

ENVIRONMENT-FDI NEXUS: MYANMAR CASE*

Thidar Kyaw¹

Abstract

This paper explains the nexus between Environment and Foreign Direct Investment with an analysis of the Pollution Haven Hypothesis (PHH), and evaluates the constraints shaping to the preservation of environment related to FDI in Myanmar. Myanmar is an enriched natural resources country, but it has limited, technology, infrastructure and manufacturing base. The launching of democratic reforms of the country in 2011 dramatically affected international investment communities and foreign investors began to intensely look at the country's enriched natural resources for their investment. Myanmar government has improved rules and regulations for investment projects and scrutinized practices of foreign investors in line with responsible investment and sustainable development of Myanmar. However, there are inevitably environmental impacts and degradation in some project areas. The paper, thus, raised a question: why Myanmar has faced the environmental security challenges from FDI although it has upgraded environmental laws and regulations under the changing context since 2011. An essential feature of the paper is that the enriched resources with poor environmental practices in Myanmar are attractive to resource seeking FDI and the condition has caused negative impacts on its environment. The analysis attempts to prove that economic growth with environmental sustainability in Myanmar depends on how environmental practices in carrying out investment projects comply with its regulations and laws.

Keywords: environmental issues, FDI, PHH, resource extraction, Myanmar's environmental rules

Introduction

Myanmar is a country with enriched natural resources but it has limited technology, infrastructure and manufacturing base. Since the 1990s, Myanmar has initiated the market-oriented economy and invited foreign investment to boost its economy. Various countries, such as China, Japan, Thailand and Singapore became major economic partners for imports, exports, and investment. The launching of democratic reforms of the country in 2011 dramatically affected the international diplomatic and investment communities. International community hailed reforms in line with the democratic transition. Consequently, western countries eased their sanctions and foreign investors began to intensely look at the country's enriched natural resources for commercial exploitation.

At the same time, Myanmar government has improved rules and regulations for investment projects and scrutinized the practices of foreign investors in line with responsible investment and sustainable development of Myanmar. However, there are inevitably environmental impacts and degradation in some project areas. Consequently, these impacts raised a question for foreign firms in Myanmar's resource extraction sector. Therefore, Myanmar government reviewed existing rules and regulations while approved new laws and environmental practices to prevent and protect environmental degradation from domestic firms and foreign direct investment projects. Under these laws and regulations, foreign investors have been required to comply with these environmental practices.

Based on the background, the paper is worth exploring why Myanmar has faced the environmental security challenges from Foreign Direct Investment (FDI) although it has

* Best Paper Award Winning Paper in International Relations and Political Science (2022)

¹ Department of International Relations and Political Science, University of Yangon

upgraded environmental laws and regulations in the changing political context since 2011. While the literature focuses on the impacts of FDI on the environment in Myanmar, it lacks looking at the Pollution Haven Hypothesis (PHH) in this nexus. Thus, the objectives of the research are to explain the nexus between environment and FDI with an analysis of the Pollution Haven Hypothesis (PHH), and to evaluate the constraints to preserve environmental issues related to FDI in Myanmar. The paper intends to explore whether Pollution Havens Concept could be applied to FDI of Myanmar.

Accordingly, the paper is divided into five parts. The first part discusses the correlation between environmental-related issues and foreign direct investment. Then, Myanmar's environmental regulations is explained in the second part and foreign investment in Myanmar is assessed in the third part. The fourth part highlights the environmental impacts of foreign investment projects in Myanmar's resource extraction sector. Finally, constraints to maintaining and strengthening the environmental security in Myanmar are explored.

Nexus between Environment and FDI

Since the end of the Cold War, the trends of security threat gradually changed from inter-state war to non-traditional issues like environmental problems, intrastate ethnic conflicts and transnational crimes etc. However, all individual states and even the United Nations (UN) had no well-designed to address these threats. Among non-traditional security threats, environmental-related issues have been one of the most vulnerable to human society. Environmental insecurity would be challenges to the environment itself and the livelihoods of human beings. Therefore, addressing environmental problems has been raised the important questions for national and international security agenda.

