

International standards in the oil and gas and power sectors

- including those of the World Bank's
International Finance Corporation (IFC)

Vicky Bowman, Director, Myanmar Centre for Responsible Business

USAID sponsored training workshop on reviewing government contracts
Attorney General's office, Naypyidaw 6–8 August 2014

This Presentation

- ▶ What is the Myanmar Centre for Responsible Business?
 - ▶ What are the main international standards and initiatives for oil/gas and power operations?
 - ▶ More detail on IFC Standards
- 

Myanmar Centre for Responsible Business



www.myanmar-responsiblebusiness.org

15 Shan Yeiktha Street,
Sanchaung, Yangon
Tel/Fax: 01 510069

Founders:



THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

Objective: To provide an effective and legitimate platform for the creation of knowledge, capacity and dialogue concerning responsible business in Myanmar, based on local needs and international standards, that results in more responsible business practices.

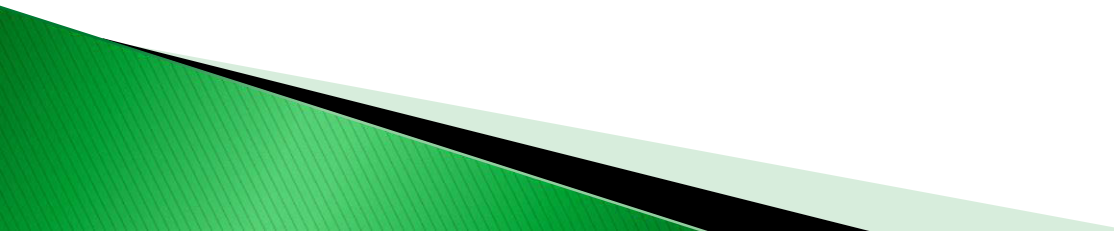
Current core funders:

- UK Department for International Development
- DANIDA (Danish development aid)
- Norway
- Switzerland
- Netherlands
- Ireland

Some of MCRB's current activities

- ▶ **Sector-Wide Impact Assessments (SWIA) on oil and gas, and tourism (and later ICT and agriculture)**
 - ▶ **July 2014 Report on Transparency In Myanmar Enterprises (TiME/Pwint Thit Sa)**
 - ▶ **Partnership with Myanmar Business Coalition on Aid to establish CSR offices beyond Yangon**
 - ▶ **Capacity building on responsible business, international standards, stakeholder engagement and business and human rights (UN Guiding Principles) for local business, government, civil society groups, media**
 - ▶ **Advice on business/human rights/responsible business for foreign investors**
 - ▶ **Engaging on policy and regulation e.g. Environmental and Social Impact Assessment (ESIA)**
- 

Are international standards compulsory for companies?

- ▶ No
 - ▶ Only if they are incorporated into national law or individual commercial contracts.
 - ▶ A company may make a commitment to apply specific international standards in some or all its global operations.
 - ▶ But this is a moral, not a legal commitment
- 

What about Myanmar's Production Sharing Contracts?

According to model onshore and offshore contracts*

[The Contractor shall]

- ▶ 17.2b be responsible to conduct Petroleum Operation in accordance with **the good international petroleum industry practices.**
- ▶ 17 eprevent environment pollution [as are] **consistent with international oilfield practices.**
- ▶ 17tin **conformity with international petroleum industry's practices** with respect to the environmental protection and mitigation.
- ▶ 17v employ safety precautions and safe working practices during the Petroleum Operations as are **consistent with international petroleum practices.**
- ▶ **Lots of scope for litigation and big legal bills around what 'good and/or international petroleum industry practices' are!!**
- ▶ To be enforceable, contracts need to refer to more specific technical standards, where they have been defined, for example IFC Standards and Guidelines

* March 2014 drafts as seen by MCRB – possibly subsequently amended?

What are the international standards for responsible business?

နိုင်ငံတကာ စံနန်းတွေက ဘာတွေလဲ။



The UN Global Compact....



