contract. However, due to the recommendations of LIC, Myanmar Wanbao returned 903.74 acres, so the actual scale of land expropriated was 6964 acres.

18 As for the number of affected villages, there were different criterions to calculate. We learned from the interviewed NGOs that, the number of affected villages in the whole Monywa Project was 39, including 13 related to S&K project, and 26 related to the LCM project. However, in the field research, the interviewee from Myanmar Wanbao ever mentioned that they conducted the household survey in 35 villages, which meant that the company supposed the number of affected villages were 35 villages.

15 Myanmar Ivanhoe Copper Corporation Limited is the sub company of Ivanhoe Mines, the predecessor of the current Turquoise Hill Resources.

16 The area MICCL exploited was limited to Sabadaung, but not Kyisintaung and Letpadaung.

Table 3.1 The impacts on local communities' livelihoods of LCMP

Capital	Land expropriation and Compensation	Relocation of houses	Relocation of pagodas	Community development projects
Natural capital	Local people lost the resources of land, crops and wild animals and plants, which are hardly retrieved again.			
Financial capital	On one hand, the income based on the land was lost due to land expropriation; on the other hand, the compensation from the company increased villagers' cash.	Myanmar Wanbao provided compensation to people who moved to the new villages, which made their financial capital increased.		
Human capital	Transforming from small-scale farming to industrial production, human capital of villagers dropped in the short term and increased after villagers adapting to industrialisation.	Some of the relocated families have acquired job opportunities such as administrative position and storehouse management position, while others are not.		
Social capital	Land expropriation brought about conflicts between relatives and neighbors, which destroyed the original community relationships.	On one hand, relocated villagers started to build new social relationships; on the other hand, some family members misunderstood each other due to different opinions on relocation.	Few villagers visited the new pagoda, and more local people chose to visit other temples instead.	
Physical capital		New primary schools, libraries, communication stations, fire stations, more temples, new water and power supply stations were set up in the new project area, which enrich the physical capital		The infrastructure conditions of some affected villages, such as education, infrastructure, medical care and social benefit, were improved.



Graph 3.2 Local villagers' equipment to refine copper from tailings

3.2.1.1 Natural Capital

Land expropriation means the loss of natural capital including land, crops, wild animals and plants, which are vital for villagers' livelihood and hard to regain. We can deduce this from the situation of villages affected by the S&K project. We learned from the fieldwork, the land in S&K project were expropriated in 1995, and later people began to make a living by refining copper tailings instead of farming. Some interviewed villagers told us that they had stopped farming since their parents lost lands.

3.2.1.2 Financial Capital

The land expropriation rendered farmers unable to earn money from their lands, which decreased their financial capital. However, the compensation from companies (Myanmar Wanbao, UMEHL and ME-1) increased their financial capital temporarily. From 2011-2013, the companies have provided one-time compensation and two subsidies to land-lost villagers (See Table 3.2). Myanmar Wanbao also provided allowance to villagers who has lost land and waited to be employed: \$70 per month for farmers who lost land less than 10 acres; \$120 per month for farmers who lost 10-20 acres; and \$160 per month for who lost above 20 acres. The allowance was paid to the villagers once half-a-year till they were employed. However, the villagers are not sure how long the compensation will last.

Besides the land compensation, Myanmar Wanbao

Table 3.2 Details of the compensation and subsidies

	Time	The basis	Standards (Kyat/acre)	Amount (kyat)	Villagers' acceptance
First compensation	2011.4-2012.8	The compensation was 20 times the land rent and 3 times crop incomes	0.525-0.55 Million	About 4.8 billion	100%
First subsidy	2013.3	The market price and types of land	Canal-irrigated land:1.5 million Rain-irrigated land:1.2 million Dry land:1 million	About 6.8 billion	73%
Second subsidy	2014.2	Standard was raised according to the public appeal	Irrigated agricultural land:1.2 million Registered dry land:0.8 million Non-registered dry land :0.3 million	About 3.2 billion	71.31%

Sources: Myanmar Wanbao CSR report, LIC report.

3.2.1.3 Human Capital

Myanmar Wanbao introduced Job Plan in 2013, which promised to provide employment for each family that lost land. This plan could contribute to increase the human capital for land-deprived farmers to some extent [75]. However, compared with

also provided allowance for the relocated villagers according to the house types, fees of construction and maintenance needed per acre (about 35 thousand at least and 1 million at most)¹⁹. Villagers could repair the houses by themselves [73]. The allowance was helpful to increase the financial capital of villagers but it was limited to be used for improving the housing conditions.

Even though Myanmar Wanbao provided compensation to local villagers, most villagers spent the cash on daily expenses rather than investing in developing or find alternative livelihoods. Consequently, villagers required more compensation when they used up the cash provided by companies. It showed that the company needed to consider alternative ways to sustain villagers' livelihoods except for cash compensation [74].

agricultural production, this plan might not increase the human capital for the whole family. Myanmar Wanbao provided the limited jobs for each family, which meant not all family members could get a job. However, in the agricultural sector, all members

19 As we don't have a clear timeline for when the company gave out the funds for repairs to villagers, we can't confirm the exchange rate between the Myanmar Kyat and US Dollar that applied. For this reason, we've used exchange rates in March 2017, at which the low figure of subsidy would be 25.8 USD, and the high figure would be 73.8 USD.

can contribute to their livelihoods. What's more, the skills for industry are different from the skills for agricultural sector, so villagers must transfer production and life style to industrialization. The adaptability of villagers would determine the impacts on their human capital.

3.2.1.4 Social Capital

Land expropriation brought negative impacts on the social capital of local villagers. In Myanmar, most of the lands were not registered officially which required local government and foreign investors to check and define the land each family owned. During the process, fierce conflicts and contradiction happened among relatives and neighbors to acquire more compensation. Especially for the families with unclear succession and property rules, disputes were more likely to happen. For example, the elder sister received compensation from the company, but the younger sister was the actual user of the land and refused to remove unless she got compensation too²⁰.

Myanmar Wanbao confirmed that this state of affairs existed but contends that it's hard to put an end to and that at the same time the company shouldn't be responsible for extensive efforts with the families involved as this is the responsibility of local government or NGOs, and that the company wasn't equipped to deal with the "family affairs" of village residents.

Now, local government has set up a new administrative system in the new villages, and the relocated people were adapting themselves to the new social relations. However, due to different attitudes to relocation, some family members began to misunderstand with each other.

A female interviewee told us that: "My husband has passed away. Neither my mother nor my mother-in-law moved out



Graph 3.3 The new pagoda built by Myanmar Wanbao

of the old village, where they owned land. I didn't inform my mother-in-law when I moved to the new village at first. After she found out, she didn't allow me to transfer the old house to the company, so I didn't get a job opportunity from Myanmar Wanbao."

While in the old village, the former administrative system has been destroyed. For instance, in Wet Hmay, the former village head had been dismissed as an opponent of the relocation but the new one hasn't been commissioned. What's more, among the villagers refused to move, hidden alliances were gradually formed, which observed and supervised each other to put pressure on persons who wanted to move.

Aside from the land expropriation and village relocation, the removing of pagodas also affected the social capital of local communities which made villagers and monks unsatisfied with the project. Myanmar is a Buddhist country. According to the population census in 2014, the Buddhist account for 89.8% of the population^[76]. As described by local people, once there is a village, there are temples

20 Source: interviews with residents of the old village.

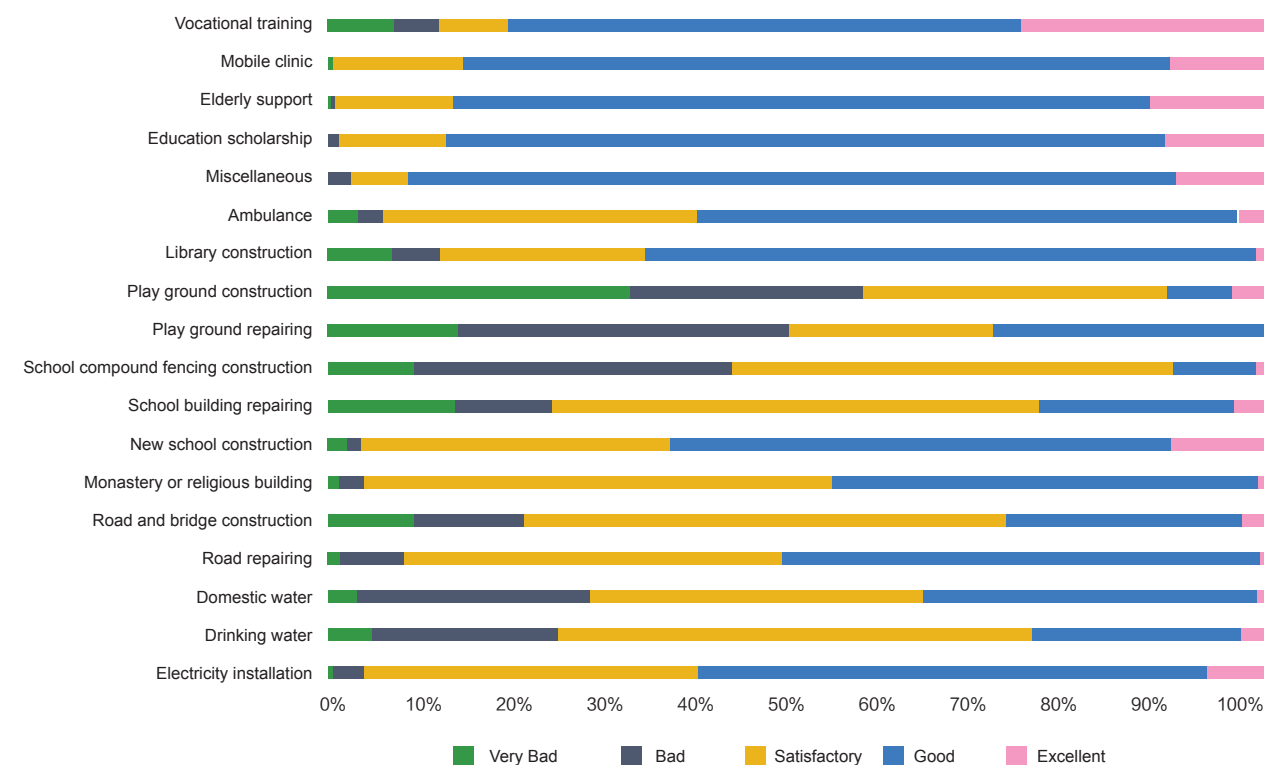
and pagodas.

The core of disputes was Lete Abbot's Monastery, which locals insisted was a cultural relic. Villagers didn't want the Buddhist buildings destroyed, and asked Myanmar Wanbao to preserve the original shape of the buildings. However, the LIC denied the statement of "cultural relic" and backed the relocation of the pagoda. Myanmar Wanbao

demolished the Lete Abbot's Monastery and built a new pagoda twice as big as the original one outside the mining site. We found that few locals visited the new temple. And a villager who was doing meditation in the new temple told us that, "locals have affections with the old temple, and this new temple is too far from their villages to come."

Box 3. The feedbacks on relocation from villagers who refused to move out from old villages

"The quality of the new house was very poor. The gaps between wooden materials were very big, and the house was not suitable for living. Though later the company sent workers to buff up our house with boards, it was still too small to hold all of my family members", a villager said. The other villager told us that, "The company sent some staffs to take photos, make maps, measure the size of our houses, and decided the grades of houses. A household who had a small house was assigned with the best house, but my family with a bigger house was not assigned with it."



