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The economic interests of the Myanmar military*

Independent International Fact-Finding Mission on Myanmar

* An earlier version of this repot, released on 5 August 2019, misindentified details related to a number of companies and individuals. They have been corrected in this version of the report, and are outlined in "Update from the UN Independent International Fact-Finding Mission on Myanmar on its report on "The economic interests of Myanmar's military", available on the Mission's website at https://www.ohchr.org/EN/HRBodies/HRC/MyanmarFFM/Pages/EconomicInterestsMyanmarMilitary.aspx

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I. Executive summary and key recommendations

1. The Independent International Fact-Finding Mission on Myanmar (hereinafter "the Mission") in its reports submitted to the Human Rights Council at its 39th session in September 2018 (hereinafter "2018 report"), established consistent patterns of serious human rights violations and abuses in Kachin, Shan and Rakhine States, in addition to serious violations of international humanitarian law between 2011 and 2018.[1] The Mission concluded that many of these violations amounted to crimes against humanity and included murder; imprisonment; enforced disappearance; torture; rape, sexual slavery and other forms of sexual violence; persecution and enslavement. In addition, in Rakhine State, the elements of the crimes against humanity of extermination and deportation were also found to be present. The violations were principally committed by the Myanmar security forces, particularly the military, or Tatmadaw. Many of the violations documented amount to the gravest crimes under international law. The Mission also concluded that "there is sufficient information to warrant the investigation and prosecution of senior officials in the Tatmadaw chain of command, so that a competent court can determine their liability for genocide in relation to the situation in Rakhine State".[2]

2. The Mission found a pervasive culture of impunity at the domestic level. For that reason, it concluded that the impetus for accountability must come from the international community and it made concrete recommendations to that end. The Mission named senior generals of the Tatmadaw who should be investigated and prosecuted for genocide, crimes against humanity and war crimes. Against the backdrop of the gravity of its findings, the Mission recommended that "no business enterprise active in Myanmar or trading with or investing in businesses in Myanmar should enter into an economic or financial relationship with the security forces of Myanmar, in particular the Tatmadaw, or any enterprise owned or controlled by them or their individual members, until and unless they are re-structured and transformed as recommended by the Mission".[3] The ability of the Tatmadaw to draw upon alternative sources of revenue, outside the official military budget, contributes towards it operating without civilian oversight. This recommendation from the Mission's 2018 Report sought to ensure the Tatmadaw's financial isolation, both to deter continued and future violations of international human rights law and international humanitarian law and to promote accountability for those committed in the past, as documented by the Mission. The recommended economic isolation was also intended to encourage the transformation of the Tatmadaw that the Mission saw as essential for human rights compliance in Myanmar.

3. The Mission is issuing this report on the Tatmadaw's economic interests to assist the Government of Myanmar, United Nations Security Council, Member States, relevant regional and international inter-governmental organizations, investors and businesses, international financial institutions, and the United Nations, its funds, programmes and agencies, in implementing these recommendations.

4. The outsize power of the Tatmadaw has affected Myanmar's transition from full direct military dictatorship following the November 2010 and subsequent November 2015 elections. The National League for Democracy, led by Aung San Suu Kyi, won the 2015 election and took over the civilian side of the Government in March 2016. However, as prescribed by the 2008 constitution, the Tatmadaw is an autonomous institution free from any civilian control or oversight. It controls the ministries of defence, home affairs and border affairs, whose ministers are serving military officers selected by the Commander-in-Chief.[4] It retains 25 per cent of the seats in the legislature, giving it the power to veto any constitutional change.[5]

[1] A/HRC/39/64, Report of the independent international fact-finding mission on Myanmar, 12 September 2018 and A/HRC/39/CRP.2, Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar, 17 September 2018.

[2] A/HRC/39/64, paragraph 87.

[3] A/HRC/39/CRP.2, paragraphs 1708, 1716, and 1717.

[4] Constitution of the Republic of the Union of Myanmar (2008), Article 232(b)(ii), 232(j)(ii)

[5] Constitution of the Republic of the Union of Myanmar (2008), Article 109(b), 436.

5. The Tatmadaw's economic interests enable its conduct. The Mission investigated five areas of economic interest:

(a) the Tatmadaw's principal conglomerates, Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC), the subsidiaries owned or controlled by them, the Tatmadaw's role in State-owned enterprises and the Tatmadaw's close ties with a subset of domestic private business enterprises, known as "crony companies";

(b) the Tatmadaw's economic interests in the continuing armed conflicts in Kachin and Shan States in northern Myanmar;

(c) companies and organizations that provided Tatmadaw-solicited donations in support of the military's "clearance operations" that began in August 2017 against the Rohingya in northern Rakhine, as well as businesses that have carried out infrastructure development projects in northern Rakhine State;

(d) the Tatmadaw's joint ventures and other commercial relationships with foreign companies; and

(e) companies and States selling or transferring arms and related equipment to the Tatmadaw since October 2016.

6. This report does not provide an exhaustive list of all businesses, individuals and States that provide economic benefit to the Tatmadaw and its senior generals. That was not possible in the time and with the resources available to the Mission. However, it provides an overview and a foundation upon which other investigators and researchers can continue to build. The findings described below are supported with information listed in the annexes to this report. Based on its investigations, the Mission has concluded on reasonable grounds that:

a. Two Tatmadaw conglomerates, Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC), are owned and influenced by senior Tatmadaw leaders, including the Commander-in-Chief Senior General Min Aung Hlaing and the Deputy Commander-in-Chief Vice Senior General Soe Win, responsible for gross violations of international human rights law and serious violations of international humanitarian law. The Mission identified 106 MEHL and MEC owned businesses across diverse sectors of the economy – from construction and gem extraction to manufacturing, insurance, tourism and banking, and a further 27 businesses that are closely affiliated with the MEHL and MEC through corporate structures. The revenue that these military businesses generate strengthens the Tatmadaw's autonomy from elected civilian oversight and provides financial support for the Tatmadaw's operations with their wide array of international human rights and humanitarian law violations.

   There are strong and persistent business and familial links between the Tatmadaw, its conglomerates MEHL and MEC, and a number of private Myanmar companies and conglomerates, colloquially known as "crony companies".

b. Human rights and international humanitarian law violations, including forced labour and sexual violence, have been perpetrated by the Tatmadaw in mining areas, particularly in Kachin State, in connection with their business activities. MEHL and MEC and 23 of their identified subsidiaries have numerous licenses for jade and ruby mining in Kachin and Shan States.

c. At least 45 companies and organizations provided the Tatmadaw with USD 6.15 million in financial donations that were solicited in September 2017 by senior Tatmadaw leadership in support of the "clearance operations" that began in August 2017 against the Rohingya in northern Rakhine. The Mission also found that private companies with enduring links to the Tatmadaw are financing development projects in northern Rakhine in furtherance of the Tatmadaw's objective of re-engineering the region in a way that erases evidence of Rohingya belonging in Myanmar, and preventing their return to access their homeland and communities. These projects, carried out under the Union Enterprise for Humanitarian Assistance, Resettlement and Development in Rakhine (UEHRD) consolidate the consequences of war crimes, crimes against humanity and acts

of genocide.[6] On the basis of these findings, the Mission has identified private companies with officials who may have made a substantial and direct contribution to the commission of crimes under international law, including the crime against humanity of "other inhumane acts" and persecution, warranting their criminal investigation.

d. 14 foreign companies have joint ventures and at least 44 foreign companies have other forms of commercial ties with Tatmadaw businesses. Through such joint venture and commercial relationships, the Mission finds that any foreign business activity involving the Tatmadaw and its conglomerates MEHL and MEC poses a high risk of contributing to, or being linked to, violations of international human rights law and international humanitarian law. At a minimum, these foreign companies are contributing to supporting the Tatmadaw's financial capacity.

e. At least 14 foreign companies from seven States have provided arms and related equipment to the Tatmadaw since 2016, after the Tatmadaw's dismal human rights record was widely and publicly known. Moreover, the public record made it clear that the Tatmadaw used many of the types of arms and related equipment that these entities were providing to commit gross violations of human rights and serious violations of international humanitarian law. Many of these companies and States therefore knew, or ought to have known, that their arms transfers could have a direct and reasonably foreseeable impact on the human rights situation in Myanmar. Among the arms suppliers identified by the Mission, 12 companies are State-owned enterprises.