- Launched in 1999 by UN Secretary General
- Initiative for businesses that are committed to aligning their operations and strategies with 10 principles in the areas of [human rights](#), [labour](#), [environment](#) and [anti-corruption](#)

The UN Global Compact's 10 principles

.....ask companies to embrace, support and enact, within their sphere of influence, a set of core values in the areas of:

Human Rights

Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and

Principle 2: make sure that they are not complicit in human rights abuses.

Labour

Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;

Principle 4: the elimination of all forms of forced and compulsory labour;

Principle 5: the effective abolition of child labour; and

Principle 6: the elimination of discrimination in respect of employment and occupation.

.....၎င်းတို့၏ ဩဇာသက်ရောက်မှုရှိသောနယ်ပယ်အတွင်း အောက်ပါနယ်ပယ်များရှိ ပင်မတန်ဖိုးများကို လက်ခံပြီး အထောက်အပံ့ပြုကာ အရေးထားဆောင်ရွက်ရန် ကုမ္ပဏီများအား တောင်းဆိုခြင်း

လူ့အခွင့်အရေး

အခြေခံမူ ၁- စီးပွားရေးလုပ်ငန်းများသည် နိုင်ငံတကာက လက်ခံသဘောတူထားသည့် လူ့အခွင့်အရေး ကာကွယ်စောင့်ရှောက်မှုကို လေးစားလိုက်နာပြီး အထောက်အပံ့ပြုရမည်။

အခြေခံမူ ၂- လူ့အခွင့်အရေးချိုးဖောက်မှုများတွင် မိမိတို့ပါဝင်ပတ်သက်မှုမရှိမစေရ။

အလုပ်သမားရေးရာ

အခြေခံမူ ၃ - စီးပွားရေးလုပ်ငန်းများသည် လွတ်လပ်စွာသင်းပင်းဖွဲ့စည်းခြင်းကို အားပေးပြီး အစုအဖွဲ့လိုက် တောင်းဆိုပိုင်ခွင့်ပြီး နှစ်ဖက်ညှိနှိုင်းခြင်းကိုလည်း ထိထိရောက်ရောက်အသိအမှတ်ပြုမှုရှိရမည်။

အခြေခံမူ ၄- အမွေနှင့် မလုပ်မနေရခိုင်းစေသောလုပ်သား ပုံစံအားလုံး ပပျောက်ရေး

အခြေခံမူ ၅- လေးလုပ်သားပပျောက်ရေးထိရောက်စွာ ဆောင်ရွက်ခြင်း။

အခြေခံမူ ၆- အလုပ်အကိုင်နှင့်

အလုပ်အမျိုးအစားကိုလေးစားခြင်းဖြင့် ခွဲခြားဆက်ဆံမှု ပပျောက်ရေး

UN Global Compact Principles 7–10

Environment

Principle 7: Businesses should support a precautionary approach to environmental challenges;

Principle 8: undertake initiatives to promote greater environmental responsibility; and

Principle 9: encourage the development and diffusion of environmentally friendly technologies.

Anti Corruption

Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery

သဘာဝပတ်ဝန်းကျင်

အခြေခံမူ ၇- စီးပွားရေးလုပ်ငန်းများသည် သဘာဝပတ်ဝန်းကျင်ဆိုင်ရာစိန်ခေါ်မှုများကို သတိထား ချဉ်းကပ်မှုတစ်ခုကို အထောက်အပံ့ပြုရမည်။

အခြေခံမူ- သဘာဝပတ်ဝန်းကျင်ဆိုင်ရာ တာဝန်ဝတ္တရားပိုမိုယူရေး လုပ်ငန်းများကို ဆောင်ရွက်ခြင်း

အခြေခံမူ ၉- သဘာဝပတ်ဝန်းကျင်နှင့်သင့်လျော်သည့် နည်းပညာများ ဖွံ့ဖြိုးရေးနှင့် ပြန့်ပွားရေးကို အားပေးခြင်း။

အဂတိလိုက်စားမှုတိုက်ဖျက်ရေး

အခြေခံမူ ၁၀- စီးပွားရေးလုပ်ငန်းအားလုံးသည်။ ခြိမ်းခြောက်ဖိအားပေးခြင်းနှင့် လာဘ်ပေးခြင်းအပါအဝင်

