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Global Environment Facility
The World Bank Group, MSN N8-800
1818 H Street, NW
Washington, DC 20433-002.

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Re: Complaint letter to the Global Environment Facility concerning the Ridge to Reef Project and the violation of the rights of Indigenous People

1. Conservation Alliance Tanawthari (CAT) is a coalition of 6 Karen civil society organisations working with communities in Tanintharyi Region.¹ CAT aims to protect forests and biodiversity along with the rights of indigenous people. We believe that respecting the rights of indigenous people is critical to protecting nature in Tanintharyi Region.
2. We are seriously concerned about the GEF funded Ridge to Reef project which is soon to be inceptioned in Tanintharyi Region, and the potential impacts it will have on the lives of indigenous Karen communities. While GEF claims to have a robust safeguard system, that includes respect for the rights of indigenous people, we feel that these rights are being breached.
3. We have had correspondence with UNDP and project implementers, however key information pertaining to the project has not yet been provided. As nobody will take responsibility for this project or provide adequate information about how it will be implemented, we feel there is no other option but to submit a formal complaint.
4. CAT is lodging this complaint on behalf of indigenous communities in proposed project areas, who do not have the resources to submit a complaint by themselves. The communities represented by this complaint letter include; Chaung Sone, Hein Line, Kataw, Yone Taw, Ma No Rone, La Po Khan, and Kyan Chaung, as well as the membership of the Ah Lin Thitsar Committee. Information in this complaint is based on years of research by Karen CSOs and CBOs based in Tanintharyi Region.²
5. The first part of this complaint concerns the violation of indigenous communities' right to free, prior and informed consent (FPIC) in the development and inception phases of this project. The second section

¹ Conservation Alliance Tanawtharyi is comprised of Candle Light, CSLD, KESAN, Southern Youth, Takapaw and TRIPNET

² For more information see: CAT. (2018). Our forest, our life: protected areas in Tanintharyi Region must respect the rights of indigenous people. Dawei, Myanmar.

addresses the risks posed to the rights of refugees and IDPs to safely and voluntarily return to their lands. The complaint then focuses on the risks posed by the Ridge to Reef project on the land and resource rights of indigenous communities. The final section covers existing conservation initiatives that are being led by indigenous communities that stand as an alternative vision for conservation in Tanintharyi Region.

6. We believe that in its current form, this project poses substantial impacts on the rights of local communities, contravening both international law and GEF's own safeguard guidelines. We therefore ask that this project be stalled until guarantees are put in place that this project will present no harm to indigenous communities, returning refugees and IDPs, and political stability in Tanintharyi Region.

No Free, Prior and Informed Consent for Indigenous Communities in Tanintharyi Region

7. The Ridge to Reef Project aims to achieve a vast expansion of protected areas in Tanintharyi Region. While the project presides over 1.4 million hectares of land (33.5% of land cover), to date there has not been a comprehensive FPIC process with communities living in these areas, nor does there appear to be any plan to carry out one in the future.
8. FPIC is a right enshrined in the United Nations Declaration of Rights of Indigenous People (UNDRIP),³ to which Myanmar is a signatory. It is also stipulated in the Myanmar government's 2017 Protection of Ethnic Minorities Law and is one of GEF's Social and Environmental Safeguard requirements. It is vital that GEF keep true to its commitments to ensuring a full FPIC with indigenous communities that may be impacted by the project.⁴ This includes respecting communities right to withhold their consent.
9. While the project proposal states that communities have already been consulted, our research has shown that a vast majority of communities throughout proposed project areas have never even been informed of the existence of the project. The few communities that have been consulted, were given only vague information about conservation, and were not informed on the full implications that this project would have on them. Furthermore, they

³ UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples: resolution/adopted by the General Assembly, 2 October 2007, A/RES/61/295, Article 10.*

⁴ While the GEF Safeguards stipulate that it will adopt a standard of FPIC where the state has ratified ILO Convention 169, the Safeguards' also emphasize GEF's dedication to ensuring it fully respects the dignity, human rights, economies, cultures, and traditional knowledge of Indigenous Peoples. The Safeguards also state that GEF will not finance activities that degrade or convert critical natural habitats and will seek to avoid involuntary resettlement. Furthermore, the Safeguards clearly defer to the World Bank's safeguard policies which mandate FPIC for land subject to traditional ownership. Thus, the fact that Myanmar has not signed Convention 169, cannot deprive Indigenous People of their right to FPIC.

were not given the opportunity to give or withhold their consent for this project.