   The Mission also received credible information regarding seven foreign private companies from which the Tatmadaw procured or sought to procure dual-use goods and technology since 2016. The technology includes telecommunications services, tracking and precision systems, unmanned aerial vehicles, and internet and data transmission technology.[7]

7. To eliminate these alternative sources of revenue and economic interests, the government of Myanmar must start by placing the Tatmadaw fully under civilian control and oversight through the adoption of necessary laws and policies, including through the amendment of the Constitution. Until then, the United Nations Security Council, Member States, relevant regional and international inter-governmental organizations should impose targeted financial sanctions against all Tatmadaw-owned companies, especially MEHL, MEC and their subsidiaries, and do so in a manner that respects human rights and gives due consideration to any negative socio-economic impact of such sanctions on the civilian population. This should be accompanied by a comprehensive arms embargo on Myanmar, with a monitoring and enforcement mechanism.

8. The Mission reiterates its recommendation from its 2018 report that "targeted individual sanctions, including travel bans and asset freezes, could support a reduction in violations of international law, particularly acts amounting to gross human rights violations and serious crimes under international law".[8] The findings in this report provide a clear pathway forward for the Government of Myanmar, United Nations Security Council, Member States, relevant regional and international inter-governmental organizations, investors and businesses, international financial institutions, and the United Nations, its funds, programmes and agencies to implement this recommendation. This report also indicates areas that deserve greater attention, recalling that investigations leading to the tracing, freezing, seizure and recovery of assets linked to persons responsible for crimes under international law is a critical component in the pursuit of accountability. It is also critical for Member States to exercise jurisdiction to investigate and, if appropriate, prosecute officials of companies who allegedly participated in the commission of serious crimes under international law committed in relation to Myanmar's human rights crisis.

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[6] Jennifer Balint, Kristian Lasslett and Kate Macdonald, ""Post-Conflict" Reconstruction, the Crimes of the Powerful and Transitional Justice," State Crime Journal , Vol. 6, No. 1, "Post-Conflict" Reconstruction, the Crimes of the Powerful and Transitional Justice (Spring 2017), pp. 4-12. See also; Loewenstein, A. (2017) Disaster Capitalism: Making a Killing Out of Catastrophe. New York: Verso.

[7] Included in Annex VI. Arms and military equipment suppliers to the Tatmadaw.

[8] A/HRC/39/CRP.2, paragraph 1666.

9. No business enterprise active in Myanmar or trading with or investing in businesses in Myanmar should enter into a business relationship of any kind with the security forces of Myanmar, in particular the Tatmadaw, or any enterprise owned or controlled by them, including subsidiaries, or their individual members. Given the global reach of Myanmar's jade and ruby trade, the involvement of the Tatmadaw in its extraction and the Tatmadaw's responsibility for human rights and international humanitarian law violations perpetrated in mining areas, businesses should ensure they are not contributing towards, or benefiting from, those violations. In parallel, investment in the private sector, whether by private businesses or international financial institutions, should prioritize supporting the growth of alternative economic actors to the Tatmadaw and associated businesses.

II. Mandate, methodology, and international legal and policy framework

A. Mandate

10. Human Rights Council resolution 34/22 (2017) mandated the Mission "to establish the facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar, in particular in Rakhine State, including but not limited to arbitrary detention, torture and inhuman treatment, rape and other forms of sexual violence, extrajudicial, summary or arbitrary killings, enforced disappearances, forced displacement, deportation and unlawful destruction of property, with a view to ensuring full accountability for perpetrators and justice for victims". Resolution 39/2 (2018) extended the Mission's mandate and gave it the additional responsibility of ensuring it had fully documented, verified, consolidated and preserved the evidence collected in order for the material to be effectively shared, accessed and used by the Independent Investigative Mechanism for Myanmar.

11. In its 2018 report the Mission concluded on reasonable grounds that the Tatmadaw has been directly involved in gross violations of human rights law and serious violations of international humanitarian law, including acts of genocide, crimes against humanity and war crimes, in Myanmar. The Mission is now fulfilling its mandate further by investigating how the Tatmadaw's economic interests enable the Tatmadaw to perpetrate violations of international human rights and humanitarian law and how businesses are reaping the benefits of the Tatmadaw's unlawful activities. It is clear to the Mission that the Tatmadaw's ability to draw upon alternative sources of revenue, outside the official military budget, enables it to operate without effective oversight from the civilian side of the Government or through the Parliament. The Tatmadaw's financial isolation would help deter continuing and future international human rights and international humanitarian law violations, contribute towards accountability for those committed in the past, and encourage the transformation of the Tatmadaw and end its political and economic supremacy in Myanmar.

12. In fulfilling its mandate to ensure "full accountability for perpetrators and justice for victims", the Mission also applied rules and principles of international law that prohibit foreign States from contributing to violations of international human rights and humanitarian law. These are prohibitions that, when not adhered to, enable the Tatmadaw to perpetrate the types of violations that the Mission documented in Rakhine, Kachin and Shan States. The Mission looked specifically at the transfer of arms and related equipment from foreign States to the Tatmadaw following the wide condemnation of the Tatmadaw's conduct in northern Rakhine in October 2016. The Mission's findings from this investigation provide the international community with a more complete understanding of Myanmar's human rights crisis. This understanding should compel the international community, specifically the United Nations Security Council, regional and intergovernmental organizations, and individual States to make arms transfer sanctions an integral part of a coordinated multilateral approach to accountability, justice and ending the human rights crisis in Myanmar.

B. Methodology

13. In preparing this report, the Mission again followed established methodologies and best practices for human rights fact-finding, as developed by the United Nations. In doing so, the Mission adhered to the principles of "do no harm", independence, impartiality, objectivity, transparency and integrity. The findings contained in this report are also based on methodologies for investigation and protection of victims and witnesses, consistent with previous Mission reports.[9]

14. Given the thematic investigation focus of this report, the Mission considered the following sources of information:

a. statistics, surveys and other quantitative information, to the extent that the information was based on sound methodology and originated from credible and reliable sources;

b. corporate records, including through Myanmar government company registration,[10] open source[11] and private-subscription[12] databases that list the ownership and/or senior management of privately-held companies;

c. annual reports by the Myanmar Extractive Industries Transparency Initiative with respect to the extractive sector (oil, gas, copper, coal, gems and timber);

d. other documents containing first-hand information from credible and reliable sources, as well as credible and reliable literature documenting Myanmar's conflict resource economy, demonstrating how natural resource extraction and production sectors directly and indirectly generate revenue for the Tatmadaw and finance, directly or indirectly, their leaders and military activities;

e. confidential interviews conducted by the Mission with subject-matter experts with first-hand knowledge of Tatmadaw business practices and structures, provided that the Mission assessed the source and/or the content to be credible and reliable;

f. information contained in expert interviews, public reports, media accounts, submissions and academic research publications, where the Mission assessed the source and/or the content to be credible and reliable;

g. credible and reliable satellite imagery and analysis;

h. publicly available admissions of relevant facts by Myanmar and foreign officials;

i. laws, policies and directives of Myanmar and internal government documents, provided that they were received from credible and reliable sources and their authenticity was not in doubt.

15. The Mission shared this report with the Government of Myanmar on 31 July with a view to soliciting information about any factual inaccurancies, by 4 August. No response was received at the time of publication. The Missions also sought where possible information from other governments and businesses referred to in the report, to which it received several replies.

16. During the Mission's investigation for this report, the Mission received numerous allegations of companies collaborating directly with ethnic armed organizations in northern Myanmar in the exploitation of natural resources.[13] These are natural resources that fund and

[9] For full details, see A/HRC/39/CRP.2.

[10] Directorate of Investment and Company Administration (DICA), Union of Myanmar (https://www.dica.gov.mm/)

[11] International Consortium of Investigative Journalists (www.icij.org) and OpenCorporates (www.opencorporates.com)

[12] Orbis database, Bureau van Dijk (www.bvdinfo.com)

[13] As in A/HRC/39/CRP.2, this report uses the term "ethnic armed organization" when referring to non-State armed groups operating in northern Myanmar (Kachin and Shan States) in opposition to the Government. The term "non-State armed group" ordinarily refers to such organizations, as well as

fuel hostilities in Kachin and Shan States.[14] While such conduct may implicate the companies as well as the ethnic armed organizations and raise serious human rights concerns, the Mission has decided to focus its research on Tatmadaw economic interests as its focus here is giving substance to the recommendations in its 2018 report.