The primary source of environmental insecurity is the effects of competition among states for their economic growth and development. Economic development has benefited to raise the living standards and improve the quality of life across the world. Consequently, foreign direct investment (FDI), a tool for development activities, has threatened environmental security in host countries mainly and the global community has been recognized the link in recent years. According to World Wide Fund in Nature (WWF) report in 1999, most FDI heavily relied on traditional ways of natural resource use and extraction, particularly focusing on agriculture, mineral and energy sectors. The third world countries have increasingly suffered a disproportionate amount of FDI flows into the natural resources sectors in recent years. This has led to accelerating all trends of environmental degradation such as resource scarcity, deforestation, loss of biodiversity and greenhouse gas emissions. Similar to all developing countries, Myanmar has accepted FDI for its economic development and these investment projects are mostly resources-based. Major investors have huge investment and development projects, focusing on natural resources. It is, therefore, critical to understand the interaction between FDI and its impacts on environment.

There is a key aspect of Micro-level analysis influenced to study the FDI-environment relationship in much of research effort to date. Micro-level analysis is that Pollution Havens Hypothesis (PHH) means "Impact of environmental standards on investment decisions by the firm". The Pollution Haven Hypothesis suggests that "foreign investment could be sensitive to weaker environmental standards. A possible asymmetry exists between foreign capital and local environmental standards".

PHH has three main dimensions of why FDI outflows to developing and poorest countries. Firstly, FDI locates or relocates heavy pollution industries to developing countries where there are less stringent environmental policies. Next, their waste of dumping the hazardous flows from developed countries into developing countries via industrial and nuclear energy production. Thirdly, FDI is mainly engaged in resource extraction sector in developing countries where there is no unrestrained extraction of fuel products, timber and other forest resources, etc. In brief, poor environmental regulations and practices, dumping the hazardous waste of industrial and nuclear energy production, and engaging in natural resources extraction in the host country are independent variables for developed countries' decision on their FDI outflows. Therefore, PHH means that if the firms chose their location for one of these variables, the host would face a considerable amount of environmental degradation due to the investments.

Environmental Regulations in Myanmar

Environmental regulations and governance in Myanmar were very weak for five decades until 2011. Myanmar heavily relied on natural resources to bring about its economic growth. After the State Law and Order Restoration Council came to power in 1988, the national economy was transformed from a socialist economy to a market-oriented economy. Economic recession since the Socialist government continued and sanctions led to a sharp drop in foreign assistance and export earnings. Then, the government initiated a market-oriented economy by attracting FDI through the Union of Myanmar Foreign Investment Law.

Along with investment promotion policy and development goals, the government engaged in some measures of environmental regulations and governance. In 1994, the National Environmental Policy which constituted environmental rules for the utilization, conservation, and prevention of degradation of its natural resources was approved. To follow the development of its national environmental policy, Myanmar drafted its Agenda 21 commitment in 1997. According to Agenda 21, Myanmar is required to undertake integrated management of natural resources and provide a blueprint to extend Sustainable Development Goals. Hence, National Sustainable Development Strategy was set up in 2009, integrating environmental considerations into national development in the future. Moreover, Myanmar established various relevant regulations and laws on environmental conservation. Furthermore, Myanmar has been a party to several international treaties relating to environmental protection and biodiversity conservation.

However, general policy proclamations in Myanmar failed to do the actual implementation. FDI was important to recover Myanmar's economy and investment sector, particularly from neighbouring countries due to economic sanctions by Western countries. However, most investment projects largely focused on the extraction of natural resources. Due to excessive use and unsystematic extraction of natural resources through investment projects, Myanmar has faced serious degradation in the environment and its eco system after a decade.