10. On October 14th, 2016, UNDP held a stakeholder consultation workshop in Myeik on the Ridge to Reef project. Invitations for the workshop were only sent to small selection of CSO representatives. While UNDP and responsible parties promised that the project document would go out for public consultation, it was never released before the project was approved for inception in April 2017. This consultation process did not include local communities, nor did it provide opportunities for those who will be impacted by the project to provide input, or give or withhold their consent.
11. Despite multiple requests made to the UNDP and project implementers, details on who has been consulted during development stages of the project have not been provided. Further, minimal information has been disclosed on the current stages of project development or plans to conduct community consultations. It is highly concerning that indigenous communities living within the proposed project areas have not been informed or consulted during development stages of the project.
12. It is vital that GEF and other responsible parties uphold their commitment to FPIC, and carry out a full FPIC process with communities in project areas before the project is incepted. This project must not go ahead without the consent of communities living throughout proposed project areas. Communities within project areas have raised a number of concerns about the Ridge to Reef Project, and have indicated that they will conserve their resources, and do not wish to have top-down protected areas on their lands. Project proponents must respect these wishes.

The Ridge to Reef Project violates the rights of IDPs and refugees to voluntary and dignified return

13. Tanintharyi Region has seen over sixty years of armed conflict between the Karen National Union (KNU) and the central Myanmar government. During this time Karen communities, including those in Lenya and Nga Wun proposed National Parks suffered serious human rights abuses, many having their villages burnt down multiple times. This resulted in the displacement of around 80,000 people, both IDPs and refugees, who ran to the forest or the Thai-Myanmar border.
14. After a ceasefire agreement was signed in 2012 and then again in 2015 some people have begun slowly returning home; cautiously resettling the lands that they had been forced to leave. Many are in the process of returning and more are expected in the future. The establishment of protected areas in contested

areas that have recently been the site of heavy conflict and displacement threatens the rights of refugees to return to their lands.⁵

15. We are seriously concerned about the impacts that the Ridge to Reef project will have on the rights of refugees and IDPs to return to their lands. The severity of this risk is further evidenced by the main project document, which identifies the return of refugees and IDPs to the region as a major threat to the protection of biodiversity.⁶ This project must not go ahead until substantial guarantees are put in place for the safe, voluntary and dignified return of all those who have been displaced by civil war.

Ridge to Reef Risks the Resurgence of Conflict

16. The Ridge to Reef project has been proposed over large territories which are either under the partial or complete control of the Karen National Union (KNU). The expansion of government managed protected areas into KNU controlled territory without the consultation or consent of the KNU is in contravention to the “interim arrangements” of the National Ceasefire Accords.⁷ This shows a serious dereliction of duty on behalf of the project proponents, and poses a very real risk to the fragile ceasefire process that has seen a recent halt to over sixty years of active armed conflict in Tanintharyi Region.
17. Both GEF and UNDP have a commitment to “Do No Harm” and we urge them to take this commitment seriously. No protected areas should be established in contested territories in the absence of a comprehensive peace agreement, and the consent of all concerned parties. Where there is potentiality for the resurgence of conflict as a result of project activities, it should not go ahead.

Ridge to Reef violates the land and resource rights of Indigenous Karen Communities in Tanintharyi Region

18. The lives of indigenous Karen communities living throughout Tanintharyi Region are intertwined with the surrounding environment. People grow up with the forest and their lives and histories are inseparable. Forests and biodiversity continue to be managed and protected by indigenous communities

⁵ The right to return is a customary norm of international human rights law and can be found in numerous international documents. See e.g. UN General Assembly. (1948). *Universal declaration of human rights*, 10 December 1948, 217 A (III), Article 13(2); Sub-Commission on the Promotion and Protection of Human Rights, *Resolution 1998/26 on Housing and Property Restitution in the Context of the Return of Refugees and Internally Displaced Persons*, 26 August 1998, 1998/26; Centre on Housing Rights and Evictions, *The Pinheiro Principles: United Nations Principles On Housing and Property Restitution for Refugees and Displaced Persons*. 2005. Geneva.

⁶ Page 8 and 9 of the signed project document refer to returning refugees and IDPs as underlying threat to biodiversity protection

⁷ Government of Myanmar and Ethnic Armed Organizations. (2015). National Ceasefire Agreement, Chapter 6: Future tasks. Available at: <http://www.mmpeacemonitor.org/images/2015/oct/nca%20contract%20eng.pdf>

through the generations. Traditional belief systems and locally enforced rules and regulations ensure that forest resources are used sustainably and biodiversity is protected from outside incursions.⁸

19. Despite existing customary tenure systems that have protected forests for generations, these are not recognised under Myanmar law. The establishment of forest enclosures under the legal framework of the central government presents a considerable threat to the land and resource rights of indigenous communities. The 1992 Forest Law and recently passed 2018 Biodiversity Conservation and Protected Areas (BCPA) law through which protected areas and forest enclosures are gazetted and managed, extinguish all access and use rights of local communities. While there is recognition of Community Protected Areas in the BCPA law, these will continue to be managed by the forest department, will limit community resource access and fail to give communities full management rights over their resources.
20. The establishment of National Parks and forest enclosures under Myanmar law is in direct contravention of the UNDRIP, as the legal system fails to recognise the land tenure systems of indigenous communities and to respect the rights of communities to their ancestral territories.⁹ GEF and proponents of the Ridge to Reef project, which aims to use this framework for conservation, will also be implicated in these rights violations. GEF, UNDP and international conservation NGOs have a duty to uphold international law and to respect the rights of indigenous people.