17. Given the pervasive lack of transparency surrounding economic activity in Myanmar, especially where the Tatmadaw is involved, the Mission is well aware that its research does not provide a complete picture of the breadth and extent of all of the Tatmadaw's economic interests. The Mission strongly encourages additional research and investigations to fill these important gaps, some of which are identified in the recommendations of this report.[15] Nonetheless, the Mission is confident that the information in this report meets the "reasonable grounds to conclude" level of corroboration unless stated otherwise. The information gathered by the Mission in the course of this investigation has been preserved with a view to being shared with competent and credible bodies pursuing accountability in line with recognized international norms and standards, including with regard to due process and fair trial standards.[16]

18. In its investigations and research the Mission received information from a number of sources under considerable risk of reprisals. The Mission has taken a number of measures to protect these sources, including by preserving the confidentiality of their interaction with the Mission. The Mission extends its gratitude to these individuals and appeals for their safety and security.

C. International legal and policy framework

19. The facts documented in this report were assessed in light of rules applicable to States under international human rights law, international humanitarian law, international rules on arms sales and transfers, and general rules of State responsibility.[17] The report has also assessed the facts in light of international principles that business should adhere to and modes of liability for business actors under international criminal law.

1. State obligations

(a) International human rights law applicable to Myanmar

20. International human rights law obligates States to respect and protect the human rights of people in their territory or under their jurisdiction. This obligation requires that State actors, including military officials, not violate human rights. It also includes ensuring the activities of companies do not result in human rights abuses. The obligation is to ensure these human rights protections apply to civil and political rights and economic, social and cultural rights.[18] In recognition of this, Human Rights Council resolution 40/L.19 (2019) on Myanmar called upon the Government of Myanmar to "demilitarize mining regions and to ensure the protection of human rights for workers in natural resource extraction and the enforcement of

other armed actors operating in these and other States (eg. militia groups, or the Arakan Rohingya Salvation Army, known as ARSA, in Rakhine State).

[14] MD-007; GM-005.

[15] See paragraph 191(c).

[16] A/HRC/39/CRP.2, paragraphs 1553-1556.

[17] For detailed description of the applicable legal framework, see A/HRC/39/CRP.2

[18] International Covenant on Civil and Political Rights, Article 2 as well as 3, 18, and 23; International Covenant on Economic Social and Cultural Rights, Articles 2, as well as 3, 7, 8, 11, and 13. Although Myanmar is not party to the International Covenant on Civil and Political Rights, much of its content is found in the Universal Declaration of Human Rights (UDHR). The UDHR was not intended at the time to be a legally binding document, but it is now generally considered as an authoritative interpretation of the human rights provisions in the (binding) United Nations Charter. The UDHR is considered a "common standard of achievement for all peoples and all nations" and it sets out the fundamental human rights that are to be universally protected. It is accepted that many of its provisions – if not the entire document – are reflective of customary international law. See A/HRC/39/CRP.2, paragraphs 41-43.

environmental safety standards". The resolution also urged the Government to develop inclusive policies for natural resource management and benefit sharing through including relevant stakeholders and affected populations.[19] The UN Special Rapporteur on the situation of human rights in Myanmar has noted that Myanmar, as a party to the International Covenant on Economic, Social and Cultural Rights, should refrain from entering into trade and investment treaties where the Government's actions in relation to fulfilling an investment agreement would lead to human rights abuses, such as forced relocation and inadequate resettlement.[20] The obligations of States to respect and protect economic, social and cultural rights that are most relevant to the acts of the Tatmadaw documented in this report include the prohibition on forced labour[21] and arbitrary or unlawful deprivation of wages.[22]

21. In further elaboration of the obligations that human rights law places on States to regulate companies, the UN Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (Guiding Principles) instruct States to "protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication." [23] States should also "set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations".[24] The Guiding Principles should be implemented in a non-discriminatory manner, with particular attention to the rights and needs of groups that may be at heightened risk of becoming vulnerable or marginalized, and with due regard to gender-based risks.[25]

22. In meeting their duty to protect human rights, the Guiding Principles explain further that States should, *inter alia*: enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and periodically assess the adequacy of such laws and address any gaps; provide effective guidance to business enterprises on how to respect human rights throughout their operations; and encourage and, where appropriate, require business enterprises to communicate how they address their human rights impacts.[26]

23. The Guiding Principles call on States to take additional measures to protect against human rights abuses by their own State-owned or controlled enterprises or those that receive substantial support and services from State agencies, such as requiring human rights due diligence.[27] When they contract with, or legislate for, business enterprises to provide services that may impact upon the enjoyment of human rights, the Guiding Principles call on States to exercise adequate oversight in order to meet their international human rights obligations.[28]

24. In recognition of the heightened risk of human rights abuses occurring in the context of conflict areas, the Guiding Principles emphasise that States should "help ensure that business enterprises operating in those contexts are not involved with such abuses". The Guiding Principles provide several measures for doing this, including: "(a) Engaging at the earliest stage possible with business enterprises to help them identify, prevent and mitigate the human rights-related risks of their activities and business relationships; (b) Providing adequate assistance to business enterprises to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence; (c) Denying access to public support and services for a business enterprise that is involved with gross human rights abuses and refuses to cooperate in addressing the situation; (d) Ensuring that their

[19] A/HRC/40/L.19, paragraphs 24-25.
[20] Report of the Special Rapporteur on the situation of human rights in Myanmar, A/HRC/40/68, 5 March 2019, paragraph 15.
[21] International Covenant on Economic, Social and Cultural Rights, Article 6.
[22] International Covenant on Economic, Social and Cultural Rights, Article 7.
[23] Principle 1, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, Office of the High Commissioner for Human Rights.
[24] Principle 2, Guiding Principles on Business and Human Rights.
[25] General Principles of the Guiding Principles on Business and Human Rights.
[26] Principle 3, Guiding Principles on Business and Human Rights.
[27] Principle 4, Guiding Principles on Business and Human Rights.
[28] Principle 5, Guiding Principles on Business and Human Rights.

current policies, legislation, regulations and enforcement measures are effective in addressing the risk of business involvement in gross human rights abuses".[29]

25. In addition to respecting and protecting human rights, States must ensure that any person whose rights or freedoms are violated through the activities of businesses has an effective remedy; States must also ensure that any person claiming such a remedy will have their right to a remedy determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State; and access to such remedies must exist notwithstanding that the violation has been committed by persons acting in an official capacity.[30] The right to a remedy is non-derogable.[31] It is also a rule of customary international law.[32]

26. States have a specific duty to investigate and, if there is sufficient evidence, prosecute gross violations of international human rights law and serious violations of international humanitarian law, in particular those that amount to crimes under international law (in particular war crimes, crimes against humanity and genocide).[33] Investigations into allegations must always be independent, impartial, prompt, thorough, effective, credible and transparent.[34] In addition, accountability encompasses measures to realize the right to know the truth, the right to reparation and guarantees of non-recurrence.[35] Reparation can be in the form of restitution, compensation, rehabilitation, satisfaction and guarantee of non-repetition. To ensure non-repetition, the Committee on Economic, Social and Cultural Rights has determined that an effective remedy may require improvements to legislation and policies proven ineffective in preventing the abuses.[36]

(b) International human rights law applicable to foreign States

27. International human rights law also places certain obligations on States to regulate the behaviour of businesses that operate in their territory or under their jurisdiction in relation to any adverse impact that they have or may have on the human rights of people outside their territory.[37] This is particularly relevant to States with businesses that have transferred arms to the Tatmadaw and States from which businesses have relations with the Tatmadaw, directly or indirectly, through joint ventures and commercial partnerships. In fulfilling these obligations, State Parties to the International Covenant on Civil and Political Rights must take appropriate legislative and other measures to ensure that all activities taking place in whole or in part within their territory or under their jurisdiction, and having a direct and

[29] Principle 7, Guiding Principles on Business and Human Rights.

[30] ICCPR, Article 2; see, also, E/C.12/2011/1; Principle 25, Guiding Principles; and E/C.12/GC/24, Committee on Economic, Social and Cultural Rights, General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities 10 August 2017, paragraph 41.

[31] CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency, para. 14.

[32] See, generally, M. Cherif Bassiouni, International Recognition of Victims' Rights, *Human Rights Law Review*, Volume 6, Issue 2, 2006, pages 203–279,

[33] Additionally, where provided for in an applicable treaty or other international legal obligations, States should facilitate extradition or surrender offenders to other States and to appropriate international judicial bodies. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Basic Guideline and Principle 4 and 5.

[34] E.g., Human Rights Committee, General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, paragraph 28.

[35] Updated Set of principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/2005/102/Add.1), 2005, principle 1.

[36] E/C.12/GC/24, Committee on Economic, Social and Cultural Rights, General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities 10 August 2017, paragraph 41.

