



General Counsel

**Burma Campaign UK**  
110 The Bon Marche Centre  
241-251 Ferndale Road  
London SW9 8BJ  
United Kingdom

**Att. Mark Farmaner**  
Director

Paris, October 13, 2021

**Ref:** Response to Burma Campaign UK

Dear Mr. Farmaner,

I make reference to your communication dated September 30, 2021, sent to our Chairman and CEO, in which you inform TotalEnergies that your organization is considering placing TotalEnergies on your 'Dirty List' of companies linked to human rights violations in Burma/Myanmar.

In your letter you mention that a "*criteria for inclusion on the 'Dirty List' includes the supply of equipment to the military, doing business in any form with the military, or with military owned and controlled companies, or being involved in projects linked to human rights violations or environmental destruction*". You also indicate that "*unless that company can demonstrate that the military receive no financial or other form of benefit*" it will be placed in that list.

In relation to the allegations provided in your letter, with regards to TotalEnergies position in the context of human rights in Myanmar, please find herein additional information and clarification:

- TotalEnergies has signed the Statement by Concerned Businesses Operating in Myanmar, which has also been signed by 68 other entities and 164 Myanmar companies.

[Myanmar Centre for Responsible Business joint statement](#)

- TotalEnergies has issued a statement as an answer to the call of the "Business and Human Rights Resources Centre" to 18 companies that have activities in Myanmar.

[Total 's statement of Feb 19th, 2021](#)

- TotalEnergies issued a statement to explain why the company is continuing to produce gas from Yadana field to keep electricity supply to millions of people in Myanmar and Thailand and what are the main dilemma TE is facing, based on human rights considerations.

[TOTAL's CEO statement of April 4th, 2021](#)

- With regards to the statement of your letter asking international companies to "do everything they can to minimize revenue reaching the military" we would like to provide the following information:
  - TotalEnergies stopped the offshore development project of the natural gas discovery on the A6 permit and stopped the drilling campaign for infill wells in Yadana.

- Following a joint proposal by TotalEnergies and Chevron, a shareholders' meeting of MGTC (Moattama Gas Transportation Company Limited) held on 12th May 2021 has decided, with effect from 1st April 2021, to suspend all cash distributions by MGTC to its shareholders (Total (31.24%), Chevron (28.26%), PTTEP (25.5%) and MOGE (15%).

<https://www.totalenergies.com/media/news/press-releases/myanmar-shareholders-moattama-gas-transportation-company-limited-vote>

The following information is also very much relevant in relation to the assertions contained in your letter, and should, in our opinion, lead you to reconsider your position.

TotalEnergies E&P Myanmar (hereafter "TEP Myanmar"), the subsidiary of TotalEnergies SE operating the Yadana gas field, has recently been conducting business, namely with its stakeholders, as it has ordinarily been doing in the past and has not altered this course since the coup happened. Namely, TEP Myanmar has ordinary course of business relations with MOGE. MOGE has been created by the laws of Myanmar and has been under the sole control of the Myanmar State ever since its inception, without any changes being made between 2016 and 2021, or since 1<sup>st</sup> February 2021 for that matter. As Myanmar's national oil company, MOGE is placed under the supervision of the ministry of energy and electricity, and acts as a regulator for the oil and gas sector. Given that TEP Myanmar operates the Yadana field, it is and has logically been in contact with MOGE for the operational management of our activities. It is worth noting that our exchanges with MOGE occur through MOGE's personnel (and not through any military personnel), most of whom were already in charge before the 1<sup>st</sup> February 2021 coup.

With regards to payments to the State of Myanmar, most of the revenues accruing to the government of Myanmar come from gas exports and - under the applicable contractual agreements that have not changed since 1<sup>st</sup> February 2021 - are not paid by TEP Myanmar, but by a Thai company (PTT) that buys the gas. Please also note that tax payments by TEP Myanmar are made to the benefit of the State Treasury as was previously done under the civilian government.

An important thing to remember is that not paying taxes is a crime under local law. We have considered putting the monthly taxes into an escrow account instead of paying them to the Government, but such non-payment would expose our affiliate's management to arrest and imprisonment. This is our first human rights dilemma. What is more, local law but also rules of international public law make it so that TEP Myanmar would be in breach of its domestic and international legal obligations if it were to suspend payments, and more generally if it were to breach the contractual arrangements that bind the various Yadana partners and the State of Myanmar through MOGE namely.