အဂတိလိုက်စားမှုပုံစံအားလုံးတိုက်ဖျက်ရေးကို လုပ်ဆောင်ရမည်။

The UN Global Compact

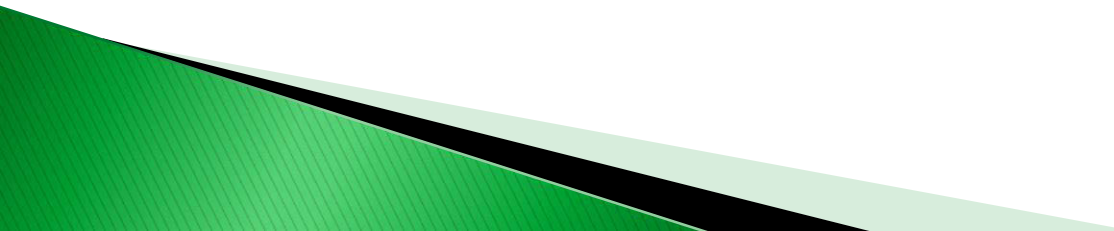
Who?

- 12500 business participants in over 135 countries
- In Myanmar there are currently 63 members
- Professor Aung Tun Thet is the chair of the UN Global Compact Local Network in Myanmar

What?

- Companies who sign up to the UN Global Compact should send in an annual 'Communication on Progress' detailing what it is doing to abide by the 10 principles. This is published on the UNGC website

But.....

- 10 principles are broad, not compliance-based and do not identify specific requirements
 - There is no sanction, other than being expelled for not reporting (NB 'Integrity measures' to handle complaints of serious abuses)
....not a good basis for including in contracts.
- 

UN Guiding Principles on Business and Human Rights (2011)



Professor John Ruggie, Special Representative to the United Nations Secretary General, 2005-2011

State duty to protect နိုင်ငံတော်၏ ကာကွယ်ရန်တာဝန်

- Policies မူဝါဒများ
- Regulation စည်းမျဉ်းများ
- Adjudication စီရင်ချက်ချခြင်း

Corporate responsibility to respect

စီးပွားရေးလုပ်ငန်းကြီးများ၏လေးစားလိုက်နာရန်တာဝန်

- Act with due diligence to avoid infringement ထိခိုက်နစ်နာမှုများ၊ အခွင့်အရေး ချိုးဖောက်မှု များကို ရှောင်ကြဉ်ရန် ကြိုတင်စမ်းစစ်၊ ကာကွယ်တားစီးခြင်းများလုပ်ဆောင်ရန်လို
- Address impacts သက်ရောက်ထိခိုက်မှုများကိုဖြေရှင်းရန်လိုအပ်မှု

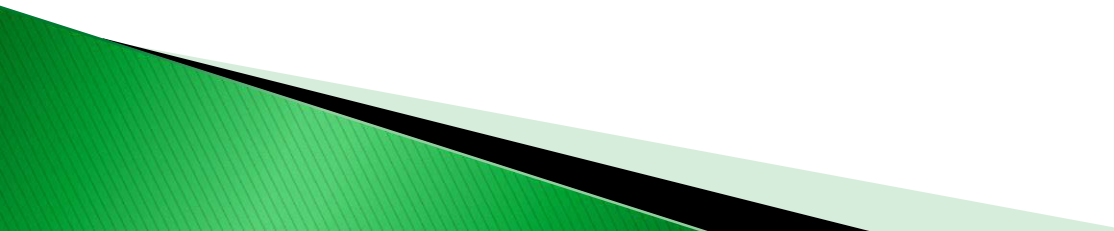
Access to remedy ပြန်လည်ကောင်းမွန်အောင်ပြုပြင်ခြင်း / ထိခိုက်နစ်နာမှုများကို ကုစားခြင်းများကိုလက်လှမ်းမီမှု

- Effective access to remedy for victims ထိခိုက်နစ်နာခဲ့သူများအတွက် ထိရောက်သောကုစားမှုကို လက်လှမ်းမီမှု
- Judicial and non-judicial တရားဥပဒေ၊ တရားရုံးနှင့်ဆိုင်သော နစ်နာချက်များ ကုစားမှု / တရားရုံးများနှင့်မဆိုင်ဘဲပြင်ပ၌ နစ်နာချက်များ ကုစားမှု

UNGPs Relevance for contracts?