[37] Human Rights Committee, General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, paragraph 22; E/C.12/GC/24, Committee on Economic, Social and Cultural Rights, General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities 10 August 2017, paragraphs 26 and 28.

reasonably foreseeable impact on the right to life of individuals outside their territory, are consistent with the right to life and of the right of victims to obtain an effective remedy.[38] This also holds true for other civil and political rights,[39] as well as economic, social and cultural rights.[40]

28. In recognition of the significant increase of activities of transnational corporations, growing investment and trade flows between countries, and the emergence of global supply chains, in 2017 the Committee on Economic, Social and Cultural Rights provided authoritative guidance clarifying that States' obligations under the Covenant "did not stop at their territorial borders".[41] States Parties are "required to take the steps necessary to prevent human rights violations abroad by business enterprises domiciled in their territory and/or jurisdiction". The Committee explained that extraterritorial obligations arise when a State "may influence situations located outside its territory, consistent with the limits imposed by international law, by controlling the activities of corporations domiciled in its territory and/or under its jurisdiction, and thus may contribute to the effective enjoyment of economic, social and cultural rights outside its national territory".[42] For these reasons, the Guiding Principles similarly apply to States with businesses domiciled in their territory or under their jurisdiction when the activities of those businesses may impact the human rights of people in Myanmar. UN Special Rapporteur on the situation of human rights in Myanmar urged home countries of foreign companies investing and/or operating in Myanmar to ensure they act in line with the Guiding Principles. The Special Rapporteur noted, "It is paramount that international financial institutions, development agencies, States and private investors consider conformity with these standards at all levels prior to implementing projects".[43]

(c) International humanitarian law

29. International humanitarian law regulates armed conflict.[44] Common Article 1 to the four Geneva Conventions, to which Myanmar is a party, places a standing obligation on States to "ensure respect" for the Conventions' protections in all circumstances. This is particularly relevant to the Mission's investigation into arms transfers. The International Committee of the Red Cross (ICRC) in its authoritative commentary to Common Article 1, explains that the Article 1 obligation requires, *inter alia*, that States "refrain from transferring weapons if there is an expectation, based on facts or knowledge of past patterns, that the

[38] Human Rights Committee, General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, para. 22

[39] Human Rights Committee, Concluding Observations on the sixth periodic report of Germany (2012), CCPR/C/DEU/CO/6, paragraph 16; Human Rights Committee, Concluding Observations on the sixth periodic report of Canada (2015), CCPR/C/CAN/CO/6, paragraph 6, in which the Committee emphasized, "The State party should (a) enhance the effectiveness of existing mechanisms to ensure that all Canadian corporations under its jurisdiction, in particular mining corporations, respect human rights standards when operating abroad; (b) consider establishing an independent mechanism with powers to investigate human rights abuses by such corporations abroad; and (c) develop a legal framework that affords legal remedies to people who have been victims of activities of such corporations operating abroad."

[40] See E/C.12/2011/1, paragraphs 5 and 6; E/C.12/GC/24, Committee on Economic, Social and Cultural Rights, General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities 10 August 2017.

[41] E/C.12/GC/24, Committee on Economic, Social and Cultural Rights, General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities 10 August 2017, paragraph 26.

[42] E/C.12/GC/24, Committee on Economic, Social and Cultural Rights, General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities 10 August 2017, paragraph 28.

[43] Report of the Special Rapporteur on the situation of human rights in Myanmar, A/HRC/40/68, 5 March 2019, paragraph 16. See, also, Report of the Special Rapporteur on the situation of human rights in Myanmar, A/73/332, 20 August 2018, paragraph 26.

[44] For additional information on the application of international humanitarian law in Myanmar, see, A/HRC/39/CRP.2, paragraphs 60-62.

weapons would be used to violate the Conventions".[45] It has been credibly argued that, once a State knows that the receiving State systematically commits violations of humanitarian law with certain weapons, continuing assistance is necessarily given with a view to facilitating further violations.[46] While the rules of international humanitarian law generally apply only to situations of armed conflict, Common Article 1 does not have this restriction. As the ICRC explains in its commentary, "The obligation to respect and to ensure respect for the Conventions is not limited…to armed conflict, but applies equally in peacetime". This is an obligation that applies as a matter of treaty law and customary international law to all the arms contributing countries listed in this report.[47]

(d) Arms trade law

30. The Arms Trade Treaty (ATT), which entered into force in December 2014, also provides important rules relevant to the Mission's findings. The ATT was adopted by the General Assembly to regulate the international trade in conventional arms. Its stated object and purpose explicitly include establishing the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms for the purpose of reducing human suffering.[48] One of its guiding principles is to respect and ensure respect for human rights and international humanitarian law.[49]

31. Article 6 prohibits a State Party from authorizing the transfer of conventional arms if it has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a party. The ATT covers the following conventional weapons: battle tanks; armoured combat vehicles; large-calibre artillery systems; combat aircraft; attack helicopters; warships; missiles and missile launchers; and small arms and light weapons. Articles 6 also applies to transfers of ammunition/munitions fired, launched or delivered by the conventional arms listed by the ATT[50] as well as parts and components where the item is in a form that provides the capability to assemble the conventional arms that the ATT lists.[51]

32. Where transfer is not prohibited under Article 6, Article 7 of the ATT places a due diligence obligation on exporting States Parties to assess, *inter alia*, the potential that the arms or other items would contribute to undermining peace and security, or could be used to commit or facilitate a serious violation of international humanitarian law or of international human rights law. The exporting State Party must also consider whether there are measures that could be undertaken to mitigate those risks and it must not authorize the export if there is an overriding risk of any of those negative consequences occurring. The exporting State's

[45] Jean-Marie Henckaerts, eds., Commentary on the First Geneva Convention: Convention (I) for the Amelioration of the Condition of the Wounded in Armies in the Field, International Committee of the Red Cross, 15 December 2016, paragraph 162. The Arms Trade Treaty references this obligation when it lists its principle of "Respecting and ensuring respect for international humanitarian law in accordance with, inter alia, the Geneva Conventions of 1949". See, The Arms Trade Treaty (https://thearmstradetreaty.org/treaty-status.html?templateId=209883#https://thearmstradetreaty.org/treaty-status.html?templateId=209883#), Principles.

[46] Marco Sassoli, "State responsibility for violations of international humanitarian law," International Review of the Red Cross, June 2002 Vol. 84 No 846, pg. 413

[47] J.M. Henckaerts and L. Doswald-Beck, "Customary International Humanitarian Law. Volume I: Rules" (Cambridge, ICRC/Cambridge University Press, 2005), rule 139.

[48] The Arms Trade Treaty (https://thearmstradetreaty.org/treaty-status.html?templateId=209883#), Article 1.

[49] The Arms Trade Treaty (https://thearmstradetreaty.org/treaty-status.html?templateId=209883#https://thearmstradetreaty.org/treaty-status.html?templateId=209883#), Principles.

[50] The Arms Trade Treaty (https://thearmstradetreaty.org/treaty-status.html?templateId=209883#), Article 3.

[51] The Arms Trade Treaty (https://thearmstradetreaty.org/treaty-status.html?templateId=209883#), Article 4.

assessment must also take into account the risk of the items being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children.

33. Currently there are 104 States Parties to the ATT.[52] While none of the States identified by the Mission as transferring arms or related items to the Tatmadaw is a party to the ATT, some of them – Ukraine, the Philippines and Israel – have signed the treaty.[53] Signapore, which requires further investigation into its actions, is also a signatory. As signatories, each of these States has an obligation to "refrain from acts which would defeat the object and purpose" of the Arms Trade Treaty, unless it has made its intention clear not to become a party to the treaty.[54] Given the ATT's stated object and purpose of establishing the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms for the purpose of reducing human suffering, the Mission regards acts contrary to Articles 6 and 7 as defeating the treaty's object and purpose, and so a violation of international law by a signatory State.[55]

(e) Other-export control standards

34. The Mission's legal analysis is also informed by the EU common position controlling the export of military technology and equipment,[56] which imposes strict obligations on European Union countries to apply existing sanctions and arms embargoes, as well as deny export licenses where there is a clear risk that the military technology or equipment to be exported might be used for internal repression, defined as including, *inter alia*, torture and other cruel, inhuman and degrading treatment or punishment, summary or arbitrary executions, disappearances, arbitrary detentions and other major violations of human rights and fundamental freedoms as set out in relevant international human rights instruments, including the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights.[57] Moreover, the EU common position makes clear that where there are serious grounds for believing that the end-user of dual-use goods and technology will be the armed forces or internal security forces or similar entities in the recipient country, such goods are considered, for the purposes of export control, military technology or equipment.[58]

35. For countries exporting technology and equipment to the Tatmadaw that are not European Union members, the Mission was informed by the non-binding Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. The Arrangement has 42 State participants and is intended to reduce threats to

[52] The Arms Trade Treaty (https://thearmstradetreaty.org/treaty-status.html?templateId=209883#)

[53] The Arms Trade Treaty, "ATT Signatories that have not yet ratified, accepted, or approved the Treaty," (https://thearmstradetreaty.org/hyper-images/file/List%20of%20ATT%20Signatory%20States%20(10%20May%202019)/List%20of%20ATT%20Signatory%20States%20(10%20May%202019).pdf).

