

EXPLAINER



Blood Money Campaign. X Global Myanmar Spring Revolution

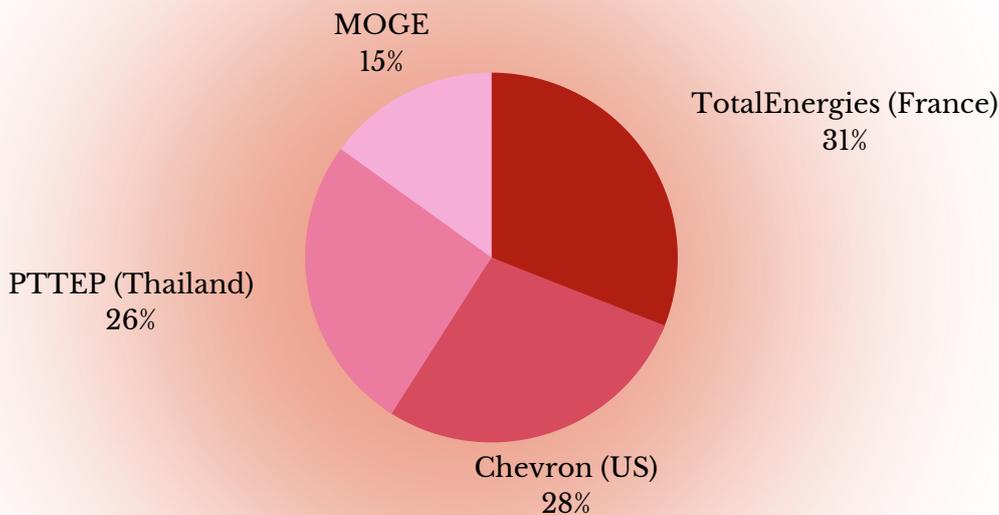


On January 21, 2022, Total Energies and Chevron announced that they are “withdrawing” from Myanmar. Both companies framed this announcement as a responsible decision in line with their human rights responsibilities. This explainer takes a closer look at what this really means.

WHICH OF MOGE'S REVENUE SOURCES ARE AFFECTED BY THIS ANNOUNCEMENT?

Myanmar has four offshore gas projects known as **Yadana**, **Yetagun**, **Zawtika** and **Shwe**. Each project comprises two parts: the gas extraction and the pipeline transportation. TotalEnergies and Chevron are investors in Yadana. At the moment, Yadana generates around 45 million US dollars each month for MOGE. Yadana is expected to run out of gas in 2025.

The two parts of the Yadana project really function as one project with the following 4 investors:



TotalEnergies is the largest investor. It is the operator of both the gas field and the transportation. Chevron is the second largest investor, but leaves the operations to TotalEnergies. MGTC is name of the company that owns the pipeline – the four investors are the shareholders of MGTC. In practice, TotalEnergies controls the day-to-day operations of MGTC.

WHAT DOES “WITHDRAWAL” MEAN?

Withdrawal is a specific process defined in the contracts between the Yadana investors. It means that TotalEnergies and Chevron are giving their shares in Yadana to the remaining investors, PTTEP and MOGE. So PTTEP and MOGE will receive TotalEnergies’ and Chevron’s shares in the project without having to pay for them.

PTTEP will likely operate the project because MOGE does not have the capacity to do this. This would be the same arrangement as the **Zawtika** project – PTTEP would be the operator and, along with MOGE, will be the only investor.

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Burma Is Bleeding



HOW DOES THE WITHDRAWAL AFFECT MOGE'S REVENUES FROM THE YADANA GAS PROJECT?

Without further action, MOGE could continue to receive revenue from the Yadana project and might even receive more income than it currently receives. At most, the increase in revenues reaching the junta from Yadana should be less than 10%. MOGE's income would also depend on sanctions, how much assistance TotalEnergies gives any new operator and whether a new operator can match Total's expertise in maximising output from a declining gas field like Yadana and then decommissioning it cost-effectively. MOGE may not receive more income depending on sanctions, how much assistance TotalEnergies gives any new operator and whether a new operator can match Total's expertise in maximising output from a declining gas field like Yadana and then decommissioning it cost-effectively. PTTEP likely has the capacity to continue operating the project if it receives support from TotalEnergies. This means it is crucial that gas revenues are sanctioned and that TotalEnergies divests responsibly.

IS THIS WITHDRAWAL IN LINE WITH THE CALLS FROM CIVIL SOCIETY AND THE NATIONAL UNITY GOVERNMENT (NUG)?

No, the primary call from civil society and the NUG has consistently been for companies and the international community to stop revenues from reaching MOGE. TotalEnergies and Chevron have ignored or even blocked the practical solutions to do this proposed by civil society and the NUG.



So there were other options that could have stopped revenues?

Yes. Gas companies could have called for sanctions a long time ago. Most have remained silent or, like Chevron, lobbied against them. TotalEnergies waited almost a year to call for sanctions and then pulled out just days after making this call public.