- ▶ Myanmar could include a clause under RIGHTS AND OBLIGATIONS OF MOGE AND CONTRACTOR)
 - *‘Both parties affirm their commitment to applying, in their respective roles, the 2011 UN Guiding Principles on Business and Human Rights.’*

Why include?

- ▶ Important signal to Contractor of Myanmar’s expectations
 - ▶ Provides a basis for both sides to discuss sensitive issues
 - ▶ Sends a signal about the importance of ‘access to remedy’
 - ▶ Could be useful for Myanmar in future arbitration
- 

OECD Guidelines for Multinational Enterprises (MNEs)



- OECD = Organisation for Economic Cooperation and Development (based in Paris – 34 member nations)
- Most comprehensive set of guidelines for Responsible Business Conduct (RBC)
- All areas of corporate responsibility (labour, human rights, environment, corruption, taxation, etc.)
- Government backed recommendations for business
- Binding for governments, voluntary for MNE's
- 45 Adherents, including non-OECD members – but not Myanmar
- Unique implementation mechanism (mediation by National Contact Points)

OECD Guidelines – what's included?

1. **Concepts and Principles**
2. **General policies**
3. **Disclosure**
4. **Human Rights (incorporating the UN Guiding Principles)**
5. **Employment and industrial relations**
6. **Environment**
7. **Combating bribery**
8. **Consumer interests**
9. **Science and technology**
10. **Competition**
11. **Taxation**

No other corporate responsibility instrument covers these issues

If needed:
National
Contact
Point
Mediation

ISO 26000

- ▶ Provides guidelines for socially responsible behavior and possible actions.
- ▶ Core subjects are
 - Organizational governance
 - Human rights (incorporating the UN Guiding Principles)
 - Labour practices
 - The environment
 - Fair operating practices
 - Consumer issues
 - Community involvement and development
- ▶ Released 2010 by the [International Organization for Standardization](#) (ISO)
- ▶ Unlike other ISO standards (9001, 14001 etc), **it does not contain requirements and therefore is not certifiable.**
- ▶ Companies can use it as a guide to integrate social responsibility into their practice



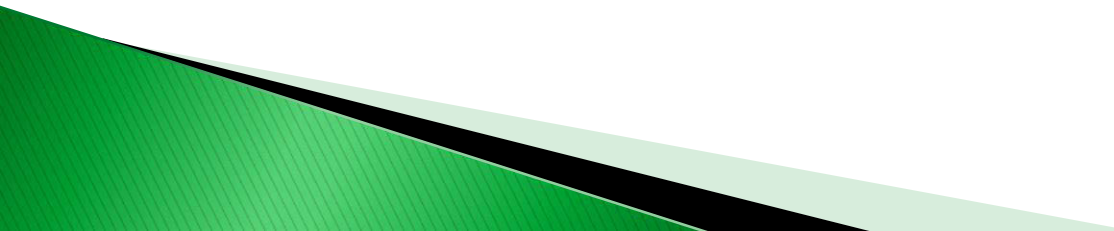
EQUATOR PRINCIPLES

- Principle 1: Review & Categorisation
- Principle 2: Social & Environmental Assessment
- Principle 3: Applicable Social & Environmental Standards
- Principle 4: Action Plan & Management System
- Principle 5: Consultation & Disclosure
- Principle 6: Grievance Mechanism
- Principle 7: Independent Review
- Principle 8: Covenants
- Principle 9: Independent Monitoring & Reporting
- Principle 10: EPFI reporting

The Principles apply to all new project financings globally with total project capital costs of US\$10 million or more, and across all industry sectors.

80 Financial Institutions
(banks etc) have signed up

Relevance for contracts?

