



November 16, 2006

Mr. Tae-Yong Lee
President and Chief Executive Officer
Daewoo International Corporation
541 5-Ga Namdaemun-No, Jung-Gu
Seoul, KOREA

RE: Burma Gas Development

Dear Sir,

We write to you with our concerns regarding the Shwe Gas Project in Burma. According to published reports, your company has a 60% interest and the mostly state-owned Korean Oil & Gas Company Limited (KOGAS) has a 10% interest in the Shwe Gas Project consortium. This consortium, in partnership with Burma's military junta, has been and is currently involved in exploration for natural gas in the Bay of Bengal.

We are concerned that the project will lead to human rights and environmental abuses, similar to those that occurred in conjunction with the Yadana-Yetagun Project. As you are undoubtedly aware, the Yadana-Yetagun natural gas pipeline project involved a partnership between Unocal, Total and Burma's military junta also to explore and extract natural gas from the Andaman Sea and deliver it by pipeline to Thailand. In that project, no agency monitored Unocal or Total's offshore drilling and extraction,¹ no adequate environmental impact assessment was prepared by or for Unocal or Total, and affected citizens in Burma had no input or involvement. On the Yadana-Yetagun natural gas pipeline project, the Burmese military committed severe human rights abuses, which

included forced and uncompensated relocation of thousands of local villagers, forced labor, rape and torture. In addition, significant environmental degradation occurred along the Yadana-Yetagun pipeline route.ⁱⁱ Unocalⁱⁱⁱ and Total^{iv} benefited from the degradation and abuses associated with the Yadana-Yetagun project.^v We are concerned that the preconditions for similar human rights and environmental abuses already exist with respect to the Shwe Gas Project.

Human Rights Concerns

In fact, there have already been reports of human rights abuses along the proposed Shwe Gas Project pipeline route to India.^{vi} The Burmese military reportedly forcibly relocated an estimated 500 residents from three townships in Arakan State to the India-Burma and Burma-Bangladesh borders.^{vii}

Residents reportedly also had their land confiscated by the Burmese military and were required to provide uncompensated forced labor on road construction.^{viii} Villagers on the India-Burma border reported that Burmese military personnel confiscated private land, paddy fields and plantations in three other villages along the Sittwe-Kyauk Taw road, which is along the proposed Shwe Gas Project's pipeline route to India. The paddies were reportedly to be used for Burmese military basic rations.^{ix} Further reports indicate that a thousand villagers, including older people, women and children, were forced to buy plants at their own expense, and without compensation, plant them along the Sittwe-Kyauk Taw road.^x

We are particularly concerned that while most people in western Burma have no electricity or cooking gas, it is highly unlikely that any of the Shwe natural gas reserves will be made available to the people of Arakan, Chin or Shan states where the need is arguably the greatest.^{xi} Therefore, the local villagers will receive all of the hardships from this project, yet none of the benefits.

As stated above, similar human rights abuses occurred in the Yadana-Yetagun pipeline project. We are therefore concerned that the current abuses already occurring in conjunction with the Shwe Gas Project will not only continue but will eventually worsen.

Environmental Concerns

Any pipeline to India will traverse through very sensitive eco-regions in Arakan and Chin^{xii} states in Burma, including the Naga-Manuprui-Chin Hills, which include many ecologically sensitive sub-regions. The Naga-Manuprui-Chin Hills are included as a Global 200 Eco-region because of their extremely high rate of biological diversity.^{xiii} This region is particularly famous for its abundance of bird species^{xiv} and provides habitat for dozens of other highly endangered species.^{xv} In addition, the mangrove forests along the west coast of Arakan State are already threatened and will be further threatened by the Shwe Gas Project.^{xvi}

There have been reports of 10,000 dead fish in the Kaladan River near Sittwe.^{xvii} In addition, local Arakan residents are catching unusually small fish with deformed intestines. Reduced growth rate and physical deformities are associated with petrochemical pollution in a large number of marine species.^{xviii} Arakan leaders believe that the consortium's exploratory operations have already contaminated the waters that provide their means of subsistence.^{xix}