The 2010 General Election began the democratic transition in Myanmar and the winning Union Solidarity and Development Party (USDP) government assumed power in March 2011. The USDP government carried out reforms in the political, economic and administrative areas. Along with these reforms, the USDP government faced two critical conditions, which resulted in upgrading Foreign Direct Investments to comply with higher environmental standards. The first was that local communities and domestic environmental NGOs strongly opposed the

potential environmental and social impact of the Myitsone Hydropower Projects. Another situation was the increasing competitive investment climate in Myanmar due to strong interest from western democratic countries. Transnational corporations from western countries and international financial institutions started supporting Myanmar after lifting sanctions. These new transnational corporations sought to maintain higher environmental standards due to their businesses' reputation around the world. Consequently, the USDP government implemented seriously to undertake the higher environmental regulatory framework for FDI to respond the public pressure and to attract the new FDI.

The USDP government passed an Environmental Conservation Law in March 2012, and by-laws were issued in 2014. In order to support and operate the Environmental Conservation Law, the Environmental Conservation Rules in 2014 and Environmental Impact Assessment (EIA) in 2015 were established. The main function of EIA is to evaluate the environmental impacts of a proposed project from FDI at an early stage to mitigate damage to the environment and to ensure sustainable use of natural resources.

In 2016, the Ministry of Natural Resources and Environmental Conservation (MONREC) established the EIA Division under the Environmental Conservation Department (ECD) to supervise the review and approval of EIAs, Initial Environmental Examinations (IEEs), and Environmental Management Plans (EMPs). Moreover, the Directorate of Companies Registration and Investment (DICA) outlined stricter regulations in the stage of the proposal of investment and requested commitments from investors for responsible investment in the process of the investment agreement. Due to strict environmental rules for foreign investment projects, foreign investors are needed to comply with its environmental regulations and FDI policy. Moreover, it has encouraged responsible investment and more EIA restrictions, mid-term inspection and environment-friendly implementation of development projects are carried out. In 2019, environmental management and climate change strategy were announced.

Foreign Direct Investment in Myanmar

Myanmar has recognized that FDI provides income, direct employment and advanced technologies. The market-oriented policy has been practised and the Foreign Investment Law in November, 1988 was issued to attract FDI. Due to the western economic sanction up to 2010, most foreign investors in Myanmar were its immediate neighbours, Japan and ASEAN countries. Especially, Myanmar is a rich country in various types of natural resources: minerals and gemstones, oil and gas, timber and potential hydropower. Most foreign investments primarily focused on natural and energy resources sector although the FDI growth of Myanmar was not satisfactory compared to its neighbours.