- ▶ No particular need to reference OECD Multinational Guidelines, Equator Principles or ISO26000 in contracts
 - ▶ May be relevant to some companies but not others
 - ▶ Instead:
 - Include a contract reference to **UN Guiding Principles on Business and Human Rights**. These are reflected in OECD, ISO, Equator but UNGPs were approved by all UN countries.
- 

Sector specific initiatives



Extractives industries multistakeholder initiatives (i.e. Government–business–NGOs)


- Myanmar is an EITI Candidate
(last multistakeholder group held
5 August)
- Possible standalone Myanmar
EITI Law (3 countries have such a
law)
- Or incorporate EITI requirements
into all O&G and Mining
contracts as well as sectoral
laws?



Several companies now
entering Myanmar support
the Voluntary Principles

Business-led initiatives





oil and
gas

- IPIECA: global oil and gas industry association for environmental and social issues.
- Formed in 1974 (originally called International Petroleum Industry Environmental Conservation Association)
- The only global association involving both the upstream and downstream oil and gas industry on environmental and social issues.
- Helps the oil and gas industry improve its environmental and social performance by:
 - developing, sharing and promoting good practices and solutions
 - enhancing and communicating knowledge and understanding
 - engaging members and others in the industry
 - working in partnership with key stakeholders
- www.ipieca.org

- Created under the auspices of UNESCO in 1995
- Influenced by World Commission on Dams final report in 2000
- Founding member in 2004 of the International Renewable Energy Alliance (REN Alliance) along with our partners from the bioenergy, geothermal, solar and wind industries.
- 2004 first sustainability guidelines for hydropower projects
- 2006 IHA Sustainability Protocol
- Participated in Hydropower Sustainability Assessment Forum. Initiated by IHA, World Wildlife Fund (WWF) and the Nature Conservancy (TNC), as a multi-stakeholder body consisting of representatives of governments, commercial and development banks, social and environmental NGOs, and the hydropower sector.
- collaborated over three years to refine a new tool to measure and guide performance in the hydropower sector: **the Hydropower Sustainability Assessment Protocol**
- Since 2011 the **Protocol** has been rolled out by 15 leading companies in different local and regional contexts
- Biannual Congress: 2013 Malaysia, 2015 China

International Finance Corporation (IFC) Standards: the IFC Sustainability Framework

- Private sector financing arm of the World Bank Group
- IFC Sustainability Framework was drawn up for the private sector projects they invest in.
- But they are also used and referred to by :
 - Other Multilateral Development Banks (e.g. World Bank, Asian Development Bank)
 - Export Credit Agencies (especially OECD countries)
 - Private Sector Banks (e.g. Equator Principles)
 - Leading companies, even where they are not receiving IFC funding



IFC Sustainability Framework

POLICY AND PERFORMANCE STANDARDS ON
ENVIRONMENTAL AND SOCIAL SUSTAINABILITY
ACCESS TO INFORMATION POLICY

Effective January 1, 2012

IFC Sustainability Framework



8 Performance Standards (PS)

- ▶ PS1: Assessment and Management of Environmental and Social Risks and Impacts
- ▶ PS2: Labor and Working Conditions
- ▶ PS3: Resource Efficiency and Pollution Prevention
- ▶ PS4: Community Health, Safety, and Security
- ▶ PS5: Land Acquisition and Involuntary Resettlement
- ▶ PS6: Biodiversity Conservation and Sustainable Management of Living Natural Resources
- ▶ PS7: Indigenous Peoples
- ▶ PS8: Cultural Heritage

Extract from Performance Standard 5 on Land Acquisition and Involuntary Resettlement

Requirements

General

Project Design

8. The client will consider feasible alternative project designs to avoid or minimize physical and/or economic displacement, while balancing environmental, social, and financial costs and benefits, paying particular attention to impacts on the poor and vulnerable.