Graph 3.4 Villagers' satisfaction on the social development projects
Source: Myanmar Wanbao's CSR Report 2015-2016

3.2.1.5 Physical Capital

The LCMP had impacts on communities' physical capital through the houses relocation and social development projects. On one side, Myanmar Wanbao built 4 types of houses to be distributed to villagers according to the scale of their original houses. But some villagers provided evidence to show the new houses were shoddily built^[77]. And according to the LIC report, the wealthy families who enjoyed life in the old villages were overall unsatisfied with the new houses while the poor families who enjoyed a better housing condition in the new villages were overall satisfied.

On the other side, in the new villages, Myanmar Wanbao built primary schools, libraries, communication stations and fire stations, stations to supply water and power and new temples, which increased the physical capital of locals. But the water quality was yet to improve, and it is a urgent task to build the drainage system^[78].

From 2013 to 2016, Myanmar Wanbao invested 3.9 billion kyats in total (about \$3.1 million) in the development of the villages around the LCMP area, addressing concerns in social welfare, religious belief, infrastructure, medical care, and education, which mainly increased the physical capital for local communities. For evaluating the satisfaction of villagers, Myanmar Wanbao carried out a questionnaire survey among benefited villagers. 1400 villagers from 25 villages participated in this survey. It showed that most villagers were satisfied with these projects.

However, we didn't find the names of the 4 old villages which needed to be relocated in the benefited villages list. From the view of Myanmar Wanbao, these 4 villages refused to communicate and refused to be visited. While from the view of the locals, they felt their villages were marginalized and missed by the community development projects of Myanmar Wanbao.

3.2.1.6 Summary

The descriptions above mainly analyzed the impacts of land expropriation and compensation, relocation of houses and the pagoda as well as the community development projects on locals' livelihoods including human capital, physical capital, financial capital, social capital and natural capital. This analysis targeted to the direct and short-term impacts but not the complicated indirect impacts. Meanwhile, the analysis didn't quantize these impacts for assessment, so we can't conclude whether the final impact was positive or negative. Even though there were these limitations, we still can find the complication and diversity of the impacts on local people and the changing of the policy, institution and process in the project.

Vulnerability: among the affected communities, different villagers have different attitudes and measures to dealing with the impacts of LCMP, leaving themselves with different vulnerability levels. For villagers who lost land and accepted the employment chances provided by Myanmar Wanbao, the external factors that affected their vulnerability transferred from the seasonal in agricultural sector to the economic fluctuation in industry. While for those villagers who refused to accept land expropriation or who accepted it but still stay in the agricultural sector working as casual workers, the factors that affected their vulnerability were still the seasonal factors and the price fluctuation of agricultural products, etc.

Policy, institution and process: villagers and monks who refused to accept the land expropriation mainly pushed the changes of policy, institution and process. With the supports of the media, students and NGO groups, the originally non-transparent, compulsory and consultation-free investment process was gradually changed into one that was relatively transparent, respecting communities' rights and listening to the appeals of stakeholders.

The role of authorities was also transformed from the original partner to supervisor, which enabled the voices of stakeholders including villagers, monks and NGOs to be heard. There are now more channels for people to communicate with government and company, which empower locals to influence the policy decisions. These changes of policy, institution and process conversely increased the negotiation space and opportunities for the communities to increase their livelihood capital.

3.2.2 The Impacts on Environment

Since the copper mine resources are limited and not renewable, and the environment in which they are embedded are very complicated, the more the exploitation area expands, the more impacts on the environment. A copper mine project has different effects to the environment in the process of construction, exploitation, processing, waste disposition as well as infrastructures construction^{21[79][80]}.

In this section, we mainly analyze the potential ecological and physical impacts²² of the LCMP. In view of the facts that the LCMP has been exploited not long before (construction being started from 2016), no major environmental pollution has been found made by the copper mine in the period of this research^[81]. However, we could forecast the potential environmental impacts of LCMP through reviewing the impacts of the S&K project which adopted the techniques similar with the LCMP. Meanwhile, we will also present Myanmar Wanbao's environmental management measures.

3.2.2.1 The Scale Effect

According to the LIC report, the scale of the LCMP is the largest one among the 3 mine sites (Sabetaung, Kyisintaung and Letpadaung) with mineral content accounting for 75% in total. In comparison, the scale of S&K projects is 6253.04 acres which produced 25 thousand tons of cathode copper during 2011-2015 and 39 thousand tons yearly from 2015. The great increase of the exploitation yield in LCMP might bring more impacts on the environment, which is mainly reflected in the following aspects.

Waste Water

Copper mine exploitation is a kind of water resource intensive industry. The acid rock drainage discharged from the process of acid mist spray and the refuse ore dumps, and other heavy-metal-containing industrial wastewater produced in the process of mineral exploitation and treatment, might pollute the surrounding surface water and underground water without being treated or using a lower standard. It will affect not only the survival of animals, but also the surrounding residents. Besides, the LCMP might pump a large amount of water from the near Chindwin River. The degree of depth of the mine made by open exploitation may be much lower than the underground water level, which will lead the surface water and underground water to flow into the mine to threaten the security of water in the ponds and reservoirs.

In response to these potential impacts, Myanmar

21 The copper mine extraction methods mainly include pyrometallurgy and hydrometallurgy. The pyrometallurgy costs more energy, produces high-corrosive chloride and villiaumite, and dismisses SO₂ (comes from the sulphur in the mineral) as waste gas, etc. This way is very pollutant to the environment and dependent on very high equipment investment. While hydrometallurgy usually adopts solvent extraction technique, which needs a relatively low cost and generates less pollutant to the environment comparing to pyrometallurgy. So the latter is quite common for copper mine exploitation, including the LCMP.

22 The ecological impacts mainly include the impacts a project has on the biodiversity in the surrounding area; the physical impacts include water pollution, soil pollution, and solid waste pollution (mainly are waste minerals).

Wanbao took the plan of Zero Release of wastewater, and currently they have set drainage passages and collection pools to avoid the outflow of wastewater. According to Myanmar Wanbao's CSR report, the capacity design of the wastewater collection pools considered the maximum rainfall, and can prevent the wastewater flowing to the Chindwin River even in the rainy season. Myanmar Wanbao also considered the supervision on quality of underground water²³.

Soil Pollution

The soil pollution comes mainly from the disturbance of surface soil by infrastructure construction, and also from the acid mist spray and acid rock drainage discharged which will alter the property of the soil resulting in death of the plants, barren fields, or excess metallic element content of the crops. According to the evaluation of the LIC, it was found that the peeling-off work of the infrastructure construction in LCMP has been initiated but Myanmar Wanbao didn't pay attention to the protection of the surface soil, which directly deposited the waste dirt and rock onto the land surface. The LIC required Myanmar Wanbao to plant trees in the places where the digging has been finished or where waste sands were deposited.

Till March 2017, Myanmar Wanbao has planted 61,603 local shrubs and trees, 30,280 tree seeds, 342,361 shrub or grass seeds, transplanted green areas of about 53,355 m², and finished green area of 826,566m² in total. These seedlings, and grass seeds for land reclamation and greening were from local communities²⁴.

Refuse Ores

Since the refuse ores produced in the process of hydrometallurgy have been extracted by acid liquor, they contain plenty of sulfides, which will turn into sulphuric acid by oxidation after they are exposed in the air and water. The sulphuric acid will dissolve the toxic metals like lead, cadmium and cobalt, etc. in the surrounding minerals. This kind of acid rock drainage made of acid, metal and water will infiltrate through the soil and surface water and pollute them, among which content of certain metals will be possibly threaten the lives of humans or other creatures. This kind of acid rock drainage is very hard to be treated and will be left behind in water or soil for a very long time. According to the production scale and technology, it was predicted that the LCM will produce 946 Mt refuse ores, among which 256 Mt will be deposited in the mine in the next 20 years, while the other 690 Mt will be deposited in 3 different refuse ore bases. According to the ESIA report, it was found that the content of sulfides in the refuse ores of S&K was very high^[82]. It is quite possible that plenty of acid rock drainage will be produced in the LCMP, which might generate threats to the environment.

To prevent the underground and soil being polluted by accident, Myanmar Wanbao set a design and construction standard for the waste disposal site and heap leaching site with the basic seepage coefficient on the ground reaching 1×10^{-8} . The company also used an HDPE impermeable membrane to equip the production process facilities such as heap leaching site.

As explained above, the results of these potential

impacts are not necessary going to be negative. According to the CSR report (2015-2016) of Myanmar Wanbao, it will invest \$2 million into environmental protection annually to build an environmental management system meeting international standards and adopt measures to reduce the negative environmental impacts. If Myanmar Wanbao could follow its promise, the increase of economic returns will correspondingly increase the input in the environmental protection.

3.2.2.2 The Structure Effect

In the field of copper mining exploitation, the potential structure effect happens in the small-scale copper refining and large-scale exploitation production. In the fieldwork, it was found that there were plenty of refuse ores deposited by the roads approaching the LCMP site, which were produced in S&K project during 1984-1997. Due to the limited technology at that time, copper in the mine couldn't be extracted thoroughly, leaving plenty of copper in the deposited refuse ores. Some villagers adopted reselection skills²⁵ to smelt copper from the deserted refuse ores, which is the so-called indigenous method for copper refining²⁶.

This kind of indigenous method for refining coppers is easy to be realized with simple equipment, techniques and processes. While villagers dealing with this usually didn't take any environmental protection measures leaving residues exposed on the ground and drainage sinking into the ground, which polluted the surrounding soil and water body. According to the test done by Amnesty International (AI) in 2014 on the deposit sediment in this area, the acidic property here was extremely high (PH



Graph 3.5 The water and soil polluted by the indigenous method value 2.78), and the concentration of copper was also very high (dry weight 3730 mg/kg)^[83].

The tailings piled up in this area, which was very close to Chindwin River might cause serious geological disasters if there were heavy rains and threaten locals' health. We learned from the interviews that what the villagers worried about most was the possible landslide made by the collapse of tailings. What's more, they have to carry drinking water from the neighboring villages now.

In 1970s-1980s, ME-1, the company that undertook S&K project, didn't perform any treatment on these leftover tailings. And then Ivanhoe and Myanmar Yangtze that took over S&K project later ever cleaned some of the refuse ores, but there is still a considerable number of residues left. It was found that refining copper from tailings was still the main income resource for locals. Therefore, the thorough cleaning of these tailings needs not only human resources and equipment, but also proper

23 Source: the materials provided by Myanmar Wanbao.

24 Source: the materials provided by Myanmar Wanbao.

25 The beneficiation method to separate mineral particles by relative density, particle size, difference in shapes, and their different motion transmissibility and direction in the medium (water, air or other liquid with high relative density).

26 The process is as following: firstly, they dig grooves in the ground, lay plastic sheet in these beds, and put lime into the tailings solution; secondly, they put the iron sheets (from iron cans containing Red Bull or concentrated milk) into the filtered solution, which will accrue elementary copper deposited after the copper ions are displaced by the metals; and then they will collect the displaced copper powder and smelt and cast them with professional machine.

communication and coordination with locals.