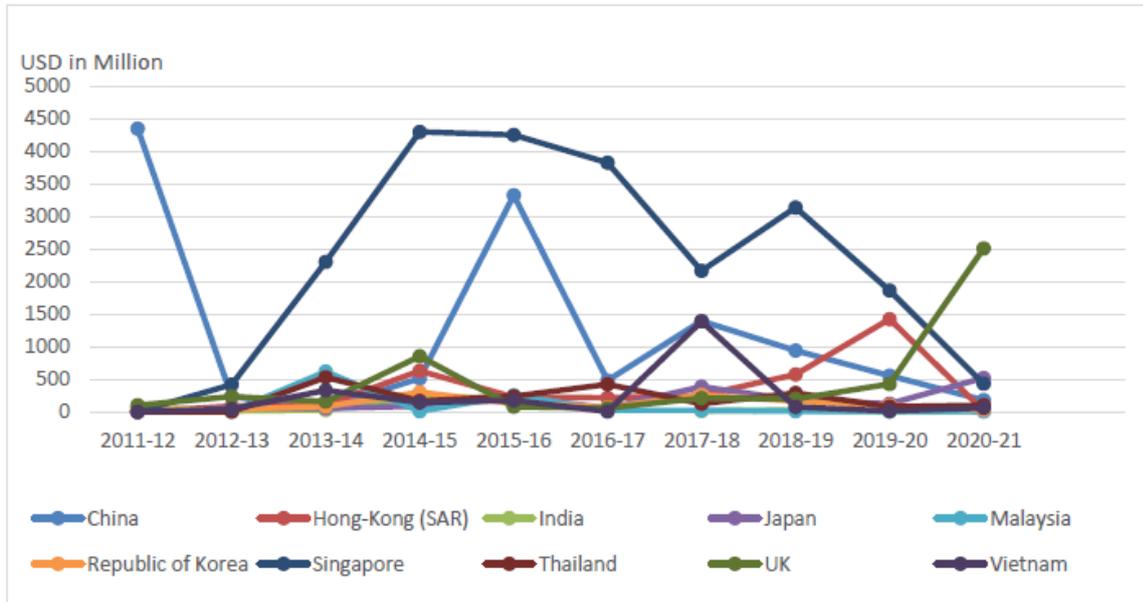


Figure 1: Top ten foreign investment countries and one region in Myanmar (2011-2021)
 Source: Directorate of Investment and Company Administration (DICA)

Moreover, Myanmar has been able to export raw materials and semi-finished products due to outdated infrastructure and technology. For example, Myanmar could not produce finished products of lumber and furniture and only export timber in log forms under market price. Subsequently, the country received low export income. At the same time, Myanmar has no choice but engaged more resource-based business and huge investment projects with mining, energy, and forest extraction sectors were widespread across Myanmar. Impacts of these projects brought about several environmental problems. Myanmar has faced with various environmental concerns that threaten sustainable development. Natural disasters, degradation of rivers, deforestation and soil erosion became evidence of serious environmental issues and environmental insecurity.

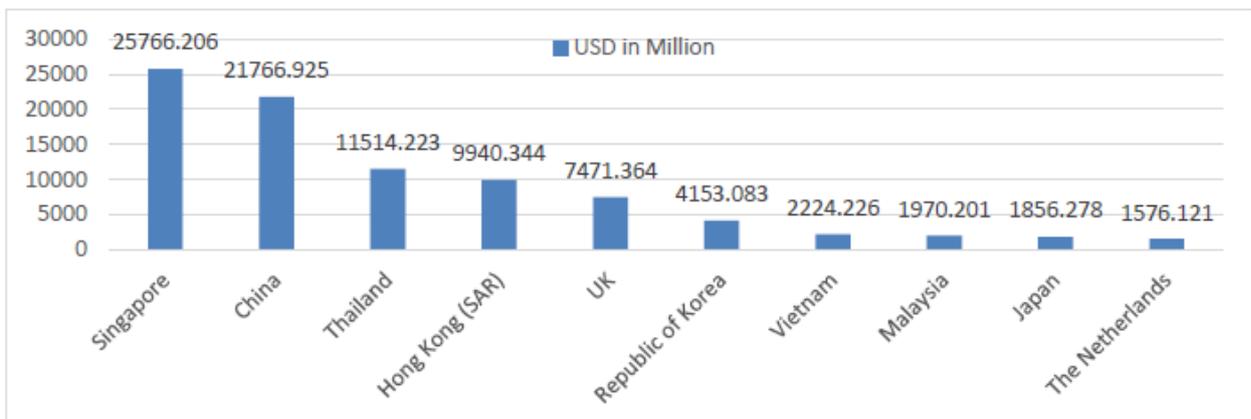


Figure 2: Top ten foreign investment countries and one region in Myanmar (2022)
 Source: Directorate of Investment and Company Administration (DICA)

Since 2011, international investors have cast their eyes on Myanmar due to its potentially high growth of territorial and population size, geo-strategic location, endowed natural resources and future economic integration with neighbouring countries. However,

Myanmar government was aware of the previous lessons of environmental-related issues in the natural resources extraction sectors. Therefore, it attempted to implement a new trend of FDI: a shift from investments in natural and energy resources sector to manufacturing sector.