Compensation and Benefits for Displaced Persons

9. When displacement cannot be avoided, the client will offer displaced communities and persons compensation for loss of assets at full replacement cost and other assistance¹¹ to help them improve or restore their standards of living or livelihoods, as provided in this Performance Standard. Compensation standards will be transparent and applied consistently to all communities and persons affected by the displacement. Where livelihoods of displaced persons are land-based,¹² or where land is collectively owned, the client will, where feasible,¹³ offer the displaced land-based compensation. The client will take possession of acquired land and related assets only after compensation has been made available¹⁴ and, where applicable, resettlement sites and moving allowances have been provided to the displaced persons in addition to compensation.¹⁵ The client will also provide opportunities to displaced communities and persons to derive appropriate development benefits from the project.

Community Engagement

10. The client will engage with Affected Communities, including host communities, through the process of stakeholder engagement described in Performance Standard 1. Decision-making processes related to resettlement and livelihood restoration should include options and alternatives, where applicable. Disclosure of relevant information and participation of Affected Communities and persons will continue during the planning, implementation, monitoring, and evaluation of compensation payments, livelihood restoration activities, and resettlement to achieve outcomes that are consistent with the objectives of this Performance Standard.¹⁶ Additional provisions apply to

The IFC Performance Standards are supplemented by further guidelines (www.ifc.org/ehsguidelines).....

[Home](#) [About IFC](#) [What We Do](#) [Projects](#) [Regions](#) [Industries](#) [News & Multimedia](#) [Publications](#) [Careers](#) [Topics A-Z](#)

IFC Sustainability



[IFC Sustainability](#) > [IFC's Sustainability Framework](#) > [Environmental, Health, and Safety Guidelines](#)

IFC Sustainability

+ Risk Management

- IFC's Sustainability Framework

+ 2012 Edition

+ 2006 Edition

- Environmental, Health, and Safety Guidelines

- EHS Guidelines Technical Revision
- IFC Exclusion List
- Pre-2006 Safeguards
- + The 2009-2011 Review and Update
- + Sustainable Business Advisory Services
- Multimedia
- Publications
- Training Resources
- Site Index
- Contacts

Environmental, Health, and Safety Guidelines



This page (www.ifc.org/ehsguidelines) contains the most updated versions of the World Bank Group Environmental, Health, and Safety Guidelines (known as the "EHS Guidelines").

The EHS Guidelines were developed as part of a two and a half year review process that ended in 2007. They are intended to be living documents and are occasionally updated.


The EHS Guidelines are technical reference documents with general and industry-specific examples of Good International Industry Practice (GIIP), as defined in [IFC's Performance Standard 3: Resource Efficiency and Pollution Prevention](#). IFC uses the EHS Guidelines as a technical source of information during project appraisal activities, as described in [IFC's Environmental and Social Review Procedures Manual](#) [PDF].

The EHS Guidelines contain the performance levels and measures that are normally acceptable to IFC, and that are generally considered to be achievable in new facilities at reasonable costs by existing technology. For

Environmental, Health, and Safety Guidelines Technical Revision

IFC is launching a three-year consultative process to revise the World Bank Group Environmental, Health, and Safety (EHS) Guidelines. [More »](#)

IFC Environmental, Health & Safety Guidelines

- ▶ Technical guidelines
 - ▶ Good international industry practice: “Performance levels that are generally considered to be achievable in new facilities at reasonable cost by existing technology”.
 - ▶ Cross-sector guidelines
 - **Environment** 
 - Occupational Health and Safety
 - Community Health and Safety
 - Construction and Decommissioning
 - ▶ Sector-specific guidelines
- [1.1 Air Emissions and Ambient Air Quality](#)
 - [1.2 Energy Conservation](#)
 - [1.3 Wastewater and Ambient Water Quality](#)
 - [1.4 Water Conservation](#)
 - [1.5 Hazardous Materials Management](#)
 - [1.6 Waste Management](#)
 - [1.7 Noise](#)
 - [1.8 Contaminated Land](#)