It was clearly stated in the LIC report that the mining companies, residents and authorities should cooperate with each other as quickly as possible to take compensation measures for the deteriorated environment [84]. If Myanmar Wanbao may cooperate with local government to clear the leftover tailings and reduce the environmental impacts, it will be possible to realize sustainable development based on the structural readjustment and reduce the negative impact on the environment.

3.2.2.3 The Technology Effect

At the beginning of S&K projects (1970s), the Ministry of Mines of Myanmar purchased equipment from Yugoslavia and adopted the method of floatation separation including peeling and leaching. However due to incorrect methods and outdated technology, the copper couldn't be abstracted from the mine completely with very low copper output and serious environmental pollution [85]. Afterwards, Ivanhoe took over the projects and improved the technology by using the opencast mining.

The LCMP also adopted the method of opencast mining and follows the cathode copper production technique: mining-crushing-screening-heaping-leaching-solvent extraction-electro-wining. In the



Graph 3.6 The deposited mine dumps of S&K project

technique of cathode copper production, various materials (water, rock and condensation product) that had been used wouldn't be thrown after being used only once, instead, they would be used repeatedly, which leads to realising zero discharge.

Compared to the nearly ended Sabetung Copper Mine, both Kyisintaung Copper Mine and the Letpadaung Copper Mine adopted more advanced methods. For example, they have loaded and transported minerals with large-tonnage power-operated dumpers, which are more flexible, efficient and safe. They also adopted other equipment such as watering carts to reduce environmental pollution. As observed, with the gradual introduction of modern technology, the negative impact on environment can be reduced.

However, we haven't found any final plan of how to process the refuses and minerals left in the ESIA report made by Myanmar Wanbao. So we couldn't evaluate whether its environmental protection measures were good enough.

3.2.2.4 The Regulation Effect

As described above, before the enactment of the new Environment Conservation Law and Mines Law, the regulation controlled by Myanmar government was too weak to protect environment. At that time, the management of mining mainly refers the Mines Law (1994), which stated clearly that companies or individuals dealing with mining should take necessary measures to reduce the negative environmental impacts. It also provided clear instruction on the environmental protection measures, including the treatment upon refuse ores, tailings, drainage and solid garbage. However, without a powerful supervision system, many mining companies didn't abide by these rules.

For example, there are some obvious abuses in the ESIA report done by Ivanhoe upon the S&K projects. The report was weak in analyzing the

potential risks and impacts in the projects, and it didn't effectively reflect the social, economic and environmental status of the areas around the project sites [86].

According to the Environmental Conservation Rules 2014, it requests FDI to carry out an EIA in Myanmar. If Myanmar Wanbao can practically carry out their Environmental Management and Monitoring Program, it is quite possible that the environmental impacts brought by the LCMP will be reduced to a certain degree.

3.2.3 The Impacts on Labor Rights

As LCMP was initiated (2012), Myanmar has entered the labor laws reform era, which means the labor rights protection situation has been improved. In the field research, we didn't find the forced labor problems associated with conspiracy between companies and local government. Instead, the employment standards of Ivanhoe have played a role in demonstrating effect on both LCM and the S&K project. In the following we'll show Myanmar Wanbao's labor policies from 4 aspects Including employment & occupational skills, working time & salary, trade unions & collective negotiation, occupational safety and protection.

3.2.3.1 Employment & vocational skills

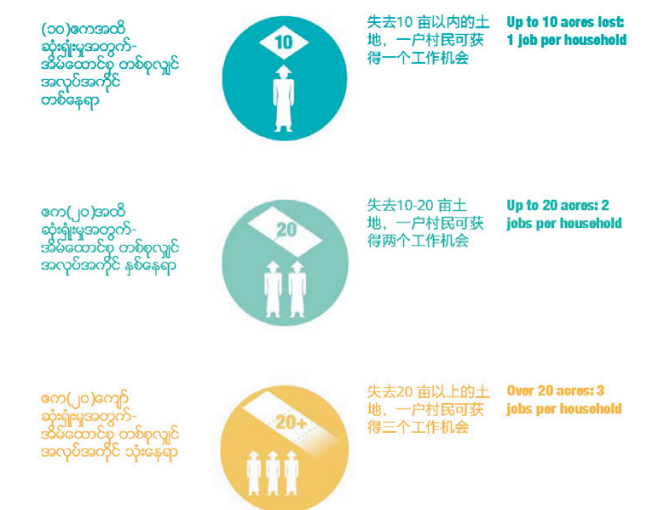
Myanmar Wanbao made a Job Plan to offer job opportunities to villagers who affected by the project (see Graph 3.7). Up to 2015, LCMP created 3351 job opportunities for Myanmar, among of which 1642 were employed by Myanmar Wanbao directly, and the other 1636 were employed by Myanmar Wanbao's sub-contractors [87]. The company preferentially hired the villagers who affected by the project, and then the workers from Monywa area, lastly the people from other areas of Myanmar [27]. Among directly employed labors, 89% are Burmese,

of which 77% are from the communities affected by the project [88].

However, this Job Plan was faced with various problems in practice. Firstly, some villagers were opposed to land expropriation and relocation, and refused to follow the Job Plan provided by Myanmar Wanbao. Secondly, protests resulted in the shutdown of the project, which led Myanmar Wanbao couldn't provide enough job opportunities. Finally, some villagers said, once being fired, they would lose the opportunity to be employed forever.

A local NGO told us that, in order to decrease the employees' pay for length of service, Myanmar Wanbao fired employees at the end of every month and resigned the contracts without work period with them again on the first day of the next month.

In response to this, Myanmar Wanbao claimed that there was no such situation which workers were continually fired and hired to avoid seniority pay obligations. The company contends workers are fired for breaking local government or company policies. The details of the regulations are kept on file at the local ministry of labor, and in line with the



Graph 3.7 The Job Plan of Myanmar Wanbao
Source: Myanmar Wanbao CSR Book(2013-2014)

27 Sources: interviews with representative from Myanmar Wanbao.

circumstances of each situation investigations are performed and committees convened to decide actions taken. In general, workers fired for breaking the law are not re-hired.

Table 3.3 The vocational skill training programme of Myanmar Wanbao

Programmes	Beneficiaries (person)	Period	Post
Driving skills	100	Totally 3 periods, 3-4 months per period	Drivers
Computer skills	80	Totally 2 periods, 3months per period	Secretaries
Chinese learning	100	The entire year	All staff
English learning	350	4 months per period	All staff
Power supply skills	20	3 months per period	Electricians
Pipeline laying skills	20	3 months per period	Plumbers
Maintenance skills	20	The entire year	Machine maintenances
Pre-service trainings	330	4 months per period	Operators
In-service trainings	120	9 months per period	Assistant engineers

sources: Myanmar Wanbao CSR Report (2015-2016)

Myanmar Wanbao provided skill trainings for employed Myanmar staffs, including driving and computer skills, vocational skills on power supply or maintenance as well as language skill in Chinese and English. In our field research, some villagers who were employed by Myanmar Wanbao did speak Chinese.

3.2.3.2 Salary and Holiday

Employees in Myanmar Wanbao can be divided into two types: fixed contract workers and casual workers. The former receives salary per month, enjoys legal holidays and social security while the latter receives salary once per day and has no fixed

contract. The salary level of employees in Myanmar Wanbao depends on the contents of the work.

We learned from the interviewed staffs that the salary of staff doing cleaning work was about \$150 per month, while salary doing administrative work is relatively higher, namely \$200 per month²⁸. Some interviewees told us that before the government issued the minimum wage guarantee policy, salary given by companies were not enough to sustain basic life. However, after the policy was issued, some companies took measures to reduce the bonus benefits but Myanmar Wanbao practiced relatively better in this aspect.

Box 4. The job and salary of staffs that work in Myanmar Wanbao

“My elder daughter is a formal employee in Myanmar Wanbao who does cleaning work. She enjoys social security besides salary. Her salary was raised 3 times in recent years, from \$100 to \$ 150, and currently it is \$180 per month. I'm a casual worker in Myanmar Wanbao, with daily salary raised from 3100 kyats (about \$2.3) to 3700 kyats (about \$2.7) per day.”

28 Source: interviewee in the new village.

There are some controversies on the salary gap between Chinese and Myanmar workers. Chinese workers in Myanmar Wanbao are mainly engaged in management and technical positions, such as the infrastructure construction of the mine site. Some villagers pointed out that Myanmar Wanbao is more likely to hire Chinese workers in technical professions. Other locals thought that Chinese workers' skills are not always better than Myanmar workers, but they are paid higher. We are also told that Myanmar Wanbao unequally by gender. Myanmar Wanbao claimed that Chinese workers left their families to come to Myanmar, and it's reasonable for them to be paid a higher salary than the locals.

As for the staffs' leave, according to the labor laws, Myanmar Wanbao provides every employee 25 public holidays, 6-day private affair leaves and 10-day annual leaves. The staffs also enjoy paid sick leave, but their pay will be dock if the leave days exceed the allotment. Additionally, female staffs enjoy 3-month maternal leaves.

Box 5. The brief introduction of CTUM

CTUM is an independent trade union that is officially recognized by Myanmar government but not affiliated with the government. It is a national organization, which is registered in ILO. It pays attention to labor issues home and abroad and interacts with ILO closely. It has 6 branches, covering various industries such as mining, agriculture etc. CTUM covers over 50% employees in Myanmar. Part of its operating fees is from the member fee charged from the workers, who pay 50 kyats annually. In the occasion of negotiation, CTUM represents workers and negotiates with government and enterprise. They have relatively smooth communication channels with companies and government.

3.2.3.4 Vocational safety and protection

Regarding the process of copper production, possible vocational diseases may be caused by dust, noise, ionizing radiation, and chemical damage (see table 3.4). According to OHSAS 18001, Myanmar Wanbao formulated a series of process and management systems for health and

3.2.3.3 Trade Union and Collective Negotiation

In LCMP, two types of trade unions are continually engaged in the process of resolving the labor rights issues. One type is the trade union within Myanmar Wanbao, with over 2000 members. The other type is the independent trade union out of Myanmar Wanbao, such as the CTUM, which also does research in the process of protests and strikes, feeds back the employees with the profit status of their companies, and helps to coordinate the negotiation between employees and employers.

Apart from CTUM, some other local organizations are also engaged in the labor disputes mediation. S&K Mining Watch is a CBO set up by local villagers to provide the workers with related legal knowledge, support the workers to seek external specialists and provide sponsorship to trade unions. In the S&K project, this organization was invited to help 700 casual workers ask Myanmar Wanbao to execute the suggestions from the LIC.

safety in work. These measures include providing health and safety trainings, using safer production machines, monitoring the working environment and labors' health and safety situation^[89]. Some Chinese workers told us that Myanmar Wanbao issued employees with uniforms and working shoes

to ensure basic safety.

According to its CSR report, Myanmar Wanbao paid for employees' social security insurance, heavy casualties insurance, free medical services

and medical fees if necessary. We also learned from the interviewees that there was hospital in the Letpadaung Mine.

Table3.4 The potential vocational safety risks in the process of copper production

Process	Spots	Safety Risks
Digging	Drilling sites, roadways	Noise, dust
Mining	Mining roadway, transportation port	Dust
	Stope	Nitric oxide, carbon monoxide
Underground transportation	Transportation roadway and unloading port	Dust
Underground crushing	Crushing room	Dust, noise
Mineral separation	Ore transportation: ore mouth, grinding port	Dust, noise
	Grinding port	Noise, ionizing radiation
	Flotation port	Chemicals (carbon dioxide, hydrogen sulfide, etc.), noise
Tailings system	Tailings port	Dust
Essence mine dehydration	Essence mine tank	Chemicals (hydrogen sulfide, sulfur dioxide, nitric acid, etc.)