Pollution is the most dangerous adverse impact of offshore natural gas projects, such as the Shwe Gas Project, involving liquid, solid, gaseous and aerosol discharges and emissions.^{xx} Evidence of the potential for environmental pollution as a result of offshore oil operations can be extrapolated from global experiences. Worldwide, the oil and gas industry annually discharges from offshore facilities over 3 billion tons of solid waste and 500 cubic kilograms of liquid waste, which contain over 800 substances.^{xxi} The cumulative manifestations of improperly treated discharge materials resulting from natural gas exploration and extraction are concentrated in marine coastal areas, therefore disproportionately impacting coastal populations.^{xxii} Offshore natural gas production generally leads to displacement of traditional fishing areas^{xxiii} and the contribution to global warming and climate change from the burning of natural gas and extraction and production activities is a particularly grave concern.^{xxiv}

Environmental Impact Assessment

As you are likely aware, an Environmental Impact Assessment (EIA) is a procedure for evaluating the likely impact of a proposed activity on the environment. The object of EIA is to provide decision-makers with information about possible environmental effects when deciding whether to authorize an activity to proceed. EIA requires examining, analyzing and assessing proposed activities in order to maximize the potential for environmentally sound and sustainable development by integrating environmental issues into development planning.^{xxv} EIA is required when a proposed activity is likely to have a significant adverse impact on the environment.

The value of an effective EIA is that it provides an opportunity for public scrutiny and participation in decision-making and will ideally facilitate better-informed judgments when balancing environmental and developmental needs. Following the EIA process ensures that *prior to* the approval of proposed activities, the following will occur:

- Appropriate authorities and decision-makers will have fully identified the environmental consequences of the proposed activities;
- Affected citizens will have had the opportunity to understand the proposed activities and express their views to the decision makers;^{xxvi} and
- Decision-makers will have considered the information on the environmental consequences of the proposed activities as well as the community input, and will have made decisions influenced by this information,

Prominent international environmental law experts have concluded that the obligation to conduct an EIA for any activity that is expected to have a significant or substantial environmental impact within or outside of a country's borders is a "general custom," "customary principle," "basic principle" or "fundamental principle" of international law.^{xxvii} EIAs emerged with the 1972 Stockholm Convention as an important technique for integrating environmental considerations into socio-economic development and decision-making processes.^{xxviii} In addition, Principle 17 of the 1992 Rio Declaration states that an EIA shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment. References to EIAs abound in

Agenda 21, which calls on all countries to assess the environmental suitability of infrastructure in human settlements, ensure that relevant decisions are preceded by EIAs and also to take into account the costs of any ecological consequences.^{xxxix} Agenda 21 clearly endorses the need for individuals, groups and organizations to participate in EIA procedures.^{xxx}

Moreover, the well-recognized international principle of precaution also mandates that an environmental impact assessment be undertaken.^{xxxix} Principle 15 of the Rio Declaration states: “In order to protect the environment, the precautionary approach shall be widely applied by states according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost effective measures to prevent environmental degradation.” An environmental impact assessment is one such cost effective measure.

In addition, many international lenders have adopted EIA procedures, requiring compliance as a precondition before providing project or development funding.^{xxxix} All multilateral development banks have adopted environmental assessment policies, which apply to proposed project activities.^{xxxix} The Asian Development Bank established EIA procedures in the early 1980’s.^{xxxix} The World Bank’s Environmental Assessment Directive was first issued in 1989.^{xxxix} EIA is so well-established in national practice, that it is regarded as a general principle of law or a requirement of customary international law for EIAs to be conducted.^{xxxix}

South Koreans have traditionally sought to live a life in harmony with nature.^{xxxix} In 1977, South Korea adopted the Environmental Preservation Act. EIAs have been required since February 1981 with the adoption of “Regulations on the Preparation of EIA.”^{xxxix} The “Basic Environmental Act,” adopted in 1990, requires the collection of the opinions of local residents and the conduct of “follow-up measures” for matters arising subsequent to an initial EIA.^{xxxix} Currently under Article 4,^{xi} there are 17 different development areas encompassing 63 different projects subject to EIAs.^{xii} Article 4 does not specifically mention natural gas development and natural gas pipelines because South Korea does not have natural gas as a resource. However, included among the areas requiring EIAs are the comprehensive development of energy related to oil pipelines and oil storage, construction of roads of 4 km or extension of a road of 10km, reclamation works, forest and land clearing works and

development of mountainous areas.^{xliii} Under any one of four areas involving projects in mountain areas – energy development, road construction, or reclamation and land clearing – an EIA would be required for the Shwe Gas Project if it were being constructed in South Korea.^{xliii}