[54] Vienna Convention on the Law of Treaties, Article 18. Myanmar acceded to the Vienna Convention on the Law of Treaties on 16 September 1998. https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXIII-1&chapter=23&Temp=mtdsg3&clang=_en.

[55] Article 1 of the ATT sets out its object and purpose. Its object is to "establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms" and to "prevent and eradicate the illicit trade in conventional arms and prevent their diversion." "Reducing human suffering" is one of the ATT's fundamental purposes. The others are to contribute to international and regional peace, security and stability, and to promote "cooperation, transparency and responsible action by States Parties in the international trade in conventional arms, thereby building confidence among States Parties". The implementation of the treaty's arms transfer criteria, set out in Articles 6 and 7, is therefore particularly relevant to the ATT's object and purpose. For further information, see: Understanding the Arms Trade Treaty from a Humanitarian Perspective, International Committee of the Red Cross, 2016.

[56] European Union Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.

[57] Criteria 2, European Union Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.

[58] Article 6, European Union Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment

regional and international security. The Wassenaar Arrangement promotes "transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies" and, to that end, maintains a list of dual-use goods and technologies, to which States are expected to apply export controls.[59]

(f) General rules of State responsibility

36. Under general rules of State responsibility and customary rules of international law a State is prohibited from aiding or assisting another State in the commission of an internationally wrongful act where three conditions are fulfilled: that the State organ or agency providing aid or assistance is aware of the circumstances making the conduct of the assisted State internationally wrongful; that the aid or assistance be given with a view to facilitating the commission of that act and actually does so; and that the completed act be such that it would have been wrongful had it been committed by the assisting State itself.[60] A detailed study of this rule determined that the test for aiding and assisting is whether the assisting State knew, or was virtually certain, that the assistance would be used for unlawful purposes.[61] Aid or assistance is generally accepted as covering a broad range of activity and is not limited to acts of particular gravity.[62] It may include not only the provision of material aid, such as weapons, but also logistical and technical assistance and financial support, such as export credit guarantees.[63] Additionally, when a State engages in gross and/or systematic breaches of peremptory norms of general international law, other States must not render aid or assistance in *maintaining* the situation (even if the breach has ceased) and must cooperate to end, through lawful means, such "serious breaches".[64] Peremptory norms of general international law include crimes against humanity, torture, genocide, racial discrimination and apartheid, and slavery.[65]

2. Responsible business policies and practices

37. Domestic and foreign companies engaging with the Tatmadaw should apply relevant international human rights principles and safeguards as a matter of the corporate responsibility to respect human rights. A foundational principle of the Guiding Principles is

[59] See Wassenaar Arrangement, "List of dual-use goods and technologies and munitions list", December 2018.

[60] See Commentary to Article 16 of the Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries (2001). The International Court of Justice (ICJ) has held that Article 16 had attained the status of customary international law. See, Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro) (Judgment) (2007) ICJ Rep 43, para 417 (hereinafter Bosnian Genocide case). For detailed analysis of the customary law status of Article 16, see Aust (2011), Complicity and the Law of State Responsibility, pp. 97–191.

[61] Harriet Moynihan, Aiding and Assisting: Challenges in Armed Conflict and Counterterrorism, November 2016 (https://www.chathamhouse.org/sites/default/files/publications/research/2016-11-11-aiding-assisting-challenges-armed-conflict-moynihan.pdf), paragraph 76.

[62] Miles Jackson, Complicity in International Law (Oxford University Press, 2015), p. 153; James Crawford, State Responsibility: The General Part (Cambridge University Press, 2013), p. 402; Helmut Philipp Aust, Complicity and the Law of State Responsibility, (Cambridge University Press, 2011), p. 239; Vaughan Lowe, 'Responsibility for the Conduct of Other States', Japanese Journal of International Law, 2002, pp. 5–6.

[63] Vladyslav Lanovoy, 'Complicity in an Internationally Wrongful Act', in André Nollkaemper and Ilias Plakokefalos (eds.), Principles of Shared Responsibility in International Law: An Appraisal of the State of the Art (Cambridge: Cambridge University Press, 2014), pg. 9.

[64] Article 41 of the Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries (2001). The draft articles are generally accepted as authoritative interpretations of international law, including by the International Court of Justice, and also as generally reflecting customary international law. See, generally, Đorđeska, Marija. The Process of International Law—Making: The Relationship between the International Court of Justice and the International Law Commission. International and Comparative Law Review, 2015, vol. 15, no. 1, pp. 7–57.

[65] See Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries (2001), para. 5 of the commentary to Article 26; and Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries (2001), para. 4 of the commentary to Article 40.

that business enterprises should respect human rights by avoiding causing or contributing to adverse human rights impacts, addressing those impacts when they occur, and seeking to prevent or mitigate those impacts that are directly linked to their business relationships, even if they have not contributed to those impacts. [66] The Guiding Principles instruct businesses to meet these responsibilities through policy commitments, due diligence and remediation for adverse human rights impacts they cause or contribute to.[67]

38. Industry-specific guidance has been developed to implement the Guiding Principles. The European Commission guidance on implementing the Guiding Principles in the information and communications technology sector highlights the importance of human rights due diligence, particularly in high-risk contexts characterized by active or latent conflict, systematic disregard for human rights in law or in practice and pervasive corruption.[68] The guidance specifically addresses companies providing telecommunications services, web or cloud-based platforms, devices, components and software. It gives examples of how due diligence processes can lead to companies declining sales to "at risk" countries.[69]

39. The Human Rights Council confirmed the importance of applying the Guiding Principles in Myanmar in resolution 40/L.19 (2019), which encouraged "all business enterprises, including transnational corporations and domestic enterprises, to respect human rights in accordance with the Guiding Principles on Business and Human Rights".

40. The Organisation for Economic Co-operation and Development (OECD) also emphasizes the importance of businesses putting in place policies and procedures that, on a continuing basis, proactively and reactively, ensure businesses do not contribute to human rights violations and other risks in countries such as Myanmar.[70] This is especially relevant for Myanmar's extractive industries, particularly the jade and ruby mining industry. The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (Due Diligence Guidance) provides a five point due diligence framework that urges companies to establish strong company management systems that can implement and communicate due diligence policies and procedures; identify and assess risk in the supply chain; design and implement a strategy to respond to identified risks; carry out independent third-party audit of supply chain due diligence at identified points in the supply chain; and publicly report on supply chain due diligence.[71] The Due Diligence Guidance recommends specifically that businesses evaluate whether there are any forms of torture or cruel, inhuman and degrading treatment imposed for the purposes of mineral extraction; any forms of forced or compulsory labour; child labour; other gross human rights violations and abuses, such as widespread sexual violence on mine sites or in the course of mineral extraction; war crimes or other serious violations of international humanitarian law, crimes against humanity or genocide.[72] In a different context, the UN Security Council confirmed

[66] Principle 11 and 13, Guiding Principles on Business and Human Rights.

[67] Principle 11 and 15, Guiding Principles on Business and Human Rights.

[68] See European Commission, *ICT Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights* (Luxembourg, 2013), pg. 30-31.

[69] European Commission, *ICT Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights* (Luxembourg, 2013), pg. 30-31.

[70] OECD (2016), "OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition," OECD Publishing, Paris. (http://dx.doi.org/10.1787/9789264252479-en); See also OECD, "OECD Due Diligence Guidance for Responsible Business Conduct", 2018 (http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf)

[71] OECD (2016), "OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition," OECD Publishing, Paris. (http://dx.doi.org/10.1787/9789264252479-en), Annex I: Five-Step Framework for Risk-Based Due Diligence in the Mineral Supply Chain.

[72] OECD (2016), "OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition," OECD Publishing, Paris. (http://dx.doi.org/10.1787/9789264252479-en), Appendix I: Guiding Note for Upstream Company Risk Assessment.

the importance of due diligence when it endorsed recommendations designed to be consistent with the OECD Due Diligence Guidance.[73]

41. The OECD has also articulated international standards in its Guidelines for Multinational Enterprises, which include a set of recommendations from OECD Member States to multinational enterprises operating in or from those States.[74] These recommendations specifically address "all the entities within the multinational enterprise (parent companies and/or local entities)"[75] and, according to their commentaries, extend to the entire enterprise group, prescribing clear lines of accountability throughout any corporate structure.[76] These standards are relevant for foreign companies that have entered into joint ventures or other business relationships with the Tatmadaw's holding companies and subsidiaries, including through their own subsidiaries based in Myanmar.