Source: <http://www.zyws.com/zwpj/5279.html>

3.2.4 Summary

From the above, we learned that the LCMP did bring different potential impacts and risks on local communities, environment and labor rights. After Myanmar Wanbao took rectification measures in the LCMP to respond to the appeals of local stakeholders, the degree of support and satisfaction of some groups on LCMP has been raised, while there were still some interviewees saying their appeals are not being scrutinised and fulfilled.

Based on this case, the social and environmental problems brought by Chinese investment projects not only depended on the companies' behaviors, but also were closely connected with the legal and policy environment and social issues of host country. It is time for NGOs to compensate the angle of view of government and companies, raise suggestions based on the appeals of stakeholders

such as communities to promote multi-party communication and avoid conflicts. Chinese NGOs can be engaged in this process based on their expertise to provide solutions for concrete issues.

However, the engagement will be full of challenges when the stakeholder relation is complex. In the next section, we'll analyze the stakeholders involved in the LCMP to present and recognize their interests, demands and roles. For Chinese NGOs that work in host countries, understanding these stakeholders and their power on the investment is necessary.

3.3 Analysis on Stakeholders

The background of the LCMP was very complex. Myanmar Wanbao took it over in the transitional

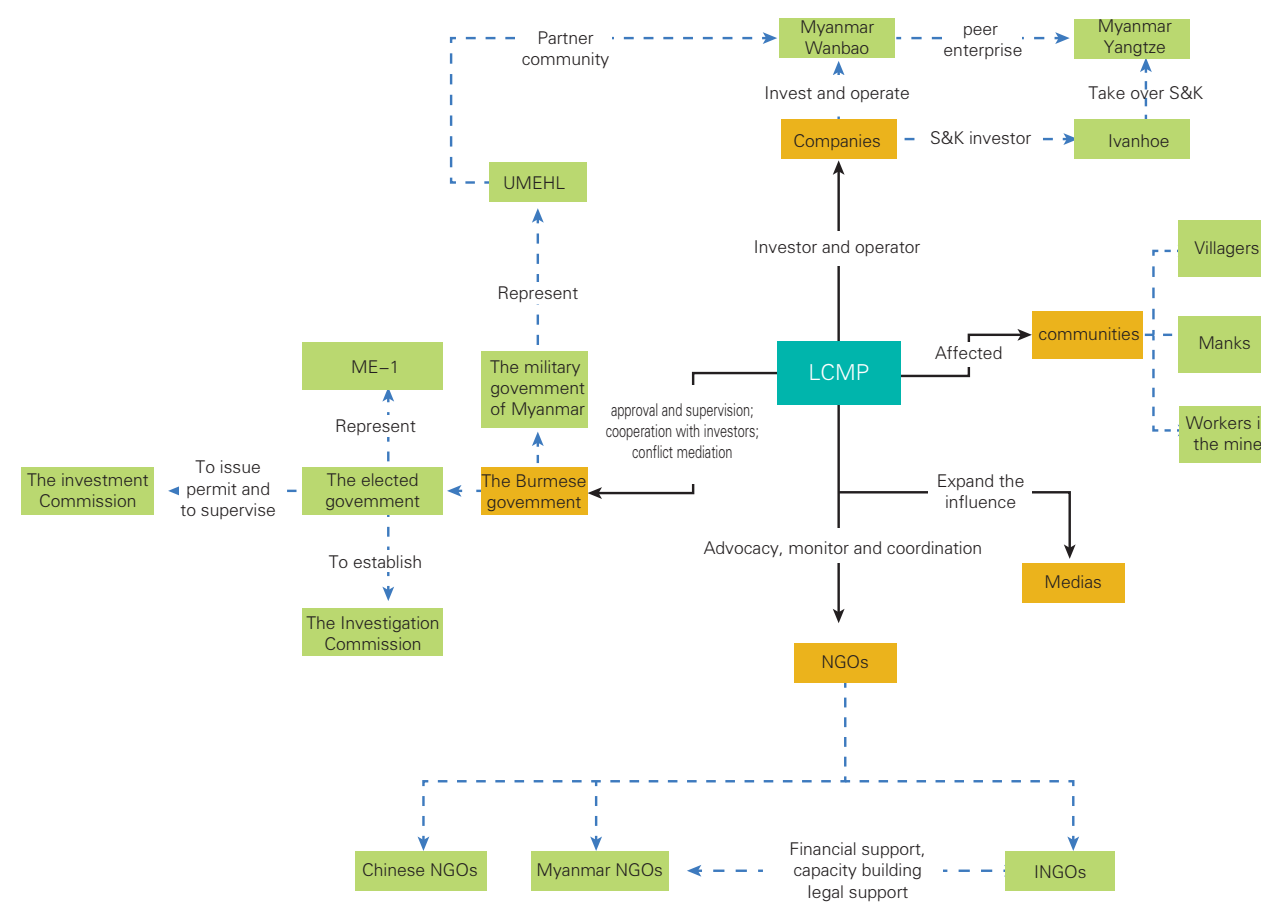
period of Myanmar from military government to the elected government. With the relaxed social control, civil society got more opportunities to participate in the political, economic and social development which led various kinds of stakeholders to be involved in this project (see Graph 3.8).

In this section, we'll summarize on the roles, interests and power of different stakeholders in

LCMP as well as how the attitude and appeals of local communities have changed and the roles of Myanmar NGOs played in the conflicts. We also will analyze the challenges that Chinese company faced and their way to reaction (see Table 3.5)²⁹.

3.3.1 The Chinese Company

Many media reports, investigations and reports had pointed out the problems the company (Myanmar



Graph 3.8 The main stakeholders of the LCMP

29 Even the media played very important role in the LCMP, we have limitations to approach to these medias. Consequently, the roles of media would not be analyzed in this report.

Table 3.5 The roles and interests of different stakeholders in LCMP

Types	Main Bodies	Interests	Roles in the Project
Companies	Myanmar Wanbao	a) Profits b) Business reputation	a) To invest, construct and operate the mine. b) To create job opportunities for locals, to provide occupational skill trainings for employees. c) To develop local communities.
	UMEHL	Economic profits	a) To deal with land expropriation and relocation. b) To keep good relation with companies and local communities.
Communities	Villagers	a) Opinions can be respected and get reasonable compensation. b) Environment can be protected. c) Living standard can be improved.	a) They are the most crucial and direct body affected by the project. b) To express interests and concerns, and to carry out protests and demonstrations. c) The project will face risks and challenges without their consent.
	Monks	The Buddhist culture and relics can be conserved.	a) To participate in and support the protests and demonstration. b) To participate in the negotiation and conflicts mediation.
	The mine workers	a) To get job opportunities. b) To gain stable and reasonable incomes. c) To gain skill trainings and social security.	a) To support the project to run continually. b) They are bystanders of conflicts.
NGOs	INGOs	Human rights and the environment can be protected.	a) To provide financial support and capacity buildings for villagers and Myanmar NGOs. b) To participate in the protests and demonstration and initiate legal proceedings.
	Myanmar NGOs	a) Ask that Myanmar government supervise FDI with improved laws and rules. b) Companies and the government should abide by related laws, policies and standards. c) Companies should be transparent on information, carry out ESIA and fully respect villagers' rights.	a) To support and participate in the protests and demonstration. b) To push the Myanmar government to issue and improve related laws. c) To negotiate with Myanmar government and the company on behalf of villagers.
	Chinese NGOs	a) To realize Chinese responsible investment. b) To improve China's reputation globally.	a) To provide capacity building for Chinese companies. b) To increase the dialogue between Chinese companies and stakeholders in host countries.
Government	Myanmar government	a) To share economic benefits. b) To realize stable society and political context. c) To develop economics and boost employments.	a) To establish an Investigation Commission to evaluate social and environmental impacts of the LCMP and analyze the conflict reasons. b) To establish executive commission to supervise Myanmar Wanbao to execute the suggestions on reform. c) To keep the safe and stable status of the mine area.
	Chinese government	a) To deepen political and economic its cooperation with Myanmar. b) To support the investments of Chinese companies abroad.	a) To examine and approve investment project. b) To express its position and support Chinese company in the conflicts.

Wanbao, UMEHL and ME-1) and Myanmar government caused in the LCMP including the fields of land expropriation and compensation, relocation and others. However, few had explored the complex background of these problems. In this section, we'll focus on the analysis of the challenges Chinese enterprise (Myanmar Wanbao) faced, and their challenges, measures to handle with these problems.

3.3.1.1 The Challenges and Problems of Myanmar Wanbao

The LCMP was a key part of the Monywa Project. Though it was initiated in 2012, many social and environmental problems had been accumulated before 2012 in the complex historical background. Since UMEHL and Myanmar government didn't follow a public and transparent approach in the process of land expropriation and relocation, many social and environmental problems caused by the project had been intensified before 2012. As a result, it was inevitable for Myanmar Wanbao to face conflicts with various stakeholders once it took over the project.

The Accumulation of "Complains"

The investment and operation of the LCMP was relatively independent from S&K project, which was closed to the LCMP and passed the historically accumulated disputes to Myanmar Wanbao. Before Ivanhoe took over S&K projects, the Yugoslavian enterprise that was in charge of this mine had lots of problems in management. A villager explained to us: "There was no law on environmental protection at that time. Tailings were heaped up everywhere, and our vegetable fields were barren"³⁰.

Afterwards during the management of Ivanhoe period, the military government crudely expropriated land from the villagers without any compensation and employment offers. The affected communities mainly made a living on refining copper from refuse ores. The villagers were more aware of the environmental pollution, such as acid runoff, heavy metal pollution, more buildup on kettles, crop disease, more cancer cases and odd diseases etc³¹.

At that time, villagers couldn't express their opinions under the high political pressure, and lacked space to fight for their own rights and interests. With these experiences, locals in Myanmar are at large discontent with investment projects and hold that "all the FDI in Myanmar were predatory, and the locals enjoyed no benefit"³². When the democratic transition was realized, Myanmar government relaxed the control on media, public opinion and campaigns. People gained the space and channels to carry out peaceful demonstrations to ask for rights, express appeals and act out discontent emotion.

Thus, once the LCMP was initiated, it immediately became the main target to receive discontent from all sectors of society. Villagers who suppressed by the military government and affected by the new project were united to carry out protests. People affected by S&K held that the new investor should compensation for their losses. And they frequently shared their worsen situations with villagers affected by the LCMP.

30 Sources: interviews with villagers near S&K projects.

31 Sources: interviews with villagers near S&K projects.

32 Sources: interviews with a INGO staff.

Control of the Military

Before the political transition was realized in Myanmar, the military government forced the transfer of mining rights from Myanmar Department of Mines to UMEHL. To acquire the mines, Myanmar Wanbao became a partner of UMEHL and shared benefits with it. According to the cooperation contract, Monywa government and UMEHL were responsible for dealing with the land expropriation and relocation while Myanmar Wanbao was responsible for the construction and operation of the LCMP.