South Korea has appropriately recognized that the EIA process is “an essential policy measure for sustainable development as it forecasts and analyzes the negative impact on the environment in advance and seeks alternatives.”^{xliv} Furthermore, South Korea also recognizes the EIA process as a “preventative policy measure addressing environmental problems” which “promot[es] harmony between development and conservation to realize environment-friendly development.”^{xlv} According to the Director General of South Korea’s Environmental Policy Bureau, Ministry of Environment, in the 25 years since its implementation, the EIA system

has effectively served as a balance weight between economic development and environmental protection, . . . the assessment system generally receiv[ing] positive evaluations for its contribution to sustainable, environmentally friendly development.^{xlvi}

As part of the EIA procedures in South Korea, opinions from affected residents “and relevant institutions are canvassed through written documents or discussion and public forums.”^{xlvii}

In addition, similar to South Korean environmental laws, the environmental laws of both India and China also require an EIA, including involvement of local affected citizens prior to the construction of a project such as the Shwe Gas Project. The laws of South Korea, India and China are consistent with customary international environmental law, which accepts EIAs as a “proactive instrument” of environmental policy.^{xlviii}

You have personally indicated that three of the four pillars that form the “core foundation” of Daewoo International are “transparent management, ethical leadership, and social commitment.”^{xlix} Daewoo’s consortium partner, KOGAS, also announced a little over two years ago that it would manage its business in an “ethical,” “transparent,” “honest” and “righteous” manner, “making society

cleaner by engaging in activities for protecting the environment.”¹ Conducting an EIA is imperative to meeting these goals.

REQUEST FOR ACTION

Daewoo International has been investing in Burma since 1990, being the largest of over 100 corporations from South Korea that have invested in Burma.ⁱⁱ It is expected that production of the A-1 Gas Block will begin in 2010 and that the natural gas deposits have an estimated lifetime of 20 years. Daewoo has projected net earnings of US\$86.2 million annually for 20 years from the Shwe Gas Project.,ⁱⁱⁱ which will be Burma’s largest gas development project ever in terms of gas reserves, potential revenue, and the potential number of adversely affected people.ⁱⁱⁱ With the amount of income expected from this project, the Shwe Gas consortium should ensure that the project is conducted responsibly from the start.

Pursuant to customary international environmental law, the laws of South Korea, India and China, and Daewoo’s stated goals, Daewoo International and its consortium partners are required to prepare an EIA. The EIA must meet the letter and spirit of the South Korean laws and regulations that would apply if the Shwe Gas Project were in South Korea. Your personally enunciated “pillars” of “transparent management, ethical leadership, and social commitment” mandate no less than this.^{liv} It is morally and ethically compelling that KOGAS, a largely state-owned South Korean oil and gas company, and Daewoo International, which is headquartered in South Korea, should follow South Korea’s environmental protection policies and be proactive in ensuring the protection of Burma’s environment and the mitigation of any environmental and social impacts from the Shwe Gas Project.

Pursuant to international standards, Daewoo, KOGAS and other consortium partners **must** ensure that an adequate EIA is prepared **now**, before any further exploration, prior to project commencement. The EIA process should conform to customary international law requirements and include, among other things, appropriate involvement of local Arakanese, Chin and Shan residents and NGOs regarding the consortium’s current and ongoing exploration for natural gas in the Bay of Bengal prior to any extraction or further construction on the Shwe

Gas Project.

Furthermore, an adequate EIA requires a Social Impact Assessment (SIA) to identify and examine social impacts from the proposed activities, which will include an impartial assessment of the direct impact Daewoo International's business activity will have on some of the human rights of local people. An adequate SIA will assess potential direct social impacts including, but not limited to, involuntary resettlement and forced labor, both of which are germane to international human rights standards, Burma's oil and gas sector, and the proposed activities of Daewoo International in Burma. We would be happy to work with you in gathering the evidence needed for such an assessment. The consortium should also prepare a plan or guidelines for its partners, including the Burmese military, on preventing the abuses which were rampant in the Yadana-Yetagun project. A plan should be developed to prevent such abuses and what will be done should such abuses occur.