42. The principles on which the United Nations Global Compact (Global Compact) operate also assume the responsibility of a parent company for its subsidiaries.[77] The Global Compact, similar to the Guiding Principles, also provides businesses world-wide with a framework of shared values through ten principles that include respecting human rights and avoiding complicity in human rights abuses. The first principle is that businesses should "support and respect the protection of internationally proclaimed human rights". The second principle is to "make sure that they are not complicit in human right abuses". Complicity arises when a business helps another business or organisation carry out a human rights abuse with the knowledge that its act or omission could provide such help.[78] This 'help' can include assistance, facilitation, legitimization or encouragement, including acts or omissions by companies (or their representatives).[79]

3. Business officials and criminal liability

43. International law also permits States to hold company officials criminally liable for their direct acts or omissions and for involvement with others in crimes under international law, if they aid, abet or otherwise assist in genocide, crimes against humanity and war crimes.[80] It is particularly relevant to the situation in Myanmar that these modes of criminal liability can arise when business officials engage in acts or omissions that assist, encourage or lend moral support to the perpetration of a crime.[81] This can include financial assistance

[73] The Due Diligence Guidance explains "The United Nations Security Council resolution 1952 (2010) [S/RES/1952(2010)] supported taking forward the due diligence recommendations contained in the final report of the United Nations Group of Experts on the Democratic Republic of the Congo, designed to be consistent with the OECD Due Diligence Guidance". OECD (2016), "OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition," OECD Publishing, Paris. (http://dx.doi.org/10.1787/9789264252479-en), p. 3.

[74] OECD Guidelines for Multinational Enterprises, 2011 edition, Foreword.

[75] OECD Guidelines for Multinational Enterprises, Concepts and Principles, 2011 edition, paragraph 4

[76] OECD Guidelines for Multinational Enterprises, Commentary.

[77] UN Global Compact, Official website www.unglobalcompact.org/about/faq: "The UN Global Compact applies the leadership principle. If the CEO of a company's global parent (holding, group, etc.) embraces the Ten Principles of the UN Global Compact by sending a letter to the UN Secretary-General, the UN Global Compact will post only the name of the parent company on the global list assuming that all subsidiaries participate as well. Subsidiaries that wish to directly send a letter to the UN Secretary-General to underline their commitment, whether alongside the parent company or individually, will be listed as participants, and are invited to actively participate in our activities at the global and local level, including through becoming active in the Global Compact Local Network of their host country."

[78] Principle 2, UN Global Compact; https://www.unglobalcompact.org/what-is-gc/mission/principles/principle2.

[79] Principle 2, UN Global Compact; https://www.unglobalcompact.org/what-is-gc/mission/principles/principle2.

[80] Article 25(39(c) of the Rome Statute establishes criminal liability for someone who facilitates the commission of a crime by aiding, abetting or otherwise assisting in the commission or attempted commission of the crime.

[81] ICTY, Prosecutor v. Momčilo Perišic´, Case No. IT-04-81-A, Judgement (Appeal Chamber), 28 January 2013, paragraph 29.

and the provision of goods, information and services, including banking and communications services.[82] If businesses rely on the services or resources of the States or encourage the State to provide it with services and resources, with the knowledge that these services might result in crimes under international law, the relevant business officials risk criminal liability.[83]

44. Under the rules of aiding and abetting, the Special Court for Sierra Leone (SCSL) found that a perpetrator must have provided *substantial* assistance to the commission of a crime, must have had *knowledge* that the contribution would assist the commission of the crime, or at least have had awareness as to the *substantial likelihood* that the contribution would render assistance, and was aware of the crime's "essential elements", including the state of mind of the principal offender.[84] The International Criminal Tribunal for the former Yugoslavia (ICTY) has held that the assistance must be specifically directed at a crime[85] but the accused does not need to know the exact crime that was intended and committed. It is not necessary that the person allegedly aiding and abetting knows the precise crime that was intended and that was committed but the person must be aware of the essential elements of the crime committed by the principal offender, including the principal offender's state of mind.[86] However, the aider and abettor does not need to share the intent of the principal offender[87] nor do they even need to know who is committing the crime.[88] The tribunal determined that, if the accused was "aware that one of a number of crimes will probably be committed, and one of those crimes is in fact committed, [the accused] has intended to facilitate the commission of that crime, and is guilty as an aider and abettor".[89] Activities that amount to a substantial contribution to the crime have been found by a number of international criminal courts to include allowing resources one is in control of and responsible for to be used by the principal perpetrators in the commission of the crime. The Appeals

[82] International Commission of Jurists Corporate Complicity & Legal Accountability: Report of the International Commission of Jurists Expert Legal Panel on Corporate Complicity in International Crimes, Volume 2: Criminal Law and International Crimes, 2008, p. 37-40. Joanna Kyriakakis, "Developments in international criminal law and the case of business involvement in international crimes," International Review of the Red Cross, Volume 94 Number 887 Autumn 2012.

[83] International Commission of Jurists Corporate Complicity & Legal Accountability: Report of the International Commission of Jurists Expert Legal Panel on Corporate Complicity in International Crimes, Volume 2: Criminal Law and International Crimes, 2008, p. 40-41.

[84] SCSL, Prosecutor v. Charles Ghankay Taylor, Case No. SCSL-03-01-T, Judgement (Trial Chamber II), 18 May 2012.

[85] ICTY, Prosecutor v. Momčilo Perišic´, Case No. IT-04-81-A, Judgement (Appeal Chamber), 28 January 2013, paragraph 29.

[86] Judgment, *Nahimana, Barayagwiza and Ngeze ('Media')* (ICTR-99-52-A), Appeals Chamber, 28 November 2007, § 482; Judgment, *Perišić* (IT-04-81-T), Trial Chamber, 6 September 2011, § 130; Judgment, *Karemera et al.* (ICTR-98-44-T), Trial Chamber, 2 February 2012, § 1430; Judgment, *Brima, Kamara and Kanu ('AFRC')* (SCSL-2004-16-A), Appeals Chamber, 22 February 2008, § 242-243; Judgment, *Fofana and Kondewa ('CDF')* (SCSL-04-14-A), Appeals Chamber, 28 May 2008, § 367; Special Tribunal for Lebanon, Interlocutory Decision on the Applicable Law: Terrorism, Conspiracy, Homicide, Perpetration, Cumulative charging, STL-II-OI/I/AC/RI76bis, Appeals Chamber, 16 February 2011, § 227; Judgment, *Haradinaj at al.* (IT-04-84*bis*-T), Trial Chamber, 29 November 2012, § 627; Judgment, *Tolimir* (IT-05-88/2-T), Trial Chamber, 12 December 2012, § 911; Judgment, *Stanišić and Župljanin* (IT-08-91-T), Trial Chamber, 27 March 2013, § 108; Judgment, *Stanišić and Simatović* (IT-03-69-T), Trial Chamber, 30 May 2013, § 1264; *Šainović et al.* (IT-05-87-A), Appeals Chamber, 23 January 2014, § 1773; Judgment, *Popović et al.* (IT-05-88-A), Appeals Chamber, 30 January 2015, §§ 1751, 1754 and 1794; Judgment, *Karadžić* (IT-95-5/18-T), Trial Chamber, March 24, 2016, § 577; Judgment, *Mladić*, (IT-09-92-T), Trial Chamber, November 22, 2017, § 3567.

[87] Judgment, *Seromba* (ICTR-2001-66-I), Trial Chamber, 13 December 2006, § 309; Judgment, *Popović et al.* (IT-05-88-A), Appeals Chamber, 30 January 2015, § 1794; Judgment, *Šešelj* (IT-03-67-T) March 31, 2016, Trial Chamber, § 353; Judgment, *Mladić*, (IT-09-92-T), Trial Chamber, November 22, 2017, § 3567.

[88] Judgment, *Brđanin* (IT-99-36-A), Appeals Chamber, 3 April 2007, §§ 108 and 355; Judgment, *Ngirabatware* (MICT-12-29-A), December 18, 2014, Appeals Chamber, § 149.

[89] ICTY, Prosecutor v. Tihomir Blaškić, Case No.: IT-95-14-A, Judgement (Appeals Chamber), 29 July 2004, para. 50.