UMEHL relied on Salingyi Township government to deal with the land expropriation and relocation issues. However, the local government didn't disclose the information to villagers and made the compensation plan without consulting with locals which became the flashpoint for the villagers to protest and resist the LCMP.

As the disputes growing more and more intense, Myanmar Wanbao proposed to communicate with the villagers by themselves directly, but this proposal was refused by UMEHL. UMEHL pointed out that, according to the contract, it was their responsibility to deal with the community relations rather than Myanmar Wanbao. They went on to warn that it would be dangerous for Myanmar Wanbao to visit the villages without adequate preparation. However, Myanmar Wanbao finally managed to visit communities widely in 2014 after communicating with UMEHL continually.

Lake of Improved Social and Environmental Management Mechanism

The moment that Chinese enterprise took over the LCMP was just the moment that western companies such as Ivanhoe were selling a great deal of assets in frequent-conflict countries. It was true that Myanmar Wanbao faced many external challenges and limitations at that time, however, it

was also true that they lack improved management mechanism for social and environmental issues which was the direct factor to trigger conflicts.

Firstly, before investing, Myanmar Wanbao ever hired experts to carry out technical investigation and studies in LCMP. According to the existing information, the investigation was focused on the economic profits and feasibility but not the assessment of social and environmental impacts and risks. Representatives from Myanmar Wanbao pointed that, they didn't carry out an ESIA in the earlier stage just because they supposed the ESIA report that Ivanhoe Mines made in 1990s was enough to be referenced and the a reevaluation was unnecessary. However, the local communities and NGOs didn't accept the ESIA report being applied to the new project. They insisted that Myanmar Wanbao needed to assess the potential social and environmental impacts of the project, for the social and environmental situation in the affected areas has changed a lot compared to 1990s'.

Secondly, Myanmar Wanbao didn't set up a management mechanism to handle with the social and environmental issues when it was established, and a special team to deal with conflicts. What's more, after experiencing many protests, the company had realized the importance of social license, but still didn't consult with stakeholders fully before the project was restarted which was the reason that the opposition from different groups was constantly triggered.

Lastly, Myanmar Wanbao lacked experienced techniques and methods to balance the interests between local government and the protestors when Myanmar government wrongly used force to deal the protests. For example, Myanmar Wanbao provided fire engines and ambulances for police in the clearance process considering the safety of mine workers. But from the view of villagers and NGOs, Myanmar Wanbao supported

the government to use force in disguise, which aggravated the discontent of the protestors.

3.3.1.2 The Response mechanism

At the beginning of LCMP initiated, Myanmar Wanbao was very passive in dealing with protests and resistance. In 2012, Myanmar Wanbao set up a public-relation team and adequately empowered the spokeswoman to cope with the conflicts^[90]. In 2014, the team was reorganized to CSR department. After investigation of LIC, Myanmar Wanbao rectified and reformed their social and environmental strategies following the LIC's suggestions.

Internally, Myanmar Wanbao set up a management system upon social and environmental issues. Apart from setting up the CSR department, they also invited a third-party consulting firm to make a Social License strategy, environmental and labor management system. Myanmar Wanbao is also making efforts to raise the degree of transparency. From 2014, they began to publish CSR reports in English and Burmese as well as disclosing the information of the project through their official website, Facebook, Wechat, Facebook, YouTube and medias of Myanmar, China and the west.

Externally, on one hand, Myanmar Wanbao carried out the third-party ESIA according to the suggestions of LIC, set up a Community Social Development (CSD) team composed by community representatives, and carried out face-to-face interviews and consultations in the affected communities through the way of door-by-door. On the other hand, they invited the third-party consultant firm to organize community consultation meetings. Myanmar Wanbao also invested funds to community development annually, and helped to raise the governance capacity of local government through trainings and so on (see the Graph 3.9 below).

Among the above mechanism and measures,

Internally



- To set up CSR department
- To make a Social License strategy
- To set up environmental management system
- To improve the labor management
- To raise transparency

Externally



- To carry out third-party ESIA
- To set up a CSD team
- To interview villagers and organize community consultation meetings
- To carry out community development projects
- To improve capacity of local government

Graph 3.9 The measures Myanmar Wanbao took internally and externally
Sources: Myanmar Wanbao CSR Report

two experiences were most crucial for Myanmar Wanbao. One is to cooperate with medias and raise the transparency of the project. The other is to carry out face-to-face interviews with villagers in rural communities even though the contract didn't require Myanmar Wanbao to undertake the responsibility of consulting with communities.

Through these measures and response mechanism, Myanmar Wanbao has reduced some pressures from stakeholders. Concretely speaking, the scale and quantity of protests and demonstrations directly against LCMP were declined compared to 2012-2014, and 71.88% villagers (317 households) have accepted relocation. However, based on fieldwork, we still heard some complains from local villagers and NGOs.

Table 3.6 The questions and complains from interviewed villagers and NGOs and Myanmar Wanbao's response

Aspects	Villagers and NGOs	Myanmar Wanbao's response
Myanmar Wanbao's implementation of LIC's suggestions	Myanmar Wanbao didn't fully implement the suggestions of LIC, and the Implementation Commission was mainly composed of members from Myanmar government and the company without real villager representatives.	Among the 42 suggestions raised by LIC, the company is mainly working on 4 items including raising land expropriation compensation/subsidy, improving the environmental management plan, providing employment and developing middle-or-small-sized companies, and carrying out community development projects.
The representativeness of ESIA report	The ESIA report was published without comprehensively consulting with the affected villagers. And the report was 300-400 pages, which was quite difficult for villagers to understand easily. Some villagers pointed out the assessment didn't reflect the villagers' opinions with the original meanings.	In the process of evaluation, ESIA team have held many meeting of villagers to ask for advice.
The representativeness of CSD	It's hard for CSD team to truly represent the interests and appeals of villagers. They have made limited contributions It's hard for CSD team through holding meetings.	The CSD members were elected by villagers and approved by local government. They were not formally paid but received subsidy from Myanmar Wanbao. The company both collected villagers' suggestions and spread updated rules and policies and recruitment information through CSD. CSD office was set in every new village and has reception center in Myanmar Wanbao too, which are convenient for villagers to consult and express complains.
Land compensation	There were many disputes on land expropriation and relocation among families. Some villagers pointed out that it was Myanmar Wanbao's responsibility to check who was the owner of land, and refuse to pay if there were disputes.	Myanmar Wanbao held that the local government or NGOs should do such detailed family background check instead of the enterprise, for they were not professional enough to be involved in villagers' "household affairs".

The appeals of stakeholder have changed a lot compared to the situation before LIC was involved. Some disputes such as "whether the removed pagoda was a cultural relic" have been confirmed by the investigation but some not. These appeals of villagers and NGOs presented the dynamic features as the developing of projects and disputes. Compared the villagers and NGOs' appeals to the response of company, there is big gap between their understanding on the disputes. They had different reflections on the specific measures

Myanmar Wanbao taken which have not reach consensus through communication.

3.3.2 The Affected Communities

A community is a complicated entity. Affected by the investment differently, communities had diversal interests and played separate roles. Through reviewing the conflicts, we divided the community subjects into three categories: villagers, monks and mine workers (see Graph 3.10). Mine workers came from villagers, but they had different interests from

common villagers. Actucally, the livelihoods of these workers had tied up with the project. So in this section, we mainly analyze the villagers and monks.

There was another group mentioned by the interviewees, which were the individuals or groups with political purposes. However, we didn't touch to this group of people in the fieldwork, so we'll not discuss it here.

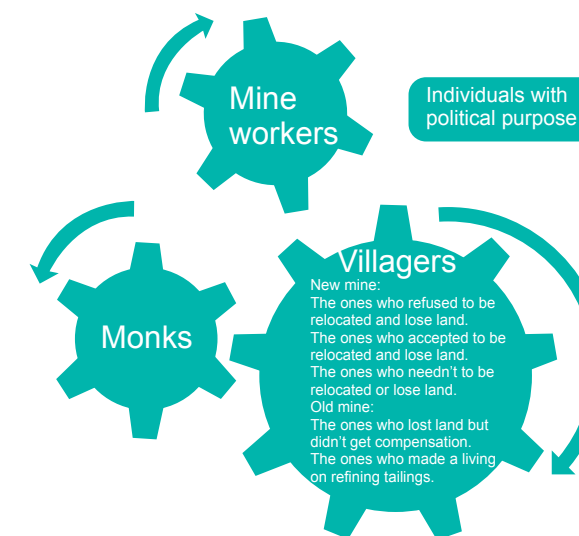
3.3.2.1 Villagers

In the conflicts of the LCMP, the protestors included not only villagers affected by the new mine (the LCMP), but also villagers affected by the old mine (S&K project). These villagers had different attitude upon investments.

For the villagers who lived around the new mine but did not need to be relocated or lose land, they enjoyed the infrastructures and convenience brought by Myanmar Wanbao. Some other villagers who lived a very poor life originally recieved better livelihoods and housing conditions. For those villagers who lived around the old mine and made a living on refining copper, their livelihoods were closely related to the project. For those groups, the impacts of mining projects on their lives were relatively positive.

However, these groups have some demands. For villagers who had accepted relocation, they hoped Myanmar Wanbao improve their housing condition and offer them jobs as soon as possible. These groups usually didn't participate in the protests and demonstrations; instead, they expressed their appeals to Myanmar Wanbao through the CSD team. To some extent they persuaded protestors to accept the compensation from Myanmar Wanbao.

Currently the crucial group tended to trigger the conflicts were villagers who rejected land expropriation and relocation in LCMP as well as villagers who demands compensations for affects



Graph 3.10 The community subjects in LCMP and S&K project

- a) households with more land claimed to get more compensation and raise the compensation standards
- b) households refused to be relocated for they believed that the living conditions would be worsen
- c) households requested land as compensation rather than cash and job opportunities to sustain their original living style
- d) villagers lost their compensation because their family members got the compensation in their names
- e) villagers refused to communicate with the company based on their past defeated experiences
- f) villagers were not willing to be relocated because they were affectionate with the old village
- g) aged villagers afraid to adapt to the new living style and working environment

Graph 3.11 The reasons villagers refusing to relocate

of the S&K project. For the villagers affected by LCMP negatively, they have different demands and requests, which can be viewed as being in the above 7 categories.

Through reviewing these reasons, it was found that the demands of villages are diverse and existed on multiple levels. It's important to balance these demands and power relation for both Chinese companies and NGOs.

Box 6. Dondaw, a village affected by S&K

There are over 300 households in Dondaw village, among which 50 households are making a living by refining copper and others leave the village for paid work. Females sell Penang Lang while males do casual work. Over a dozen people work in the sulfuric acid plant, which only employs males and pays 80-90 thousand kyats (\$60-70) for a worker per month. "The company prefers to employ graduates, but those from a lower educational background could also work there if they have acquaintances in the company".

A household interviewed has 36 members, and all of them are living on refining copper. Before the S&K mine exploited in the region, this family was living on planting onions. Since local government expropriated their lands, they have been away from farming for 30 years. They didn't get any compensation for crops or lands at that time. "We heard that other villages were offered compensation in the LCMP. We even didn't know where to ask for the compensation. In the past, some people came to measure our land, but they didn't give any more information afterwards".