In addition to conducting an EIA and SIA, Daewoo International has an obligation to assess the larger conflict in Burma between international human rights standards and local norms, and how the proposed business activities will both directly and indirectly impact that conflict. The potential for Daewoo International's business activities to have both direct *and* indirect impacts on the human rights of local people indicates the requirement to assess the broader spectrum of international human rights as they relate to the proposed business activities. In light of this, Daewoo International should also conduct a Human Rights Impact Assessment (HRIA). The central difference between an EIA/SIA and a HRIA is that the latter relies on international human rights standards as its framework, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic and Social Rights (ICESR). Furthermore, in light of Burma's well-documented and internationally recognized history of using forced labor on infrastructure projects, an adequate HRIA must evaluate the proposed Shwe gas activities using the standards of the International Labor Organization (ILO), as well.

Pursuant to international standards, Daewoo International, KOGAS, and other consortium partners must ensure that an adequate EIA/SIA and HRIA is

prepared now, before any further exploration, prior to project commencement. The completion of the EIA/SIA and HRIA process for the Shwe Gas Project is a priority for our organization. We are committed to the continued monitoring of the Shwe Gas Project to prevent further human rights abuses and environmental degradation and to ensure that Daewoo and your consortium partners provide an adequate EIA *now*. Environmental and human rights experts, activists, scholars and lawyers in India, China, South Korea and Burma are devoted to this issue to ensure Daewoo International and your consortium partners' compliance.

Yours Sincerely,



Ka Hsaw Wa
Executive Director
EarthRights International



Kim Hye-Jeong
Secretary General
KFEM-FoE Korea

ⁱ See JAMES FAHN, A LAND ON FIRE 224 (2003).

ⁱⁱ See TOTAL DENIAL CONTINUES, EarthRights International (2003), *available at* <http://www.earthrights.org/files/Reports/TotalDenialContinues.pdf> and FAHN, *supra* note 1, at 210-38 (discussing mercury discharge at the extraction sites by Total and Unocal, which contaminated the Andaman Sea and fish in the surrounding waters). See also *Another Yadana: The Shwe Natural Gas Pipeline Project (Burma-Bangladesh-India)*, EarthRights International (Aug. 27, 2004), *available at* <http://www.earthrights.org/content/view/97/41/>.

ⁱⁱⁱ EarthRights International filed a lawsuit in US Courts on behalf of 15 Burmese villagers against California-based Unocal Corporation for human rights abuses resulting from the construction of the Yadana pipeline through southern Burma. The Federal District Court in Los Angeles found that “the evidence does suggest that Unocal knew that forced labor was being utilized and the Joint Ventures benefited from the practice.” A Federal court of Appeals later concluded that corporations, as well as their executive officers, could be held legally responsible under the Alien Tort Claims Act when international human rights norms in foreign countries were violated, and that US courts had the legal authority to adjudicate such claims. For the text of the Federal District Court’s 1997 decision, see <http://www.earthrights.org/content/view/203/56/>. For the 9th Circuit’s decision, see <http://www.earthrights.org/content/view/201/41/>.

^{iv} Total was also sued by Burmese villagers in a case that also resulted in a substantial settlement. *See Total Settlement Will Not Quell Rights Campaign*, The Shwe Gas Bulletin, Vol. I, Issue 8, at 3 (Nov. 2005), *available at* <http://www.rakharoma.org/ShweGasBulletin8Eng.pdf>.

^v *See* FAHN, *supra* note 1, at 205 and TOTAL DENIAL CONTINUES, *supra* note 2; *see also* Ranjit Devraj, *Gas Deal Wins Kudos, But Activists Warn of Rights Abuses*,” (Jan. 18, 2005) *available at* <http://www.ipsnews.net/interna.asp?idnews=27071> and *Another Yadana*, *supra* note 2.