1.0 Environmental

1.1 Air Emissions and Ambient Air Quality

Ambient Air Quality

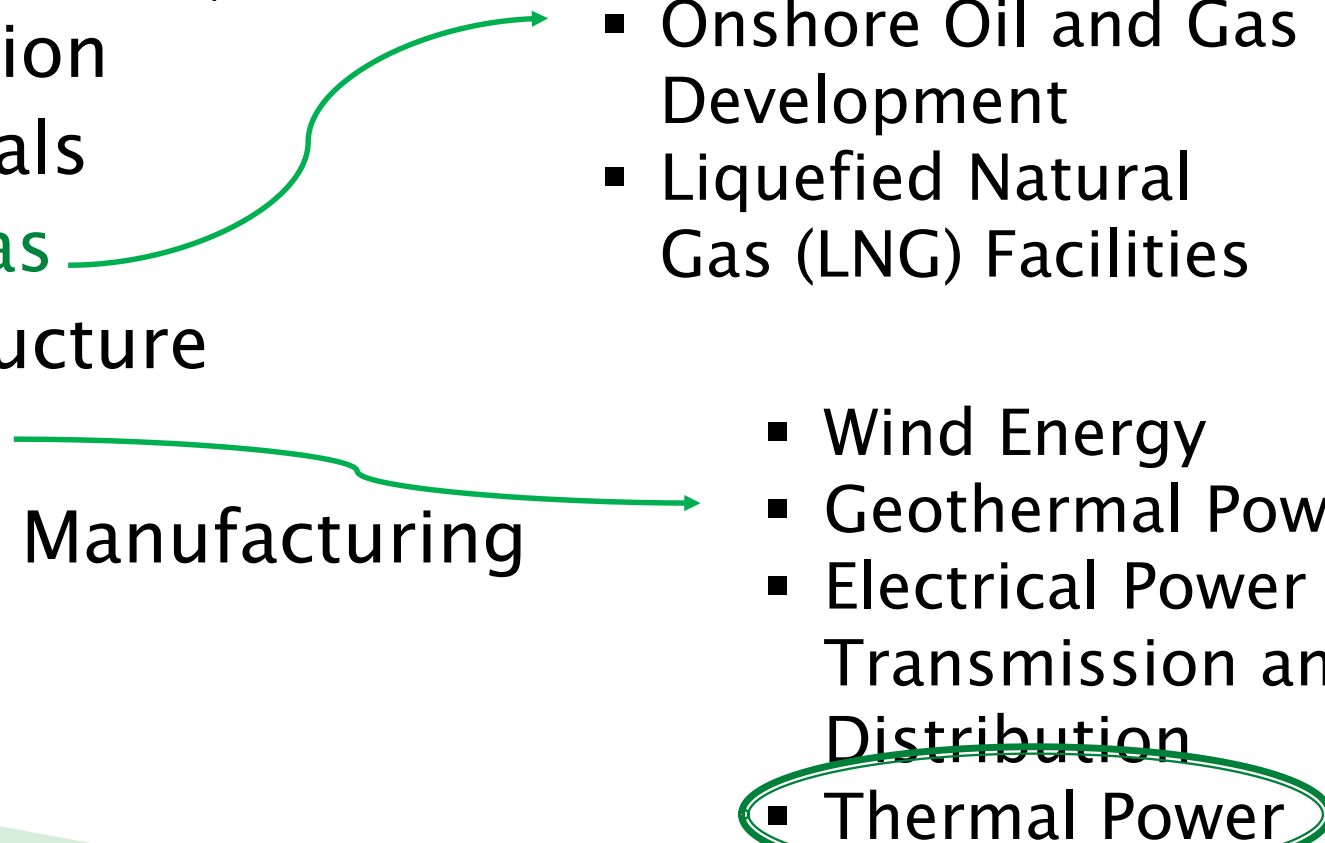
General Approach

Projects with significant^{5,6} sources of air emissions, and potential for significant impacts to ambient air quality, should prevent or minimize impacts by ensuring that:

- Emissions do not result in pollutant concentrations that reach or exceed relevant ambient quality guidelines and standards⁹ by applying national legislated standards, or in their absence, the current WHO Air Quality Guidelines¹⁰ (see Table 1.1.1), or other internationally recognized sources¹¹;