Dondaw village was surrounded by tailing heap. The villagers usually carried the tailings down the hills and refined copper. 1 peittha (a local measure unit which equals to about 1.62 kg) of the refined copper could be sold at about 8000 kyats (around \$6). Usually this household can earn 200 thousand kyats (about \$160) per month. Earnings in rainy seasons can be more than dry seasons. The company running these S&K project tried continually to clean up the tailings. But this plan was refused by villagers, because the tailings have been the resources to make a living for them.

3.3.2.2 Monks

Monks enjoy a relatively high social status in Myanmar, and they are usually the local authority in villages. In the conflicts of the LCMP, on one hand, monks acted as protestor participating in the demonstrations and attracting more concerns and supports from wide society to local movements. On the other hand, they also participated in the negotiation and mediation among Myanmar government, companies and communities in the conflicts.

In the LCMP, Monks also had different attitudes to the conflicts. Some senior monks consistently asked other monks not to participate in the demonstrations. Most of the monks followed this suggestion but some were not persuaded. From the villagers' view, they saw the monks who persuaded them to accept the

compensation as the representatives of company.

Those monks who participated in protests mainly requested the pagoda be conserved. Said one: "the monastery is where the prestigious eminent monks spread Buddhism. I read Buddhist texts in that monastery, and I participated in the protests to protect it"³³. After the the LIC gave permission to the company to remove the pagoda, the monks' demands changed to request Myanmar Wanbao build a monastery the same as the original size, and not to use explosive materials within 500m scope around the monastery. But the interviewed monk thought their requests were not realized. He expressed strong disappointment and resignation, and told us that he had started to mediate in the protests in order to prevent the villagers from injury.

33 Source: the interviewed monks who ever joined the protests.

"I met with the Minister of Religion and Minister of the Border of the Sagaing region, and told them our requests several times. Once they fulfilled the promises but betrayed us twice. And then I don't believe in them any more."

3.3.3 NGOs and CBOs

The conflicts in the LCMP had a wide influence not only in Myanmar, but also in the international community. Involving issues on environment, community development, labor and human rights, it attracted concerns from various NGOs. NGOs played a significant role, not only in supporting the communities with trainings, mediation and communication, but also joining the protests directly and raising the regional issues to the national level. These NGOs were not only Myanmar NGOs, but also INGOs as well as Chinese NGOs, which played different roles in the conflicts.

3.3.3.1 Myanmar NGOs

Myanmar NGOs that participated in LCMP included national and regional NGOs as well as CBOs. These organizations concerned land rights, environmental protection and human rights, which

engaged in the conflicts of LCMP in different ways.

Because of the limited time in this research, we mainly interviewed national NGOs based in Yangon. These kinds of NGOs usually have resources and networks across the whole country, especially some of them have regional offices. They are engaged in promoting the dialogues among government, companies, NGOs and communities. They aim to improve the governance capacity of Myanmar government. In the conflicts of LCMP, these organizations on one hand tried to build a dialogue platform between Myanmar Wanbao, government and the villagers, on the other hand supported the protests externally, for example, through organizing demonstrations in Yangon to support the local protests, or providing aids and helps for the protestors.

Compared to the national NGOs, regional NGOs were closer with communities and helped villagers to acquire knowledge on laws and policies. They did research and pushed the local government to abide by the laws. Taking the interviewed organization for example, in the LCMP, it spread legal knowledge

Box 7. The engagement of a Myanmar national NGO

Organization A is a national NGO with network over the country and professional research team which is able to evaluate the social and environmental impacts of the copper mine extraction project. In the LCMP, this organization organized their members to support the demonstrations, and also raised professional insights based on research. In the Thein Sein' presidency era, Myanmar became a member of the Extractive Industry Transparency Initiative (EITI), which meant it had to abide by the related standards set by EITI. However, the LCMP was not included in the first report of the government, which led A to push the government to involve this case.

Box 8. The regional office of a Myanmar national NGO

Organization B is a regional office of a national NGO, covering Shan, Sagaing, Chin, Kachin, Rakhine and Mandalay regions. B doesn't carry out concrete research, but it provides resources, connection and channels for other organizations as bridges.

B paid attention to many investment projects from Chinese companies, such as the hydropower project in Shan and the LCMP in Mandalay, etc. They prepared statements or evidences for the organizations that engaged in LCMP and supported them to expressed claims to higher-level departments of Myanmar government. They adopted various strategies to help grassroots organizations to connect with the government officials to seek the solution of problems.

to local people, such as the Myanmar Mines Law, Myanmar Environmental Conservation Law and Myanmar Land Expropriation Law. Meanwhile, they not only monitored the company and government, but also studied on the demands and claims of local communities. Some reports produced by this organization have been submitted to the Environment Committee of the Assembly of Monywa government. They also planned to submit the reports to Chinese government.

CBOs had closer connection with villagers than regional NGOs. Staffs of CBOs were mainly directly hired from local villagers, who knew better about claims and demands of the communities. CBOs had a relatively dispersed organizational structure, which meant there were usually set up for concrete social and environmental issues, and then dismissed after the problems were settled. With different disputes, different CBOs would be set up. Being based in the communities, it was easy for CBOs to be engaged in the disputes and conflicts more deeply. They monitored the behaviors of local government and companies, and negotiated with them on behalf of villagers.

Among these three types of organizations, the

national and regional NGOs put their targets focus more on the challenges and improvement of existing laws, policies and procedures. They requested companies and government to raise the transparency and carry out ESIA that could reflect the real demands of communities abide by laws, policies and standards, etc. However, villagers paid more attention to their own demands in the aspects of incomes, health, religion and emotion. From this point of view, NGOs had their own claims and targets, which were not necessarily same with the villagers'. In comparison, CBOs' targets were closer to the villagers', because they were from the communities and were born to strive for protecting the villagers' rights. Also, due to the requests to negotiate with companies and government, they couldn't stay far away from the communities.

Though adopting different strategies, national NGOs, regional NGOs and CBOs have their own advocacy and targeted objectives (see the Table 3.7). In the field research, we found that it was big challenge to communicate with Chinese companies and government for Myanmar NGOs, which haven't found a clear strategy and target to advocate to Chinese government yet.

Table 3.7 The characteristics, strategies, targets and claims of Myanmar NGOs

Types	Main characteristics	Strategies	Targeted objectives	Claims
National NGOs	National network and channels	Research and advocacy	To improve the law and policies made by Myanmar central government	The transparency of companies and government; request investors to conduct ESIA and consultation
Regional NGOs	Closer to the real problems in the communities	Research, advocacy and the capacity building of villagers	To monitor the practice and execution on laws by local government	To demand the companies and local government to abide by laws, rules and standards
CBOs	To directly represent the communities	The mediation on conflicts, disputes and protecting rights	To negotiate with government and company representatives which are in charge of community work	To respect the rights and meet the demands of villagers

3.3.3.2 The INGOs

The INGOs started to enter Myanmar from 1980s. In 1990s, dozens of INGOs carried out aid projects in Myanmar, such as providing safe drinking water, medical equipment, education, medical care, small loans and other community development projects, etc. After Cyclone Nargis in 2008, the number of INGOs working in Myanmar increased greatly. According to the statistics of Myanmar Local Resource Center, among the recorded 56 INGOs, 38 appeared during 2011-2010, the remaining 18 organizations appeared after 2008⁹¹.

In the second chapter, we discussed the positive impacts of INGOs on the development of Myanmar civil society. However, the entry of INGOs also brought some negative effects. When INGOs operate in Myanmar, they employ local staffs and offered more attractive wages than local organizations which led the local ones to lose talents. "Some staffs in government departments were also hired by INGOs, which was an adversity for the government"³⁴.

In the LCMP, some INGOs have provided the villagers with funds and capacity building opportunities through sending protest leaders to Europe and America to receive training. Some INGOs directly participated in the research on the social and environmental impacts of LCMP and engaged in the advocacy process. These organizations are mainly concerned about human rights, conflicts and complain mechanism, locals' land tenure and the legality of Myanmar government's measures to protests.

The strategies among different INGOs were quite different too. For example, AI revealed human rights offence through evidence-based research, and solved problems through legal proceedings, with the aim of raising the legal awareness and capacity of the villagers and boosting the involvement of professional lawyers in community supporting and assistance. Some INGOs conducted the research and advocacy through the cooperation with Myanmar NGOs.

Box 9. An INGO engaged in the advocacy

Cooperating with local Myanmar lawyers, organization C carried out research and advocacy on the violations of locals' land rights in LCMP. Mandalay is one of the regions C works in. They found local government expropriated villagers' lands illegally. Thus, they along with lawyers, worked to protect people's land rights through legitimate mechanism. The fields C paid attention to included Chinese investments, Myanmar local investments as well as the investments from other countries, which had affected the villagers' rights. C began to follow the conflicts in the LCMP from 2012. They also kept close connection and communication with local villagers. "What we are still following is an accusation against the Myanmar Ministry of Interior and police chief who used illegal weapons in 2012. We tried to acquire the investigation report but were refused by them. Thus, we chose to appeal to the court. Meanwhile, we're also following the issue of a woman shot in 2014. Police announced it was natural death but didn't provide us with investigation report."

3.3.3.3 Chinese NGOs

Chinese NGOs haven't been involved deeply in LCMP yet. When the disputes were intensified,

Myanmar Wanbao made a show of the cooperation intention with CFPA but they didn't reach a

34 Sources: interview with a Chinese researcher.

consensus on plan afterwards. Though Chinese NGOs such as GEI tried to communicate with Myanmar Wanbao, they didn't form a concrete cooperation plan finally.

According to Myanmar Wanbao's response, they required partner to have strong connection with local communities, speak local language and understand local culture. According to these claims, no matter for LCMP or other Chinese investment projects, Chinese NGOs have to raise their capacity to engage in Chinese investments if they prefer to cooperate with companies, such as language, the social network in host countries as well as the acquaintance with local laws, policies and social context, etc.

3.3.4 Myanmar and Chinese Governments

Generally, FDI brings complicated impacts on the host countries. For the government of host countries, the positive impacts are not free or a naturally captured. And it requires a proactive government to capture the benefits and reduce the potential negative impacts. In the context of Myanmar democratic transition, the implementation of LCMP was not only related to the military junta, which ruled Myanmar in the past for a long time, but also a test to the new government's governance capacity. However, compared to Myanmar government, the Chinese government has been less involved in LCMP.

3.3.4.1 The Myanmar Government

In LCMP, Myanmar government's limited capacity was the one of reasons to cause the conflicts. Taking the land expropriation as an example, local government neither discussed with the villagers in advance, nor gave clear notice to villagers who would be obligated to participate in the land expropriation process. On the contract, the crop compensation agreement was signed, but in reality, villagers were asked to give up land^[92]. Some villagers accepted land expropriation

and relocation due to government's pressure and threats, but others started to protest against the government and company.

Land expropriation issues as the trigger of the conflicts have drawn a lot of attention from varied groups - the affected communities, NGOs, medias, social activists and international community. The attention of these stakeholders focused mainly on the following issues related to the project: environmental protection, labor rights, human rights, transparency, etc. After the outburst of conflicts, rather than playing a role of efficient mediator, Myanmar government took improper actions such as using weapons illegally at locals' demonstrations, which caused casualties.