^{vi} *See Arakanese Villagers Are Being Forced to Aid in the Construction of the Gas Pipeline Between Burma and India*,” Narinjara News (Aug. 1, 2005), *available at* <http://www.shwe.org/news/2005/08/arakanese-villagers-are-being-forced.html>.

^{vii} *Id.*

^{viii} *See Shwe Gas Pipeline Project to India: Another Yadana Begins?*, The Shwe Gas Bulletin, Vol. I, Issue 10, at 1 (February 2006).

^{ix} *Id.*, at 4.

^x *Id.*

^{xi} *Id.*

^{xii} The Chin people are recognized under international human rights law as an indigenous people, thereby having the right to “enjoy their own culture” in their communities under Article 27 of the International Covenant on Civil and Political Rights, *available at* <http://www1.umn.edu/humanrts/instree/b3ccpr.htm>. This right includes consultation and participation rights, including the right to information and the opportunity to have input as to whether and how development projects affecting their lives take place. In addition, Article 15 of the International Labour Organization (ILO) Convention 169, *available at* <http://www.unhchr.ch/html/menu3/b/62.htm>, guarantees indigenous people the right to consultation on development and extraction projects in their land or affecting their lives. Under Article 15, if projects take place, indigenous people must be able to enjoy the benefits of the development, or else be compensated for the damage the development causes to their lives. Article 30 of the Draft Declaration on the Rights of Indigenous Peoples, *available at* <http://www.usask.ca/nativelaw/didir.html>, guarantees even more protection in that development projects cannot take place without the “free and informed consent” of affected indigenous people.

^{xiii} The Global 200 is a list compiled by the World Wildlife Fund (WWF) of prioritized eco-regions for conservation. *See Naga-Manupuri-Chin Hills Moist Forests*, WWF, *available at* <http://www.nationalgeographic.com/wildworld/profiles/g200/g034.html>.

^{xiv} *Id.*

^{xv} These species include the hoolock, gibbons, gaurs, bear macaques, Fea’s muntjak, tigers, elephants and rhinoceroses. Other endangered species include the Arakan forest turtles and river dolphins. *Id.*

^{xvi} *See* Oilwatch Sea website at <http://www.oilwatch-sea.org/>.

^{xvii} *See Over 10,000 Giant Sea Perch Dead, Hilsa Deformed: Daewoo & Shwe Block A-1 Gas Operation*, The Shwe Gas Bulletin, Vol. 1, Issue 5 (Sept. 2005) at 6, *available at* <http://www.ibiblio.org/obl/docs3/SGB01-06.pdf>.

^{xviii} *See* STANISLAV PATIN, ENVIRONMENTAL IMPACT OF THE OFFSHORE OIL AND GAS INDUSTRY 158-95 (EcoMonitor Publishing 1999)

^{xix} *Id.*

^{xx} In addition, drilling muds and cuttings from natural gas extraction are saturated with hundreds of different substances and compounds, posing ongoing ecological threats.

This is because the muds and cuttings are often not properly disposed of, most drilling muds and cuttings being dumped overboard. See PATIN, *supra* note 18, at 72. Drilling muds and cuttings may contain heavy metals such as mercury, lead, cadmium, chromium, copper and zinc. *Id.* at 77. For a discussion of the wrongful discharge of mercury by Unocal and Total, which contaminated the Andaman Sea and fish in the surrounding waters, resulting from the extraction process in the areas of the natural gas wells as part of the Yadana and Yetagun gas projects, see FAHN, *supra* note 1, at 210-38.

^{xxi} These figures were based upon two studies completed in 1986 and 1993, and therefore the statistics cited are likely substantially less than what is currently being discharged. See PATIN, *supra* note 18.

^{xxii} *Id.* at 34.