Chamber of the Special Court for Sierra Leone indicated that substantial contribution includes "providing financial support to an organisation committing crimes."[90]

45. States are obliged to investigate and, if there is sufficient evidence, prosecute acts amounting to genocide, crimes against humanity and war crimes.[91] This obligation extends to acts and omissions by corporate officials that aid, abet or otherwise assist in the commission of those crimes. To this end, the Mission notes that on this basis several domestic legal systems have sought to punish corporate actors under their domestic criminal and civil law.[92]

III. Mapping Tatmadaw economic structures and interests

46. The Mission's mapping of the Tatmadaw's conglomerates, its interests in State-owned enterprises and its relationships with private companies has been guided by the Mission's interest in the sources of Tatmadaw off-budget revenue that allow it to evade democratic, civilian control of the military and serve to protect the Tatmadaw from accountability for grave crimes under international law.[93]

47. In addition to the information on the Tatmadaw's business structures and interests outlined below, the Mission received information regarding 34 other businesses apparently owned directly by the Tatmadaw. The Mission was not able to verify this information, and so has not included it in this report. However, the Mission has preserved it to assist in future investigations.[94]

A. Tatmadaw holding companies MEHL and MEC

48. The Tatmadaw owns and operates two major holding companies – Myanmar Economic Holding Limited (MEHL) and Myanmar Economic Corporation (MEC). The Mission has evidence that MEHL and MEC and their subsidiaries generate revenue that dwarfs that of any civilian-owned company[95] in Myanmar.[96] Significantly each of the holding companies owns a large bank.[97]

49. Through its investigation, the Mission has identified 106 businesses that it concluded on reasonable grounds are owned by MEHL and MEC, and a further 27 businesses that it

[90] For a number of other examples, see Judgment, *Taylor* (SCSL-04-01-T), Appeals Chamber, 26 September 2013, § 369. *See, e.g.*, *Flick* Case; *Bagaragaza* Sentencing Judgment, para. 25 (Bagaragaza provided a substantial amount of money for the purpose of buying alcohol to motivate the *Interahamwe* to continue with the killings).

[91] Additionally, where provided for in an applicable treaty or other international legal obligations, States should facilitate extradition or surrender offenders to other States and to appropriate international judicial bodies. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Basic Guideline and Principle 4 and 5.

[92] Case study 15 cited in Jennifer Zerk, "Corporate liability for gross human rights abuses: Towards a fairer and more effective system of domestic law remedies - A report prepared for the Office of the UN High Commissioner for Human Rights," OHCHR, 2012. For further details, see: Chiquita lawsuits (re Colombia), Business and Human Rights Resource Centre (https://www.business-humanrights.org/en/chiquita-lawsuits-re-colombia).

[93] The Mission has received credible analysis of the fiscal year 2016-2017, 2017-2018, and 2018-2019 regular and supplemental budgets for the Ministry of Defense. The analysis received suggests that while the Ministry of Defense declares earnings from other Tatmadaw-owned businesses, earnings from MEC (which is controlled by the Quartermaster General) are not declared in the Ministry of Defense budget.

[94] Digital record 2163. See paragraph 67 for information about the Ministry of Defence-owned "Golden City" residential development, and the Quartermaster General Office-owned land leased to the Sule Shangri-La Hotel and Sule Square commercial project in Yangon.

[95] Digital records 1999, 2000, 2001.

[96] Digital records 1999, 2000, 2001.

[97] See paragraph 65-66.

concluded on reasonable grounds closely affiliated with the MEHL and MEC through corporate structures.[98]

1. Background

50. Myanmar Economic Holding Limited (MEHL), formerly known as the Union of Myanmar Economic Holding Limited (UMEHL), was the first private company established in Myanmar following the 1988 military coup, during the rule of the military junta, first known as the State Law and Order Restoration Council (SLORC) and later the State Peace and Development Council (SPDC). MEHL has at least four declared objectives: the welfare of military personnel and their dependents, the welfare of war veterans and their dependents,[99] the welfare of the general public, and contributing to the economic development of Myanmar.[100] Since its establishment, MEHL has also served to secure control and generate profit for the Tatmadaw and its senior leadership.[101] Today, MEHL is a holding company with businesses in various industries, including gem production, banking, tourism and transport.[102] MEHL owns the Myawaddy Bank.[103]

51. Myanmar Economic Corporation (MEC) was established in 1997, with the declared objectives of contributing to Myanmar's economy, fulfilling the needs of the Tatmadaw, reducing defence spending and ensuring the welfare of military personnel.[104] Today, MEC is a holding company with businesses in the mining, manufacturing, and telecommunications sectors, as well as companies that supply natural resources to the Tatmadaw,[105] and operate factories producing goods for use by the Tatmadaw.[106] The MEC owns the Innwa Bank.[107]

2. Governance

52. Current and former high-ranking Tatmadaw officials, including those accused of some of the gravest crimes under international law, have apparent significant control and influence over the two holding companies and therefore over their subsidiaries.[108] The corporate

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98 See Annex II. Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC).

99 The Ministry of Information, 24 August 2015, "Furthermore, [the Senior-General] explained the following regarding the economic enterprises of Tatmadaw, Myanmar Economic Holdings Limited and Myanmar Economic Corporation (MEC): in other countries, there are economic enterprises backing the militaries, even though their operations are different, these enterprises fulfil the needs of their Tatmadaw; Myanmar Economic Holdings Limited is operating with an aim to help ease the needs of family members of Tatmadaw-men, veterans, citizens, and to support the economy of the Union." (https://www.moi.gov.mm/?q=news/24/08/2015/id-8254)

100 Maung Aung Myoe, *Building the Tatmadaw: Myanmar Armed Forces since 1948* (Institute of Southeast Asian Studies, Singapore, 2009).

101 Digital records 1999, 2000, 2001

102 See Annex II. Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC)

103 See Annex II. Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC)

104 The Ministry of Information, 24 August 2015, "Furthermore, [the Senior-General] explained the following regarding the economic enterprises of Tatmadaw, Myanmar Economic Holdings Limited and Myanmar Economic Corporation (MEC):... the enterprises of MEC save the budget of Tatmadaw, manufacture goods to support the Tatmadaw, these enterprises pay taxes to the Union in full, contribute to the "Easing the Tatmadaw" fund, including by supporting the soldiers injured from battles, building houses of the veterans, with the profits from the enterprises; MEC has returned all the shares of the Union; the private holdings have been gradually decreased, with an view to making them public, such as shares owned by the families of Tatmadaw-men, veterans, military units, and others who can participate..." (https://www.moi.gov.mm/?q=news/24/08/2015/id-8254).

105 "Doing business in Myanmar," Fourth Edition, PricewaterhouseCoopers, May 2016, pg. 15 (https://www.pwc.de/de/internationale-maerkte/assets/doing-business-in-myanmar-2016.pdf).

106 See Annex II. Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC).

107 See Annex II. Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC).

108 See Figure 1: Governance Structure of MEHL and MEC.

structure of both MEHL and MEC is highly opaque, however, the Mission was able to identify the composition of MEHL's Patron Group. Commander-in-Chief Senior General Min Aung Hlaing and Deputy Commander-in-Chief Vice Senior General Soe Win lead the Patron Group of the MEHL.[109] The Mission has named both as being responsible for crimes under international law[110] and the United States has sanctioned both individuals[111] due to their involvement in gross violations of human rights.[112]

53. While MEHL and MEC are not State-owned enterprises under Myanmar's Economic Enterprise Law,[113] all shares in MEHL are held and managed by current or former military officers, regiments and units, and organizations led by former servicemembers.[114] MEHL is a public limited company and MEC is a private limited company that is registered as a public holding company. This makes MEHL marginally more accountable than MEC, which operates in secrecy and is only accountable to the highest level of the Tatmadaw. While MEHL, MEC and MEC Ltd. have submitted annual filings to the Directorate of Investment and Company Administration (DICA) in line with the requirements under Section 27 of Myanmar's new Company Law, as well as financial statements, they are not required to public disclose such filings. A new DICA directive, which entered into force in February 2019 requires the submission of annual reports to DICA.[115]

54. Although little is known about MEHL's corporate governance, the company's Patron Group includes seven of the most senior members of the Tatmadaw. The Commander-in-Chief is the Chairman and the Deputy Commander-in-Chief (who is also the Commander in Chief of the Army) serves as the Vice Chairman. The Adjutant General is the Committee's Secretary. Its membership also includes the Joint Chief of Staff and the commanders-in-chief of the Navy and Air Force, as well as the Quartermaster General.[116] Additionally, MEHL has an eleven-person Board of Directors, of which seven are serving military officers and four are veterans. The Board of Directors is chaired by the Adjutant General and managed by the Director for Military Procurement. The Board also includes the Chiefs of Staff of the Army,

[109] Digital records 2005 and 2008; The Union of Myanmar Economic Holdings Ltd. (Ministry of Defense), Announcement of Status Change to a Public Company, 30 March 2016 "Announcement to Shareholders."