According to the report of LIC, from 3 March 2012 to 15 November 2012, there occurred cases of obstructions, abuses, threats, vandalism, and demonstrations, altogether 124 times. In November 2012, when a demonstration was ongoing, policemen carried out a forced site clearing at 3 o'clock in the morning and threw tear gas and smoke bomb to the protesters, causing a fire at campsite. As a result, many common people and monks got burned. In December 2014, a Burmese policeman shot when the conflict was ongoing, causing the death of a female villager, which triggered protests in major cities such as Yangon and Mandalay. The public, students, monks and social activists from varied cities were getting together and protesting in front of the Chinese Embassy in Myanmar.

Regarding benefits distribution, taxation and production sharing were the main benefits sources for Myanmar federal government. At the initial project agreement, the LCMP would deliver a 4% royalty fee, 8% business tax and 15% income tax to the nation. And after deducting the above taxation and operation cost, UMEHL would get 51% of net profit and the 49% would belong to Myanmar

Wanbao. After the LIC involved, the benefits of the project were reallocated: ME-1 would gain 51% and the rest 49% would be distributed between Myanmar Wanbao and UMEHL. Meanwhile, Myanmar Wanbao promised to contribute the 2% of net profit to community development.

In Myanmar, there is no reasonable mechanism to handle the benefit distribution between central and local government. "Local government had its opinion with the federal government holding its attitude, which was the most important and sensitive issue requiring negotiation to reach the national agreement in Myanmar."³⁵

3.3.4.2 Chinese Government

Since 2000, Chinese government has issued at least 33 policies and regulations to regulate investments overseas, which not only direct corporates' activities, but also provide guidelines and standards from social and environmental perspectives in order to promote responsible investment. Among those, Measures for Overseas

Investment Management and Measures for the Administration of Confirmation and Recordation of Overseas Investment Projects, both issued in 2004, were the important official bases for Chinese companies to manage the investments overseas.

Based on these two documents, Chinese Ministry of Commerce (MOC), National Development and Reform Commission (NDRC) and the State Council execute approval and record system on the management of investments overseas (see table 3.8). However, in the process of approval and the records system, these departments do not ask any requirement of an ESIA for investment projects. Meanwhile, Chinese government has modified the Law of the People's Republic of China on Appraising of Environment in 2016, but didn't include social and environmental impacts of investments overseas. As for the regulation on Chinese companies' behaviors overseas, many documents such as Measures for Overseas Investment Management have given clear rules, but there still lack of supervisory or punitive mechanisms.

Table 3.8 The project types of China's OFDI and the departments to approval and record

Department	Project types
State Council	The OFDI projects investing \$2 billion and above that involve sensitive countries and regions and sensitive industries should be approved by State Council with the examination and verification of National Development and Reform Commission.
NDRC	a) All OFDI projects that involve sensitive countries and regions and sensitive industries should be examined and verified by the NDRC. b) The OFDI projects investing over \$1 billion should be examined and verified by NDRC. c) The OFDI projects that are conducted by stated-owned companies, or projects investing over \$0.3 billion by local stated-owned companies should be recorded by the NDRC.
MOC and local departments in charge of investment	Apart from the above: a) As for the OFDI projects needed to be examined and verified, Stated-owned companies which are the investors of these projects should apply to MOC directly, and local companies should apply to the MOC through provincial commerce departments . b) As for OFDI projects that are needed to be recorded, stated-owned companies which are the investors of these projects should apply to the MOC to be recorded directly, and local stated-owned companies should apply to the provincial level commerce departments to be recorded.

35 Sources: interview with representatives from INGOs.

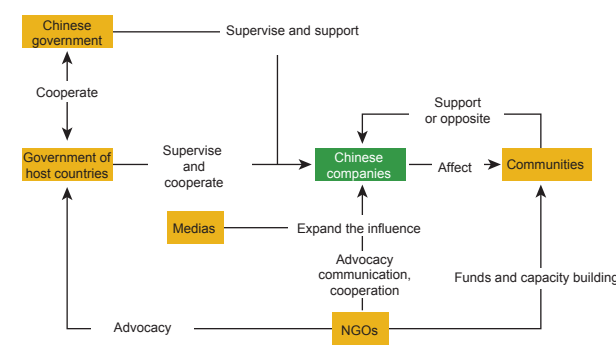
In the LCMP, there have not specific departments of Chinese government to regulate and monitor Myanmar Wanbao on the issues of land exprociation and relocation, environmental protection as well as labor rights. Compared to Myanmar government, Chinese government has not been deeply involved in the LCMP in terms of the operation and conflicts but supported the project through governmental high-level dialogue. During Aung San Suu Kyi 's visiting to China, the cooperations on large-scale resource-intensive projects between China and Myanmar was one of the most important topics in the agenda.

There was an incident that showed Chinese government's attitude to LCMP. When the accident of villager's death happened in 2014, the Chinese Embassy in Myanmar made a formal statement, "LCMP is an important part of the cooperation between China and Myanmar. On the premise of peace and security, we support the orderly process of LCMP. And we oppose any violent conflict and believe conflict will not help to solve any problem at all." To some extent, the statement showed the Chinese government's position on this project.

3.3.5 Summary

The LCMP has aroused attentions and involvement of a broad group of stakeholders due to its complex historical background and social and environmental impacts. These subjects have different demands, purposes and power, and play different roles in the process of the generation, evolvement and settlement of the conflicts. These subjects support and balance with each other, and jointly affect the development of the project. Concretely, these stakeholders mainly include Chinese companies, the government of host country, Chinese government, NGOs, communities and medias, etc. (see Graph 3.12)

The government of host country and Chinese



Graph 3.12 The main stakeholders of China's OFDI and their roles

government are responsible for supervising the companies' behaviors. However, the resource-intensive investment projects like the LCMP are always involved in the economic target of the government, which usually makes it hard for the government to efficiently implement supervisory responsibilities. The limitation of the legal system of the host country and the weak governance capacity of host government also affect the regulation on the foreign companies. However, when the government is absent of supervision, the affected communities and NGOs turn into the monitors and come to interfere with the decision and behaviors of the companies to satisfy their own demands.

Under this complex situation, Chinese companies were very passive in responding to social and environmental issues and incapable of the non-government stakeholder management. It is easy for Chinese companies to get the government's permit according to local legal requirements and their experiences on the relation management with government. However, Chinese companies are not yet experienced and capable to efficiently manage the relation with local communities and NGOs whose demands are always underlying and characteristic of being uncertain and dynamic which are very possible to evolve into fierce conflicts.

3.4 Summary

This chapter taken the LCMP as an example to analyze the conflicts on social and environmental issues that Chinese companies faced. Firstly, we introduced the background of LCMP briefly. And then we analyzed the impacts of this project on community, environment as well as labor rights to understand the factors that caused conflicts. Lastly, we reviewed Myanmar Wanbao's measures to improve its social and environmental performance and analyzed the roles, purposes and demands of stakeholders.

Although the LCMP is a special case among China's OFDI projects, it also can be taken as a typical one. The specialty embodied that this project was against complex historical background and accumulated social and environmental problems before its initiation. Especially in the context of Myanmar democratic transition, the conflicts between companies and stakeholders became acute.

However, the typical features appeared in different aspects. First, Chinese investments are made in large projects in resource-intensive areas, mostly in developing countries, which means that the limited legal systems and governance capacity of host governments may bring about negative effects for social and environmental development of the country. Additionally, Chinese companies' ability to stakeholder management is limited. Furthermore, there are problems with transparency and consultation with stakeholders when these projects are invested, and the company kept passive when the conflict happened.

Inspiration for Chinese NGOs

Since Chinese companies have limitation in consciousness and capacity in social and environmental issues, there is space for Chinese

NGOs to be involved. Chinese NGOs have flexible and fast response mechanism and are capable of monitoring the social and environmental impacts of the companies. They are also capable to analyze the diverse and dynamic demands of stakeholders from bottom to top and communicate with Chinese companies and the government through a way accepted to promote the companies to settle the social and environmental issues in advance and prevent the emerging of conflicts.

For China's OFDI, different stakeholders will be involved depending on the industry, scale of projects and the nature of investors. There is much space for Chinese NGOs to play the role of facilitators. However, to understand the demands and power of different stakeholders is one of the greatest challenges for Chinese NGOs. Taking communities for example, the demands of local villagers are characteristic of being differentiated and dynamic, especially when the project involves inner household conflict due to land expropriation. It's hard for NGOs to directly participate in the settlement of conflicts, instead, NGOs can play as a facilitator to promote the settlement of problems, such as helping the companies to analyze the stakeholders or providing dialogue platform for the communication among communities, NGOs and the companies.

Through this case study, we can see the different NGOs including INGOs, Myanmar national and regional NGOs and CBOs varied roles in the project. However, one of the biggest challenges for those NGOs is how to engage with the Chinese companies and government. Their way to strengthen pressure on decision-makers has power to change the attitude and behaviors of Chinese enterprises and Myanmar government, but might shrink the space for them to communicate with China's companies and government. If Chinese NGOs plan to be involved in Chinese OFDI projects,

they need to understand the purposes, demands, positions and power of these NGOs and take proper strategy to prevent from risks.

Lessons for Chinese Companies

Regarding China's OFDI around the world, the social and environmental impacts they cause depend on the industry and scale of projects or the nature of investing companies which involve diverse groups of stakeholders in the projects. No matter the LCMP or other projects, they had both positive and negative impacts on social and environmental development in host countries. It is hard to conclude whether FDI was good to host countries or not. But for Chinese companies, they not only have to get the permit from host country government but also the social license from other stakeholders.

Though Myanmar Wanbao faced complicated external challenges in the project, its weak capacity to cope with social and environmental problems was also crucial factor to trigger the conflicts. For example, Myanmar Wanbao took passive action of "stopping work" to mitigate conflict when it faced communities' dissatisfaction and local partner' pressure. And it started to improve its policies on social and environmental issues internally and externally according to the LIC's suggestions.

Based on this case, the lessons for Chinese companies include: 1) in the high risk area, selecting the partners prudently in host country and mapping out the stakeholders to balance the demands among government, communities, NGOs and others is important; 2) it's necessary to conduct an ESIA and evaluate social & environmental risks systematically, disclosing measures to cope with the impacts and risks to stakeholders and collecting

their suggestions with fully records; 3) there is much to be gained from implementing a Social License strategy to build trust relation with stakeholders, apart from getting the government's permission in host countries.

Reviewing the reaction mechanism of Myanmar Wanbao, there are some important measures which are useful for Chinese companies to reduce social and environmental risks including: 1) working together with third party to analyze the stakeholders, make social and environmental strategy and promoting the communication with affected communities and NGOs; 2) improving transparency to disclose information about the project, and taking up measures and standards to cope with negative impacts on community and the environment; 3) managing stakeholders relations through setting up efficient communication and negotiation mechanisms; 4) monitoring the dynamic attitude and demands of stakeholders especially the communities and NGOs and cope with potential conflicts timely.

The experience was similar to the practices of Total in Myanmar. The Yadanar project operated by Total had been embroiled in disputes since the proposal stage. The main conflicts were related to human rights. Total was accused of using forced labor and forcing local villagers to move when it cooperated with the military junta. Under the pressure of stakeholders, Total made effort to get social license through managing stakeholder and social development projects. Now, Total's experience have become good example in the energy field (see the box 10).

Box 10. The experience and practices of Total

First, Total worked with third parties to dynamically evaluate the social, economic and environmental impacts of the project. Before construction, Total evaluated the potential social and environmental risks, and then designed the pipeline route in a low population density area far from city, which reduced the possibility of large-scale protests and demonstrations. When the project was ongoing, Total invited the international organization CDA Collaborative Learning Projects to interview stakeholders 7 times from 2002 to 2014. The interviews helped Total understand the changes on social and environmental impacts as well as stakeholders' attitude to the project.