^{xxiii} *Id.* at 97. Recent studies have also linked asthma and other serious respiratory illnesses to household use of natural gas in natural gas cooking stoves, furnaces and hot water heaters. See David Wimberley, *Natural Gas: Avoidable Health Hazard* (October 2000), available at <http://www.elements.nb.ca/theme/fuels/illness/caused.htm>. Cooking, drying and heating with natural gas creates nitrogen dioxide, carbon monoxide, hydrocarbons, volatile organic compounds including formaldehyde and other chemicals. See also Agnes Malouf & David Wimberley, *The Health Hazards of Natural Gas*, Environmental Health Association of Nova Scotia (Summer 2001), available at <http://www.chebucto.ns.ca/Health/Nsaeha/summer01gas.html>. See generally the Allergy and Environmental Health Association website at <http://www.geocities.com/RainForest/6847>. According to Great Britain's medical journal, exposure to natural gas increases the risk of asthma allergies, reduces lung functioning and increases airway obstruction and shortness of breath. *Id.* citing THE LANCET, Vol. 347, at 412, 426-31 (Feb. 17, 1996). See Karen McAllister, *Medical-Environmental Report: A Review of the Potential Health Effects of the Proposed Sable Gas Pipeline Project from the perspective of Environmentally Induced Illness/Chemical Sensitivity, Asthma and Allergy*, Prepared as part of an undertaking by the Allergy and Environmental Health Association. Nova Scotia. Intervention Coalition on the proposed Sable Island gas pipeline project (March 1997), available at <http://www.geocities.com/rainforest/6847/report1.html#Index>.

^{xxiv} See PATIN, *supra* note 18, at 55-57, 77-109.

^{xxv} See DAVID HUNTER ET AL., INTERNATIONAL ENVIRONMENTAL LAW AND POLICY 366 (1998) and R.K. JAIN ET AL., ENVIRONMENTAL ASSESSMENT 6, 8 (McGraw Hill 1993).

^{xxvi} See John H. Knox, *The Myth and Reality of Transboundary Environmental Impact Assessment*, 96 AM. J. INT'L L. 291, 297 (2002); HUNTER, *supra* note 30, at 366; Jon M. Van Dyke, *Sea Shipment of Japanese Plutonium*, 24 OCEAN DEV. & INT'L L. 399, 402 (1993); JAIN, *supra* note 30, at 6; Nicholas A. Robinson, *International Trends in Environmental Impact Assessment*, 19 B.C. ENVTL. AFF. L. REV. 591, 594 (1992).

^{xxvii} See, e.g., Maki Tanaka, *Lessons from the Protracted MOX Plant Dispute: A Proposed Protocol of Marine Environmental Impact Assessment to the United Nations Convention on the Law of the Sea*, 25 MICH. J. INT'L L. 337, 355 (2004); Kevin R. Gray, *International Environmental Impact Assessment: Potential for a Multilateral Environmental Agreement*, 11 COLO. J. INT'L L. & POL'Y 83, 89 (2000); Erika L. Preiss, *The International Obligation to Conduct an Environmental Impact Assessment: The ICJ Case Concerning the Gabčíkovo-Nagymaros Project*, 7 N.Y.U. ENVTL. L.J. 307, 308, n.6

(1999); HUNTER ET AL., *supra* note 30, at 367; David A. Wirth, *The Rio Declaration on Environment and Development: Two Steps Forward and One Back, or Vice Versa?*, 29 GA. L. REV. 599, 629 (1995); Alexandre S. Timoshenko, *The Problem of Preventing Damage to the Environment in National and International Law: Impact Assessment and International Consultations*, 5 PACE ENVTL. L. REV. 475, 480 (1988); Maria C. Holland, *Judicial Review of Compliance with the National Environmental Policy Act: An Opportunity for the Rule of Reason*, 12 B.C. ENVTL. AFF. L. REV. 743, 755–56 (1985); see also Robinson, *supra* note 31, at 602.

^{xxviii} Stockholm Declaration of the United Nations Conference on the Human Environment, June 16, 1972, *Report of the United Nations Conference on the Human Environment*, G.A. Res. 2997, U.N. GAOR, 27th Sess., 21st mtg., princ. 21, at 2 & Corr. 1, U.N. Doc. A/CONF.48/14, *reprinted in* 11 I.L.M. 1416, 1420 (1972). See also the World Charter for Nature G.A. Res. 37/7, U.N. GAOR, 37th Sess., Agenda Item 21, U.N. Doc A/RES/37/7 (1982), *reprinted in* 22 I.L.M. 455 (1983) (supporting the exhaustive examination and assessment of activities likely to pose a significant risk to nature or which may disturb nature, and requiring that activities should not proceed or should minimize potential adverse effects on the basis of the findings of the assessment or examination).