The facts are that in order to close off this source of revenue, TEP Myanmar would actually have to stop producing gas. But this gas is being used to supply electricity to a large population in Yangon. For their part, the Thai authorities have alerted us to the importance of this source of energy, which is vital for their population in the west of the country. It is our belief that our Company currently cannot cut such supply of electricity to millions of people as it would disrupt vital activities such as hospitals, businesses, and generally everyday life. This is our second human rights dilemma.

Even if we did decide to stop production in protest against human rights abuses, we would be putting our employees in a terrible situation by exposing them to forced labor. Having seen the practices of the junta in other economic sectors and given the vital importance of this gas for the generation of power, there is a high risk that the junta would force our employees to produce the gas by forced labor. This is our third human rights dilemma, as our first priority is to ensure the safety and security of our workforce.

These are the reasons why, although we have decided to discontinue our projects and drilling in Myanmar, we are currently continuing to operate the existing Yadana gas production. Not because we want to maintain our production share and related profits (our share of production represents less than 1% of TotalEnergies' whole production), but to guarantee the safety of the people who work for us, for some of them since the beginning in 1992, to protect them from prison or forced labor, and to avoid further worsening the living conditions of the population by depriving millions of electricity.

Resolving these three Human Rights dilemmas by a simplistic switch-off move at the expense of our local employees and the Myanmar population which is already suffering is not the choice we have made.

In addition to the above-mentioned points, and consistently with our statement on last April 4<sup>th</sup>, 2021 (see above), Fondation TotalEnergies has so far, signed "cash contribution agreements" with several

humanitarian organizations delivering food, health and livelihood assistance to impoverished population to an amount of USD 11.7 million. Likewise, TEP Myanmar has provided support to the population in the fight against COVID 19, with USD 0.5 millions of donation to NGOs on the ground.

With regard to the prevention and mitigation of human rights risks in relation to our operations, TEP Myanmar applies stringent internal rules and procedures defined by TotalEnergies SE. Thus, TEP Myanmar:

- has an internal alert system designed to manage situations involving human rights abuses in the onshore village used for Yadana's operations and in all the villages around the gas pipeline area.
- has for years set up a "grievance mechanism" to manage complaints from community members who believe they are experiencing negative impacts as a result of TEP Myanmar's operations, based on a permanent and direct dialogue through "Communities Liaison Officers".
- commissioned seven external Human Rights reviews of its activities since 2002 by the independent Collaborative Learning Project (CDA), the reports of which are made public on the CDA website. A new review by the CDA initially scheduled for 2020 was postponed due to the current sanitary context and will be conducted as soon as the security context will improve.
- has been deploying a financial support program for communities for several years, particularly in villages located around the pipeline. To date, this program covers 33 villages and 45,000 inhabitants, although implementation has been disrupted since 2020 by inter-regional mobility restrictions due to the Covid-19 pandemic.
- In the current situation and since the military coup took place, could not access, neither third party experts, the villages around our operations. As soon as practical, we will resume regular human rights due diligence and will conduct a human rights impact assessment to take into account any change in the local social circumstances.

With regard to our workforce, TEP Myanmar has deployed an organization to ensure the safety of the employees in the very degraded security context that Myanmar is currently experiencing. Since 1<sup>st</sup> February 2021, TEP Myanmar has for instance offered its employees and their families ad hoc financial support given the liquidity shortages that may have arisen in the country due to the interruption of part of banking services. TEP Myanmar is also organizing COVID-19 vaccination for our employees, their families and our contractors.

TotalEnergies condemns the violence and human rights abuses occurring in Myanmar and reaffirms that it will comply with any decision that may be taken by the relevant authorities, including applicable sanctions issued by the EU or the US authorities to which your letter refers.

In light of the foregoing, we are of the view that the inclusion of our Company on the "Dirty List" would not only be illegitimate but also quite ill-founded, as TotalEnergies does not support or condone the military regime in Burma but makes decisions based on human rights priorities that relate to the protection and day to day welfare of our staff and of civilian populations. Finally, we can only state that the legal views expressed in your letter whereby the ongoing business relationship between our affiliate and MOGE could qualify as an international crime are baseless in light of the clear fact pattern described above and of the rules of international public law (and others) that apply.

I hope that the above information helps to clarify that TotalEnergies is using its leverage to the extent possible, and I remain available should you need any additional clarifications,

Yours truly,

Aurélien Hamelle