Second, Total gained wide support by implementing community development projects. There were 73 staffs in Total CSR team (only one of them is French). The social projects, targeting in environmental protection, infrastructure construction, medical, education, agriculture, solar energy and microcredit, benefited 33 villages and 38000 persons. Total built shelters, conducted health projects (e.g. treatment of tuberculosis) and provided scholarships around the country. Total also evaluated the impacts brought by these projects regularly. Moreover, Total cooperated with local and international organizations in these social development projects. There were 472 villagers from local communities who were Total's partners.

Third, Total took initiative to join EITI multi-stakeholders group and commit to abide by the international standards and the requirements of EITI. In addition, Total had been working with local NGOs to design social and environmental plans and improve its transparency.

Forth, Total built cooperative and trust relationship with local communities. Before entering the communities, Total analyzed the context of the communities, helped villagers find their real demands and then provide affordable support with limited promise. Besides, Total keeps continuous communication with communities by using local language and efficient communication strategy, and keeps listening and sincere attitude to build confidence of communities.

Fifth, Total was prudent to work with partners in the host country, especially when the partner is the local government. If companies work with local government closely, it would be possible to cause conflicts with the local communities. And the social license is dynamic, company will get or lose easily. Therefore, companies should balance the relation between local authorities and communities.

Resource: Yao Ying. The social risk analysis of Chinese investments in Myanmar (draft), as well as the interviews with former CSR staff of Total.

Chapter 4

Conclusion and Suggestions

Thanks to the implementation of the “going global” strategy, China’s OFDI has kept growing steadily. After 13-year consecutive rapid growth, China’s OFDI net flows ranked second over the world in 2015. As the developing of the Belt and Road Initiative, China's OFDI will expand further. However, one of the most crucial factors affect the sustainable development of China’s OFDI is Chinese companies’ capacity to improve social and environmental performance as well as the management of stakeholders.

It’s important duty and opportunity for Chinese NGOs to promote the responsible development of China’s OFDI. Through cooperation and monitoring, Chinese NGOs can contribute to the implementation of China’s OFDI policies and regulations and promote the communication between Chinese government, companies and stakeholders in host countries to realize a win-win situation.

However, Chinese NGOs are just in the initiative phase of internationalization. The number and capacity of Chinese NGOs, which pay attention to the sustainable investment of Chinese companies, were very limited. To encourage more Chinese NGOs to engage in this field, it’s necessary to produce more knowledge for NGOs. Unfortunately, there are few studies to analysing the complicated stakeholders that Chinese companies faced at the micro-scale level with research on the institutional framework of host country.

Therefore, this research identified Myanmar as the targeted country and the LCMP as an example to explore social and environmental law and policy framework as well as social and environmental impacts of FDI in Myanmar. Meanwhile, we tried to analyse the conflicts, challenges and the complicated relations between stakeholders in the case and summarize the lessons and experience for Chinese companies. We expect that this research can provide reference for Chinese NGOs to explore

their strategy and space to promote the responsible development of China’s OFDI.

4.1 Findings

As a result of being affected by political volatility and economic sanctions, Myanmar’s FDI has entered to a developing stage from 2010 after going through the 20-year initial phrase. China has become one of the most important countries whose FDI stock ranks first in all foreign investors of Myanmar. Because of investing in large-scale and resource-intensive projects, Chinese investment flows in Myanmar fluctuated strongly from 1988 to 2015.

In general, the social and environmental impacts of China’s OFDI on host country had no obvious difference from other foreign investments. But since China invested more resource-intensive industries including hydropower, petroleum and natural gas as well as mining sectors, the problems for local communities, environment and labor rights caused by China’s investment are more outstanding. Moreover, most Chinese companies are in the starting stage of “going global” , which lack awareness, capacity and mechanism to cope with social and environmental issues. These limitations have triggered and worsened the conflicts between companies and stakeholders.

Taking the LCMP as example, the project has aroused broad concern and wide stakeholders’ engagement due to the crucial change of Myanmar institutional context and the complex background and problems in the history of the project. In the ongoing conflicts, the government of the host country was both the supervisor and partner of the project, and their immature governance framework and capacity conversely increased the severity of the conflicts. Under the context of relaxed social regulation, civil societies (NGOs and CBOs) had little chance to express their demands, which broadened the concern and supervision

on the project from all society. However, as the directly affected subjects, the villagers had varied demands, which were characterized by diversity and contradiction with each other.

How to respond to the external political change and balance stakeholders' demands is a great challenge for Chinese companies. Operating on the principle of focusing on the single criterion of abiding by laws and regulations has been not enough for Chinese companies to gain social license. Especially in developing countries like Myanmar, it has formed a very complex legal system and framework, which is still in a fast-changing stage after the periods of colonization, civil war and transition into democracy. However, Chinese policies on OFDI pay more attention to the prior approval and lack effective supervision on the operation of projects, which could not support the companies to cope with social and environmental problems.

Viewing from the lessons and experience of the LCMP, it is important that Chinese companies work with third parties, especially NGOs, to carry out ESIA and community consultation based on the rules of FPIC, to dynamically evaluate and monitor the demands and attitudes of stakeholders and set up complaining mechanism, which will help companies to lower the social and environmental risks and get good reputation.

4.2 Conclusion

China's OFDI in developing countries is always accompanied by complicated political and social contexts. Especially in high-risk countries, the governance capacity of the host country government and the development of civil society affect the sustainability of investments. It will contribute to avoiding conflicts if Chinese companies can assess potential social and environmental risks and make strategies and plans to get social license. However, the awareness and capacity of Chinese companies

to cope with social and environmental issues before investments still needs improvement.

There is a good opportunity for Chinese NGOs, which can recognize the demands of stakeholders such as the communities and NGOs from bottom to top and adopt acceptable methods to communicate with Chinese government and companies and organize dialogues between companies and stakeholders. They can also contribute to improve the legal and policy system of host countries and improve the governance capacity of local government so that local government could provide a steady context for investment and supervise companies' social and environmental performance efficiently.

Though these are important chances for Chinese NGOs to "go global", many requirements are put forward on Chinese NGOs' abilities. It's necessary for Chinese NGOs, not only to understand the social and environmental impacts brought by investment more comprehensively and deeply, but also to understand the restrains and challenges Chinese companies are facing in host countries as well. This understanding is crucial for Chinese NGOs to find a proper position and strategy in this field. Besides, it is also necessary for Chinese NGOs to understand the politics, laws and policies, culture and customs of host countries, especially the demands and power of communities and NGOs. However, Chinese NGOs that meet such requirements are currently very few, and most of them need improvement in ability and experience.

4.3 Suggestions

A systematic strategy is needed to achieve sustainable development of China's OFDI, which not only requires Chinese companies to improve their decisions and behaviors, but also requires all the relevant groups such as Chinese government, NGOs and medias to contribute. Based on the

findings and conclusion, we propose the following suggestions to Chinese NGOs, companies and government.

4.3.1 Suggestions to Chinese NGOs

Chinese NGOs have many advantages to promote the sustainable development of China's OFDI. In one aspect, they understand more about Chinese political system and trends, Chinese companies' thoughts and behaviors than the organizations in host countries. Therefore, comparatively, it is easier for Chinese NGOs to communicate with Chinese companies and government. In another aspect, Chinese NGOs are better at cooperating with local NGOs and communities than the Chinese companies or government, which can be a "lubricant" between Chinese companies and local stakeholders. However, the number and ability of Chinese NGOs are needed to improve. So, we suggest that:

First, Chinese NGOs should communicate with Chinese companies more deeply to understand companies' challenges and capacity, to identify what NGOs can contribute to the real problems, to study the macro context such as politics, legal system, culture and civil society, etc. of host countries, and to analyze the power and demands of stakeholders and assess the potential risks and feasibility of their strategy and plan;

Second, Chinese NGOs should contribute to monitoring the social and environmental performance of China's OFDI and share with Chinese companies about the international standards, best practices and experience on community development, which supports Chinese companies to improve social and environmental policies;

Third, Chinese NGOs should share with civil society in host countries information about Chinese policies and decision-making mechanisms, which will

support these organizations to communicate with Chinese government and companies efficiently;

Fourth, Chinese NGOs should also pay attention to OFDI and international development agendas while devoting themselves to local issues, and promote Chinese government to make policies in favor of Chinese NGOs' internationalization, which helps Chinese NGOs improve the efficient of their implementation of projects overseas and resources allocation.

4.3.2 Suggestions to Chinese companies

As mentioned before, Chinese companies are in the starting stage of "going global". It will take a long time for them to improve their capability to commit to social responsibility. Practical experiences such as getting social license by means of integrating the social and environmental policies into the companies' operation and the stakeholders relation management are urgently needed. Thus, we suggest that:

First, Chinese companies should adopt international social and environmental standards to eliminate the potential risks caused by political unrest and legal reform in host countries when investing in developing countries with weak legal system;

Second, in the initial stage of the project, Chinese companies should make efforts actively to understand the demands and requirements of affected stakeholders, especially local villagers and NGOs, to balance the interests between local government and other stakeholders, and to set up regular communication and complaint mechanism to respond to stakeholders' demands;

Third, Chinese companies should cooperate with NGOs to assess the social and environmental impacts dynamically, to analysis the power relation between stakeholders and get their feedbacks on companies' social and environmental policies;

Forth, Chinese companies should learn best practices on coping with social and environmental issues not only from other Chinese companies but also from companies of developed countries investing in developing countries, and even from NGOs' approach in the fields of community development, environmental protection and labor rights.

4.3.3 Suggestions to Chinese government

Since China's OFDI flows to many countries, regions and industries, it has been a big challenge for Chinese government to support and supervise the investment activities. The guidelines and principles on social and environmental impacts of OFDI are not binding. Moreover, although Chinese government has been aware of the value of Chinese NGOs, and more attention is commonly paid to NGOs' role on poverty alleviation and aid rather than their potential contribution to the sustainability of OFDI. Thus, we suggest that:

First, the State Council, NDRC and MOC

should require Chinese companies to submit an ESIA report, management plan of social and environmental impacts when they examine and verify OFDI projects, and set up efficient supervisory and punitive mechanism to regulate Chinese companies' behaviors abroad;

Second, the Environment Impacts Assessment Law should add the requirements on China's OFDI, and add articles about social impacts to the law;

Third, the MOC should provide more professional support to the Chinese companies based on the national guidelines such as manual and toolkits to enhance the capacity of Chinese companies to cope with social and environmental issues.

Forth, departments of State Council and MOC should pay more attention to Chinese NGOs' value on promoting the sustainable development of China's OFDI, and specifically improve policies on NGOs' internationalization and provide financial supports.

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Introduction of Organizations

Social Resources Institute (SRI) is a non-profit research institution founded in 2008. The institute focuses on issues related to the livelihoods of peasants and the development of rural communities. We seek to cooperate with development organizations, governments and enterprises to respond to the specific needs of rural communities, develop effective solutions at a local level, as well as encouraging government to create and implement policies that better rural areas. SRI is committed to knowledge sharing and action in these three fields, including rural community development, socially responsible investment as well as market for poverty alleviation.

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