Many international instruments explicitly mandate the use of an EIA: see the Convention on Biological Diversity, NO. 103–20, 1760 U.N.T.S. 143, 151–52 (entered into force Dec. 29, 1993); the United Nations Convention on the Law of the Sea, Dec. 10, 1982, art. 206, 1833 U.N.T.S. 397, 481 (entered into force Nov. 16, 1994); the Protocol on Environmental Protection to the Antarctic Treaty, *opened for signature* Oct. 4, 1991, art. 8, 30 I.L.M. 1455; and the Convention on the Law of the Non-Navigational Uses of International Watercourses, *opened for signature* May 21, 1997, G.A. Res. 51/229, U.N. GAOR, 51st Sess., Agenda Item 144, U.N. Doc. A/RES/51/229, *reprinted in* 36 I.L.M. 700.

See also the European Community Council Directive on Environmental Impact Assessments, 85/337/EEC, 1985 O.J. (L 175) 40, <http://europa.eu.int/eur-lex/en/index.html>; the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, *done* June 25, 1998, 38 I.L.M. 517 (entered into force Oct. 30, 2001); the UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes, *done* Mar. 17, 1992, 31 I.L.M. 1312; and the Convention on Environmental Impact Assessment in a Transboundary Context, *done* Feb. 25, 1991, 1989 U.N.T.S. 309 (1997), 30 I.L.M. 800 (1991) (entered into force Sept. 10, 1997).

^{xxix} Agenda 21, paragraph 7.41(b) and 8.4.

^{xxx} Agenda 21, paragraph 23.2.

^{xxxix} Rio Declaration (1992).

^{xxxix} See generally Carole Klein-Chesvoir, *Avoiding Environmental Injury: The Case for Widespread Use of Environmental Impact Assessments in International Development Projects*, 30 VA. J. INT'L L. 517, 531 (1990).

^{xxxix} EIAs are also required for development projects funded by the European Bank for Reconstruction and Development, the European Investment Bank and the Inter-American Development Bank. See HUNTER, *supra* note 30, at 367. See also Article 14(1) of the 1985 ASEAN Agreement on the Conservation of Nature and Natural Resources, which requires that contracting parties "undertake that proposals for any activity which may significantly affect the natural environment shall as far as possible be subjected to an assessment of their consequences before they are adopted, and they shall take into consideration the results of this assessment in their decision-making process."

^{xxxix} See generally *Summary of Environmental Assessment Policies and Procedures for Development Assistance Activities: Asian Development Bank*, Canadian International Development Agency (1998), available at [http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/%20vLUIImages/ea%20summaries/\\$file/AsDB.pdf](http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/%20vLUIImages/ea%20summaries/$file/AsDB.pdf).

^{xxxix} See ENV'T DEP'T, WORLD BANK, ENVTL. ASSESSMENT SOURCEBOOK UPDATE NO. 1, THE WORLD BANK AND ENVIRONMENTAL ASSESSMENT: AN OVERVIEW 2.

^{xxxix} See Rio Declaration, Principle 17 (1992). In the 1970s, many nations followed the United States' 1969 National Environmental Policy Act and adopted similar EIA processes including Canada (1973), Australia (1974), New Zealand (1974), Colombia (1974), Thailand (1975), France (1976), and the Netherlands (1979). The domestic EIA process has become, over the past 35 years, a relatively commonplace procedure in many countries and international institutions with certain components generally agreed upon. For example, the African nations of Algeria, Burkina Faso, Cape Verde, Comoros, Congo, Egypt, Gabon, The Gambia, Ghana, Guinea, Libya, Madagascar, Malawi, Mauritius, Nigeria, Senegal, Republic of Seychelles, South Africa, Togo, Tunisia, Uganda, and Zambia, *inter alia*, all have EIA provisions in national environmental laws. See UNEP/UNDP JOINT PROJECT ON ENVIRONMENTAL LAW AND INSTITUTIONS IN AFRICA, FRAMEWORK LAWS AND EIA REGULATIONS (1996 ed. & Supp. 1998).