In the rapidly changing investment climate for Myanmar, the Directorate of Investment and Company Administration (DICA) under the Ministry of National Planning and Economic Development (MNPED) is the primary organization for promoting and facilitating for the responsible investment. DICA recognized eight sectors, which are Agriculture, Forestry, Mining, Livestock/ Fisheries, Transport, Hydropower, Oil and Gas, Hotel and Tourism, for promising investment opportunities. It expected manufacturing sector, agriculture sector and service sector to have a large employment and regional development impact.

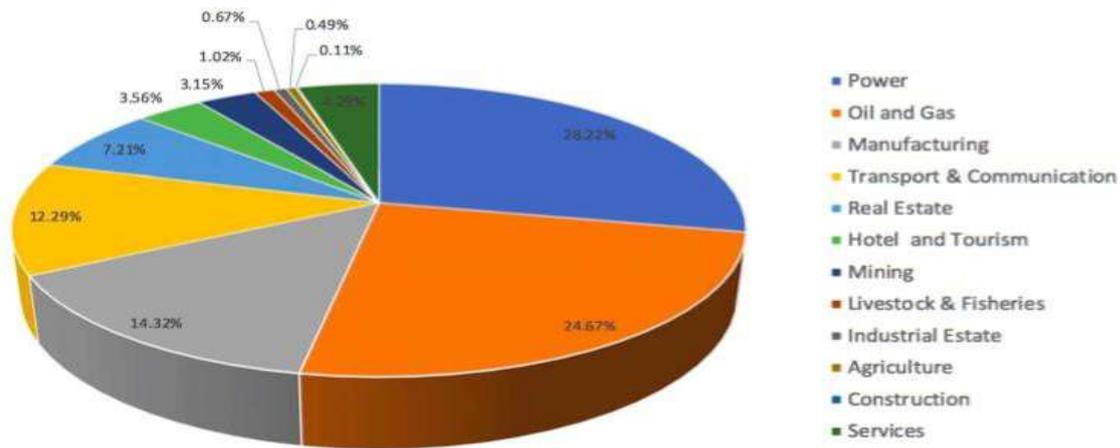


Figure 3: Foreign Investment by sectors in Myanmar

Source: Directorate of Investment and Company Administration (DICA)

Singapore, China and Thailand are the top three investors in Myanmar according to the Figure 1 and 2. Singapore is the biggest foreign investor in Myanmar. It has mainly invested service sector with over 206 million dollars, followed by the manufacturing sector which attracted more than 114 million dollars and the construction sector with 65 million dollars in 2020. China has stood as the second largest investor in Myanmar after Singapore. Major investment sector of China in Myanmar is the power sector (over 63%), while investment in the oil and gas and mining sectors has covered 36% of total investment since 2011. The third largest investor, Thailand, has mainly occupied the power sector, followed by the oil and gas sector and the manufacturing sector. It shows that the investment trend of China and Thailand has focused on investment in resources extraction while Singapore has mainly covered in service sector.

Although Myanmar expected to move a new trend of FDI from the natural resources sector to the manufacturing sector, the resource extraction sector has still been a major foreign investment sector in the country. According to DICA, investment in the Power and Oil and Gas sectors have provided nearly fifteen three percent of total FDI, by over 28 percent and 25 percent respectively in 2021 as indicated in the Figure 2. Due to the large amount of FDI concentrating on resource extractive industries, Myanmar continued to face environmental and social costs in years to come.

Environmental Impacts of FDI in Myanmar

The nature of foreign investments supported the interests of foreign investors as well as the economic growth of Myanmar. However, these investments have a substantial impact on the environmental security of Myanmar. Because, most FDIs focused on the extraction and export of natural resources with paying little attention to the sustainability of their environmental impacts. National Commission for Environmental Affairs (NCEA) and United Nations Environmental Programme (UNEP) are ranking of Priority Environmental Concerns in Myanmar: forest resources, water resources, and quality status, land degradation, climate change, inadequate solid waste management, threat to biodiversity and impact of mining industry on the environment. Nevertheless, most of these environmental concerns in Myanmar are highly related due to the commercial exploitation of natural resources by foreign investors.