The Ridge to Reef Project Must Recognise and Support the Efforts of Indigenous Communities to Manage Their Own Resources

21. The protection of forests and biodiversity is central to the Karen way of life. Community driven initiatives to protect indigenous territories are already underway throughout Tanintharyi Region and other Karen areas. Examples from Kamoethway or the Salween Peace Park demonstrate how Karen communities manage their own resources through local wisdom, knowledge and institutions.¹⁰
22. Initiatives that seek to protect indigenous territories and strengthen local institutions and practices present an important opportunity through which conservation can be promoted alongside the rights of indigenous people. Landscape approaches to community driven conservation in Tanintharyi Region that link together indigenous territories are now being developed by

⁸ For more information on Karen customary forest management please see reports by: ECDF. (2017). Our customary lands. Chaing Mai, Thailand. TRIPNET. (2018). Growing up with the forest. Dawei, Myanmar. Takapaw. (2018). The wisdom, knowledge and customs of indigenous communities in Ban Chaung. Dawei, Myanmar.

⁹ See especially articles 25 – 29 and 32.

¹⁰ For more information on Kamoethway and the Salween Peace Park please see the following reports: KESAN. (2017). The Salween Peace Park: a vision for an indigenous Karen landscape of human-nature harmony in south-east Myanmar. Chaing Mai, Thailand. TRIPNET. (2016). We will manage our own resources. Dawei, Myanmar.

Karen communities and civil society. This presents a clear vision for an alternative approach to conservation.

23. While these emergent initiatives promote a hopeful vision for conservation and land tenure security in Tanintharyi Region, large-scale protected area development threaten to dismantle this vision by dispossessing indigenous communities of their land and resource rights. Rather than supporting top down conservation initiatives, GEF and responsible parties must take an alternative approach – one that centres around the rights of indigenous people to manage and protect their forests and resources.

Remedial Actions:

24. In order to redress these problems, it is vital that GEF, UNDP, FFI and Smithsonian Institute uphold their commitments and respect the rights of indigenous people. If these commitments cannot be upheld, then the project must be abandoned.
25. The project must be stalled until a comprehensive FPIC process has been carried out with all communities that stand to be impacted by the project. This process must respect the right of people to withhold their consent. FPIC is a right of indigenous peoples recognised by the United Nations, the government of Myanmar and the Global Environment Facility. We implore GEF to uphold its commitments to the rights of indigenous peoples.
26. The risks of establishing conservation areas in conflict zones has been well documented both in Myanmar and internationally. The Ridge to Reef project poses a considerable threat to the rights of returning refugees and IDPs to resettle their lands, as well as the attainment of sustainable peace between the Karen National Union and the Myanmar government. This project must be stalled until agreed plans and full guarantees have been made for the safe, dignified and voluntary return all refugees and IDPs in Tanintharyi Region.
27. Establishing protected areas administered by the central government over contested or KNU controlled territories risks upending a fragile ceasefire that has brought a halt to over sixty years of armed combat. This project must not move ahead without a comprehensive peace deal and the consent of both governing institutions; the KNU and the Myanmar government.
28. The establishment of government Protected Areas on the territories of indigenous Karen communities under the current legal framework is in contravention of the UNDRIP. Conservation initiatives must look for alternative methods of forest protection that recognise the rights of indigenous peoples. Recognition of Indigenous Community Conserved Areas (ICCAs) in Myanmar law would be a way of supporting indigenous communities to protect and manage their resources independent of top-down governance interventions.¹¹

¹¹ For more information on Indigenous Community Conserved Areas (ICCAs) please see: <http://www.iccaforum.org/>

- a. The Ridge to Reef Project must respect the rights of indigenous peoples through the recognition of ICCAs, which recognise community management rights, rather than imposing the rules and management arrangements of government agencies.
- b. Project areas that overlap with community territories, which are managed or conserved by local communities should be recognised as ICCAs. These areas must remain under the governance indigenous and local communities, who have managed and protected their forests and resources for generations.
- c. Where ICCAs are large or are under serious threats from incursions from development, industrial or agribusiness operations, alternative governance arrangements should be sought. This may take the form of “shared governance” arrangements between local communities, the KNU and the government. Communities in these areas must agree on the terms of these governance arrangements through a process of Free, Prior and Informed Consent (FPIC).