Table 1.1.1: WHO Ambient Air Quality Guidelines ^{7,8}		
	Averaging Period	Guideline value in $\mu\text{g}/\text{m}^3$
Sulfur dioxide (SO_2)	24-hour	125 (Interim target-1) 50 (Interim target-2) 20 (guideline)
	10 minute	500 (guideline)
Nitrogen dioxide (NO_2)	1-year	40 (guideline)
	1-hour	200 (guideline)
Particulate Matter PM_{10}	1-year	70 (Interim target-1) 50 (Interim target-2) 30 (Interim target-3) 20 (guideline)
	24-hour	150 (Interim target-1) 100 (Interim target-2) 75 (Interim target-3) 50 (guideline)
Particulate Matter $\text{PM}_{2.5}$	1-year	35 (Interim target-1) 25 (Interim target-2) 15 (Interim target-3) 10 (guideline)
	24-hour	75 (Interim target-1) 50 (Interim target-2) 37.5 (Interim target-3) 25 (guideline)
Ozone	8-hour daily maximum	160 (Interim target-1) 100 (guideline)

IFC Industry Sector Guidelines

- ▶ Forestry
 - ▶ Agribusiness / Food Production
 - ▶ Chemicals
 - ▶ Oil & Gas
 - ▶ Infrastructure
 - ▶ Power
 - ▶ General Manufacturing
 - ▶ Mining
- Offshore Oil and Gas Development
 - Onshore Oil and Gas Development
 - Liquefied Natural Gas (LNG) Facilities
 - Wind Energy
 - Geothermal Power
 - Electrical Power Transmission and Distribution
 - Thermal Power
- 

Environmental, Health, and Safety Guidelines for Thermal Power Plants

1.3 Community Health and Safety

Many community health and safety impacts during the construction, operation, and decommissioning of thermal power plant projects are common to those of most infrastructure and industrial facilities and are discussed in Section 3.0 the **General EHS Guidelines**. In addition to these and other aspects covered in Section 1.1, the following community health and safety impacts may be of particular concern for thermal power plant projects:

- Water Consumption;
- Traffic Safety.

Water Consumption

Boiler units require large amounts of cooling water for steam condensation and efficient thermal operation. The cooling water

2.0 Performance Indicators and Monitoring

2.1 Environment

Emissions and Effluent Guidelines

Effluent guidelines are described in Table 5. Emissions guidelines are described in Table 6. Effluent guidelines are applicable for direct discharges of treated effluents to surface waters for general use. Site-specific discharge levels may be established based on the availability and conditions in the use of publicly operated sewage collection and treatment systems or, if discharged directly to surface waters, on the receiving water use classification as described in the **General EHS Guideline**. Guideline values for process emissions and effluents in this sector are indicative of good international industry practice as reflected in standards of countries with recognized regulatory frameworks. These levels

Table 5 - Effluent Guidelines (To be applicable at relevant wastewater stream: e.g., from FGD system, wet ash transport, washing boiler / air preheater and precipitator, boiler acid washing, regeneration of demineralizers and condensate polishers, oil-separated water, site drainage, coal pile runoff, and cooling water)	
Parameter	mg/L, except pH and temp
pH	6 – 9
TSS	50
Oil and grease	10
Total residual chlorine	0.2
Chromium - Total (Cr)	0.5
Copper (Cu)	0.5
Iron (Fe)	1.0
Zinc (Zn)	1.0
Lead (Pb)	0.5
Cadmium (Cd)	0.1
Mercury (Hg)	0.005
Arsenic (As)	0.5
Temperature increase by	<ul style="list-style-type: none"> • Site specific requirement to be established by the EA.

Implications for Myanmar

- ▶ Myanmar currently lacks specific environmental standards, and also some elements of social protection legislation
 - ▶ Consequently contracts which require companies to 'apply national law' have no 'teeth'
 - ▶ The IFC Performance Standards and EHS Guidelines can fill these gaps during Myanmar's transition, until national laws are in place
 - ▶ IFC Standard and Guidelines should be cited specifically in Impact Assessments and Management Plans, and in production sharing contracts
 - ▶ They can also be used to draw up national legal standards
- 