In the hydropower sector, China constantly stands as a primary investor in Myanmar. Most of the Chinese-funded hydropower projects provided benefits of electricity export abroad to mitigate its increasingly domestic energy demand. For instance, Myitsone Dam projects would be exported to China nearly 90% of the electricity. Besides, most of hydropower projects created deforestation and loss of biodiversity in their dam areas. Moreover, they have physically shrunk downstream water availability and destroyed environment-friendly river systems.

In the mining sector, a specific number of projects are difficult to calculate because they are less visible. For instance, Myanmar government agreed with Thai-owned company Myanmar Pongpipat Ltd (MPC) to operate Heinda Mine for tin extraction in July 1999 and renewed in 2009 and 2014. The Mine provided 1-2 tons every day exporting to Thailand, China and Malaysia. Although the company approved to respect the environmental laws of Myanmar in 2012, the local community has suffered deadly pollution impacts. The mine caused contamination of the local villagers' fields and the mine waste flowed directly into the local water sources. Hence, most mining projects polluted air and accumulated solid waste into streams that threatened the local community's health and underground water resources.

In the Oil and Natural gas sector, the construction of oil extraction and gas pipelines seriously damaged of coral reefs which are crucial habits for fish and marine life and harmed ecosystem such as wildlife poaching, forest and soil quality. For instance, Myanmar government approved natural gas export from Shwe Gas fields in Rakhine State to China and the project became one of the mega-project of Chinese FDI in 2007. The project is connecting the 771-km-long pipelines which started from the port of Kyaukphyu in Rakhine State to the Bay of Bengal through Magwe and Mandalay regions and northern Shan State to China. Although the company report claimed that it followed standard environmental rules and regulations, some areas in Rakhine and Shan States and Magwe Region have experienced soil erosion and landslides which are resulted from ecological problems due to the pipelines.

In addition, foreign investment in the agricultural sector has caused to land degradation and deforestation. Chinese small and medium size companies have invested in farmlands for fruits and vegetables which are transported directly to China. They converted forests into plantation for agricultural commodities like bananas and rubber. Besides, they used fertilizers heavily that destroyed farm land and caused air pollution, soil erosion and degradation of the underground water system. These activities have depleted the fertility of the soil and poisoned local communities' water supplies.

Constraints to preserve Environmental Security in Myanmar

Foreign investment in the resource-based extractive sector brought about negative impacts on environmental security in Myanmar. Myanmar government upgraded its environmental policy and regulations in line with international environmental standards, but the substantial progress of environmental security in Myanmar is questionable. The analysis pointed out some constraints under the existing circumstances.

The first constraint is the lack of efficient institutional capacity for environmental practices although Myanmar approved Environmental Conservation Laws and by-laws which constitutes the EIA process. The advantage of EIA procedures is a timely evaluation of the environmental impact of a proposed project to avoid environmental damage and to ensure sustainable use of the natural resource. However, a timely evaluation of the EIA process in foreign investment projects especially in natural resources sector is still challenging. According to the World Bank Group, only 6.9 percent of reports about the EIA process have been approved by the relevant department. Besides, an effective monitoring, evaluating and inspection process for the EIA reports is not in place due to a shortage of human resources. Furthermore, the actual reports for the EIA procedure have loopholes because of the weakness in technology applied to in environmental data as well as the weak of institutional capacity, corruption and lack of necessary administrative and legal structure.

The second reason is the weakness of the actual implementation process to comply with existing environmental policy proclamations. This has been linked with the former constraint of institutional capacity. Thus, although Myanmar approved the relevant environmental regulations, an effective implementation process and law enforcement are not yet placed due to the combination of corruption and ineffective monitoring, evaluating and inspecting regime. Consequently, some foreign firms in the resource seeking sector failed to follow Myanmar's environmental rules and regulations.