^{xxxix} See June Wk Kim, *Current Environmental Issues in Korea and Policies toward Sustainability*, at 1, a paper presented at the Korea Environmental Institute Forum (July 4, 2002). During the Chosun Dynasty (1392-1897), environmental crimes in Korea were severely punished. See Ji Young Kim & Young-il Song, *Environmental Impact Assessment Procedure and Practice*, at 1, a paper presented at the Korea Environmental Institute Forum (Jul. 4, 2002); Nature Protection, Ministry of Interior, Republic of Korea (1978); *The Road to Environmental Conservation*, Ministry of Environment, Republic of Korea (1990), at 13.

^{xxxix} See Kim, *supra* note 42; Yoon Seong-Kyu, *Environmental Impact Assessment and its Challenges in Korea*, at 1-2, a paper presented at the Korea Environmental Institute Forum (Jul. 4, 2002), available at <http://www.kei.re.kr>; *Environmental Impact Assessment in Korea*, Korea Environmental Policy Bulletin, Vol. II, Issue 2 (2004), at 2-

3, available at http://www.kei.re.kr/04_publ/pdf/others/KEBP2004-송영일.pdf; Policies and Legislations: Environmental Impact Assessment, Ministry of Environment, Republic of Korea (1997); Kim, *supra* note 42.

^{xxxix} See Ministry of Environment, *supra* note 38; Seong-Kyu, *supra* note 38, at 2.

^{xl} Art. 4, Act on Assessment of Impact Work on Environmental, etc., Act. No. 6095 (Dec. 31, 1999), as amended by Act. No. 7020 (December 30, 2003) and Act. No. 7186 (March 11, 2004).

^{xli} See Ministry of Environment, Republic of Korea; Korea Environmental Policy Bulletin, *supra* note 38, at 6-7; *see also* Kim et al., *supra* note 37, at 1; Seong-Kyu, *supra* note 38, at 4.

^{xlii} See Table 2, Ministry of Environment, Act on Assessment of Impacts of Works on Environment, etc. (2004), set forth in the Korea Environmental Policy Bulletin, *supra* note 38, at 6-7.

^{xliii} See generally Ministry of Environment, *supra* note 38; Korea Environmental Policy Bulletin, *supra* note 38, at 6; Kim et al., *supra* note 37, at 2-3.

^{xliv} See Korea Environment Policy Bulletin, *supra* note 38, at 18.

^{xlv} *Id.*

^{xlvi} See Seong-Kyu, *supra* note 38, at 2.

^{xlvii} *Id.* at 4-5. The draft EIA is required to include "information about [the] area to be affected by development activity, present environmental conditions, consideration of alternatives, preliminary estimation of environmental impacts, and preparation of mitigation." See Kim et al, *supra* note 37, at 3. All of the public comments are to be included in the proposed EIA, and if changes requested are not adopted, the proposed EIA statement must explain the reasons why. See Korea Environmental Policy Bulletin, *supra* note 38, at 10, 15.

^{xlviii} See Gray, *supra* note 27 at 127.

^{xlix} See Daewoo International "CEO Message," available at <http://www.daewoo.com/english/company/ceo.jsp>.

^l See KOGAS website at http://www.kogas.or.kr/moral/eng/chung/chung04_01.jsp.

^{li} See *South Korea: Burma's Biggest Investor*, The Shwe Gas Bulletin, Vol. I, Issue 10, at 3 (Feb. 2006).

^{lii} See Supratim Mukherjee, *Myanmar: Cheers, Jeers over Giant Gas Find*, Asia Times Online (Feb. 13, 2004) available at http://www.atimes.com/atimes/South_Asia/FB14Df05.html. Daewoo International's profits could increase depending on the amount of gas reserves in the additional areas. See Bae Keun-min, *Energy Projects Profitable for Daewoo International*, Korea Times (June 22, 2004), available at <http://times.hankooki.com/lpage/special/200406/kt2004062215442545250.htm>.

^{liii} The pipelines within Burma to India and China will be considerably longer than the Yadana and Yetagun pipelines, which adversely affected approximately 35,000 people. See *Another Yadana*, *supra* note 2.

^{liv} See Lee Tae-Yong, "CEO Message," available at <http://www.daewoo.com/english/company/ceo.jsp>