TotalEnergies also said it was “materially impossible” to stop revenue flows without stopping the gas production altogether or without sanctions. TotalEnergies argues that it was “materially impossible” because the revenues go from the gas buyer, Thai company PTT, to MOGE. However, the project is structured in such a way that PTT only makes these payments each month because TotalEnergies orders it to do so.

TotalEnergies gives these orders as part of its role as the project operator and does so as MOGE’s representative. The fact that MOGE is a government department and the junta is unrecognised as the Government of Myanmar, but has taken over government bank accounts, gives TotalEnergies clear grounds to order funds into protected accounts. TotalEnergies has been requested by the National Unity Government to order the payments into specific accounts, but is choosing to ignore this request.



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WHEN WILL TOTAL ENERGIES AND CHEVRON STOP FUNDING ATROCITIES?

TotalEnergies has said it could take up to six months to exit. This means that for up to six months, TotalEnergies will likely continue ordering PTT to make monthly payments to the junta. This will amount to around 250 million US dollars in additional payments to the junta (inclusive of payments from TotalEnergies and Chevron combined).



WHAT IS RESPONSIBLE DIVESTMENT?

Responsible disengagement refers to the decision-making process that ultimately leads to the termination of a business relationship. The authoritative international normative standards for responsible business conduct are the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises. The OECD guidelines refer to disengagement as a last resort and encourage prevention and mitigation of adverse impacts as the preferred means. In this case, TotalEnergies has contributed to adverse human rights by funding the military junta. Before deciding to withdraw, TotalEnergies should have exercised all means possible to mitigate this, including by stopping ordering revenues into bank accounts appropriated by a military junta which is not the Government of Myanmar.

Now that TotalEnergies has made a decision to withdraw, it must do so responsibly, including by identifying all potential adverse human rights impacts (including impacts on its workers) and engaging with affected stakeholders including the National Unity Government and Myanmar civil society, which TotalEnergies has and Chevron have so far ignored. Importantly, TotalEnergies cannot end its role as the Operator without the agreement of the Government of Myanmar – the junta cannot give this.

Responsible disengagement does not include simply transferring all responsibility to a new operator, giving it vital support, information, and access to smooth the transition, and then walking away. TotalEnergies has said the human rights situation means it must divest – so it must assess the human rights impacts of bringing in a new operator like PTTEP that may continue revenue payments to the junta. The NUG has stated that if TotalEnergies brings in a new operator to help the junta misappropriate gas revenues, it would constitute collusion with the junta. The choice to prioritize stopping revenues over gas production is a decision for the Myanmar people, not TotalEnergies.

What about sanctions on gas revenues?

The French government played a major role in blocking EU sanctions. Now that TotalEnergies has called for sanctions and is leaving Myanmar, this should reduce French opposition to sanctions, as it no longer needs to “protect” this company.

French opposition to sanctions also helped to block US sanctions, because the US wanted to work multilaterally. This may now change. However, the fact that PTTEP appears likely to take over the project means that the US may continue to be reluctant to put in place sanctions. Thailand—a strong US ally whose government also came to power in a military coup—opposes sanctions strongly.



How effective would sanctions on gas revenues be without TotalEnergies' and Chevron's presence?

TotalEnergies and Chevron had previously indicated that they would have complied with sanctions. This is partly why civil society did not call for divestment, but for payments of revenues into protected accounts.

POSCO, the South Korean operator of Shwe, has said it would comply with sanctions. It also orders monthly payments to MOGE.

PTTEP and its parent company PTT may comply with sanctions. To avoid sanctions, they would likely have to stop transfers in US dollars, using for example the Chinese renminbi. This would have an impact on the military and its ability to access the global financial system. The US could also target PTTEP for making payments in another currency with what are known as secondary sanctions.

WHAT IS THE POSITIVE SIDE TO TOTALENERGIES' AND CHEVRON'S WITHDRAWAL?

TotalEnergies and Chevron were profiting from Myanmar's gas revenues while supporting and legitimizing the junta and blocking sanctions. Both companies have a long legacy of acting irresponsibly in Myanmar. It is better that they leave than continue to actively fund atrocity crimes. Their withdrawal delegitimizes the junta and highlights to other multinational businesses that continuing business transactions to the junta makes them complicit in human rights atrocities.

Just days after the announcements from both companies,

- Woodside has already followed their lead and is divesting; and
- the US government stated on 26 January 2022 that the payments that reach the junta through state-owned enterprises could constitute money laundering - this may affect whether banks will transfer funds to junta-controlled accounts, including MOGE.

This is a success for the people in Myanmar as they campaign for social justice and is a rebuke to the junta for the atrocities it has committed. Lastly, it increases the pressure for stronger sanctions.



What should we do next?

Continued pressure is needed on both the gas companies and the international community:

- We must demand that TotalEnergies and Chevron immediately order payments into protected accounts, rather than continuing to fund the junta for up to six more months.
- We must demand that if companies divest, they must do so responsibly. This means taking all steps necessary to ensure that revenue payments from the Yadana project do not continue to fall into the hands of the junta.
- We must ramp up our pressure on the US, French, and EU governments to place sanctions on gas revenues.