The third constraint is the lack of scientific data in Myanmar. The scientific data provides a list of environmental problems that are already or potentially threatening to the environment as well as society. Specifically, it further could support the systematic evidence-based environmental degradation measures for the relevant decision-makers as well as the foreign investment projects. However, government and also non-governmental organizations have not initiated an independent scientific study of the EIA compliance of foreign investment in the extractive sector to address uncertainties associated with the projects.

The final constraint is the issue of the "free-rider problem". Although most foreign investors announced their activities are following the environmental guideline after passing the Environmental Conservation Law in Myanmar, some failed to comply with these rules and regulations in practice. For example, the Kyaukphyu project consists of the industrial park and deep seaports on Made and Yanbye islands. The Government of Myanmar failed to conduct a Strategic Environmental Assessment dealing with the Kyaukphyu Project before the Environmental and Social Impact Assessment (ESIA). Although China International Trust and Investment Corporation (CITIC) has hired the Canadian company HATH to supervise the ESIA process on the Kyaukphyu Project, the ESIA process was only covered for the ports, not for Special Economic Zone. Likewise, some foreign investment projects have experienced taking advantages of the loopholes from Myanmar side such as institutional weakness and lack of

enforcement. In other words, some foreign investors can take a free-rider role if the environmental practices of Myanmar are imperfect in time.

Conclusion

Myanmar transformed its socialist economy and has practiced the market-oriented economy since the 1990s. It recognized the importance of foreign direct investment and trade for economic growth and capital. To attract foreign investment, it allowed all investors with flexible rules and regulations in big resources-based projects. After two decades, the country has been confronted with various environmental issues that threaten people's welfare and long-term sustainable development.

When Myanmar started democratization in 2011, it resumed cordial and active relations with various countries and most of international investors were willing to invest in the country. Consequently, Myanmar took a critical action to upgrade the relevant regulations for the environment to provide responsible investment and sustainable development. It issued Environmental Conservation Law, Environmental Conservation Rules and Environmental Impact Assessment (EIA) to prevent and protect the environment in 2012. Moreover, national policies for environmental management and climate change strategy were prepared after 2015. It has imposed green and responsible investment rules and regulations for foreign and domestic investors.

However, FDI in Myanmar has still impacts on priority environmental concerns of Myanmar such as forest resources, water resources and quality status, land degradation, climate change, threat to biodiversity and impact of mining industry on the environment. Because foreign investors have primarily concentrated on the resource extraction sector in Myanmar.

Myanmar has laws and regulations for environmental challenges but some constraints remain to be tackled. Lack of efficient institutions, the weakness of the actual implementation process, lack of scientific agenda and the free rider problem have yet to be resolved. Besides, its expectation of foreign investment to improve its development is one of the reasons why Myanmar could not ignore extractive investments. These circumstances brought about limited control of FDI extractive projects and their impacts on the country. Besides, the free rider role in foreign firms created innumerable adverse environmental and social challenges in Myanmar.

The analysis pointed out that Pollution Haven Hypothesis can be applied to study in Myanmar context. Firstly, Myanmar's natural resources have still attracted the continuous existence of most foreign investment in there. According to the DICA data, nearly sixty percent of FDI in Myanmar has heavily relied on the resource seeking sector. Next, the ineffective Myanmar's institutional capacity and practices, and a free rider position of some foreign firms are also the source of environmental insecurity. Thus, the enriched natural resources with poor environmental practices in Myanmar are attractive to foreign investors who are not responsible business firms and the condition causes negative impacts on its environment.

Nevertheless, Myanmar would continuously suffer numerous adverse environmental impacts from these irresponsible investors if it does not take lessons from the past and existing problems. The analysis attempts to prove that economic growth with environmental sustainability in Myanmar depends on how environmental practices in carrying out investment

projects comply with its regulations and laws. Nevertheless, Myanmar is needed to take serious on environmental aspects for future investment while attempting to minimize the numerous adverse impacts of resource seeking firms on its environmental security.

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