[110] A/HRC/39/CRP.2, paragraphs 1554 and 1555.

[111] U.S. Department of State, "Public Designation, Due to Gross Violations of Human Rights, of Burmese Military Officials," Press Statement by Michael R. Pompeo, 16 July 2019 (https://www.state.gov/public-designation-due-to-gross-violations-of-human-rights-of-burmese-military-officials/)

[112] See Annex II. Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation Mec.

[113] Andrew Bauer, Arkar Hein, Khin Saw Htay, Matthew Hamilton and Paul Shortell, "State-Owned Economic Enterprise Reform in Myanmar: The Case of Natural Resource Enterprises," Natural Resource Governance Institute, January 2018.

[114] Clare Hammond, "Military-owned MEHL applies to become public company," Myanmar Times, 1 April 2016 (https://www.mmtimes.com/business/19799-military-owned-mehl-applies-to-become-public-company.html), citing Announcement 90/2016 published in the Tatmadaw-run *Myawaddy* newspaper, signed by the MEHL board of directors, which states that all "A Type" shares, formerly held by the Ministry of Defense and Directorate of Defense Procurement, would be transformed into "B Type" shares, held by military personnel, ex-servicemen, regiments and units, and veterans organizations. For more information on MEC shareholders, which are exclusively active-duty military personnel, see Aung Min and Toshihiro Kudo, "Business Conglomerates in the Context of Myanmar's Economic Reforms," pg. 154.

[115] Thiha, "Companies Must Submit Annual Reports to DICA Starting February 2019," Consult-Myanmar, 17 September 2018 (https://consult-myanmar.com/2018/09/17/companies-must-submit-annual-reports-to-dica-starting-february-2019/); Nan Lwin, "Companies Law to Take Effect in Shadow of Rakhine Crisis, Civil War," The Irrawaddy, 28 June 2019 (https://www.irrawaddy.com/business/lauded-companies-law-to-take-effect-in-shadow-of-rakhine-crisis.html); Company Directors Guide: A Guide to the Myanmar Companies Law 2017, Directorate of Investment and Company Administration, see: "Submit an Annual Return Each Year" and "Lodgement of Forms and Documents".

[116] Digital record 2008.

Navy and Air Force, as well as the Inspector General and Judge Advocate General. Four representatives of the Myanmar War Veteran's Organization also sit on the board.[117]

55. MEC is reportedly fully owned and controlled by the Ministry of Defence and, as such, is a direct source of revenue for the military.[118] According to reports, MEC is controlled by the Tatmadaw's Quartermaster General's Office. MEC also has a wholly owned private subsidiary, Myanmar Economic Corporation Limited (MEC Ltd). The Board of MEC Ltd is reported to include the Chiefs of Staff of the Army, Navy and Air Force, the Defence Permanent Secretary and the Directors of the Directorates of Supply and Transport, Signals, and Electrical and Mechanical Engineers.[119] MEC Ltd is reported to be audited, whereas MEC is not.[120] Moreover, because DICA is not required to publicly disclose any financial or annual reports or filings received from MEC,[121] it is difficult to track financial flows between MEC and its subsidiaries, as well as sources of MEC revenues and where such revenue is spent.

3. Revenue

56. Information about the revenues of MEHL and MEC is scarce. Both holding companies were exempt from income and commercial tax between 1998 and 2011. To date they have never made their financial reports available to the public.[122] Much of the funds generated through MEC and MEHL bypasses formal government channels, with indications that billions of USD in government revenue from the oil and gas, copper, jade, rubies, amber and forestry sectors remain unaccounted for.[123] In the jade sector, in which MEHL and MEC are major players, investigations and analyses have found that jade worth tens of billions of USD is smuggled each year into China, while only a small fraction of jade is officially sold through the government-run Myanmar Gems Emporium and taxed.[124]

57. Tatmadaw-owned resource companies and government revenue collecting agencies publicly disagree on the amounts of tax paid by MEHL and MEC and their subsidiaries.[125] For MEC, the discrepancy between what the company reported paying and what the

[117] Digital record 2008; See Annex II. Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC).

[118] Michael Peel, "Myanmar: The Military-Commercial Complex," Financial Times, 2 February 2017 (https://www.ft.com/content/c6fe7dce-d26a-11e6-b06b-680c49b4b4c0).

[119] Digital record 2008.

[120] Digital record 2008.

[121] Thiha, "Companies Must Submit Annual Reports to DICA Starting February 2019," Consult-Myanmar, 17 September 2018 (https://consult-myanmar.com/2018/09/17/companies-must-submit-annual-reports-to-dica-starting-february-2019/); Nan Lwin, "Companies Law to Take Effect in Shadow of Rakhine Crisis, Civil War," The Irrawaddy, 28 June 2019 (https://www.irrawaddy.com/business/lauded-companies-law-to-take-effect-in-shadow-of-rakhine-crisis.html); Company Directors Guide: A Guide to the Myanmar Companies Law 2017, Directorate of Investment and Company Administration, see: "Submit an Annual Return Each Year" and "Lodgement of Forms and Documents".

[122] As of the date of publication, the financial reports of MEHL and MEC were not publicly available through the Directorate of Investment and Company Administration (DICA). This is despite MEHL's transition into a public company in 2016 and Myanmar's new Companies Law, which requires the registration of all companies and submission of corporate reporting to DICA. See paragraph 52 of this report.

[123] Discrepancies highlighted in Extractive Industries Transparency Initiative reports (https://eiti.org/document/myanmar-20152016-eiti-report) cited in Kevin M. Woods, "The Conflict Resource Economy and Pathways to Peace in Burma," USIP, November 2018.

[124] Global Witness, "Jade: Myanmar's Big State Secret," 23 October 2015.

[125] For examples of such differences in the 2016 and 2017 fiscal years, see: Myanmar Extractive Industries Transparency Initiative (MEITI): The Fourth Myanmar EITI Report For the Period 1 April 2016 to 31 March 2017 (FY 2016-2017), Oil and Gas, Gems and Jade, Other Minerals and Pearl, 30 March 2019 (https://myanmareiti.org/sites/myanmareiti.org/files/publication_docs/4th_meiti_report_30_march_2019_1.pdf), pgs. 164-165, 169.

government reported receiving amounted to Ks 9.8 billion (approximately 6.4 million USD), equating to two per cent of all extractive industry revenues collected nationwide each year.[126]

58. According to Deputy Defence Minister Major General Myint Nwe, the MEHL conglomerate was valued at Ks 161 billion (USD 119.4 million) in 2017.[127] While it is difficult to verify this estimate, due to lack of transparency and other factors, MEC, MEHL and their subsidiaries make sizable tax payments. MEC was the eleventh largest tax payer in Myanmar in 2017-2018, MEHL was the third largest and MEHL subsidiary, Myawaddy Bank, the second largest.[128] Even so, research suggests that their contribution to Myanmar's tax base is deficient and surpassed by the resources they contribute to the Tatmadaw.[129] This indicates that much of the revenue generated by military businesses in Myanmar is not captured by the State and is consequently available to subsidize military operations, many of which the Mission has documented as resulting in gross violations of international human rights law and serious violations of international humanitarian law.[130]

4. Contribution to the Tatmadaw

59. The degree to which business revenues fund Tatmadaw institutions, military operations or enrich its leadership, is not disclosed. However, credible analysis indicates that the Tatmadaw and its officials have a vested interest in armed conflict and violence as a way of maintaining their ability to capitalize on the conflict driven resource economy.[131] According to a U.S. Embassy diplomatic cable, MEHL and MEC function as "key components of the elaborate system of patronage the [Tatmadaw] uses to maintain power".[132]

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126 Myanmar Extractive Industries Transparency Initiative (MEITI): The Fourth Myanmar EITI Report For the Period 1 April 2016 to 31 March 2017 (FY 2016-2017), Oil and Gas, Gems and Jade, Other Minerals and Pearl, 30 March 2019 (https://myanmareiti.org/sites/myanmareiti.org/files/publication_docs/4th_meiti_report_30_march_2019_1.pdf).

127 Htet Naing Zaw, "Deputy Defense Minister: Perks Over for Military Businesses," The Irrawaddy, 3 May 2017 (https//www.irrawaddy.com/news/burma/deputy-defense-minister-perks-military-businesses.html).

128 Digital record 2005.

129 Digital record 2005.

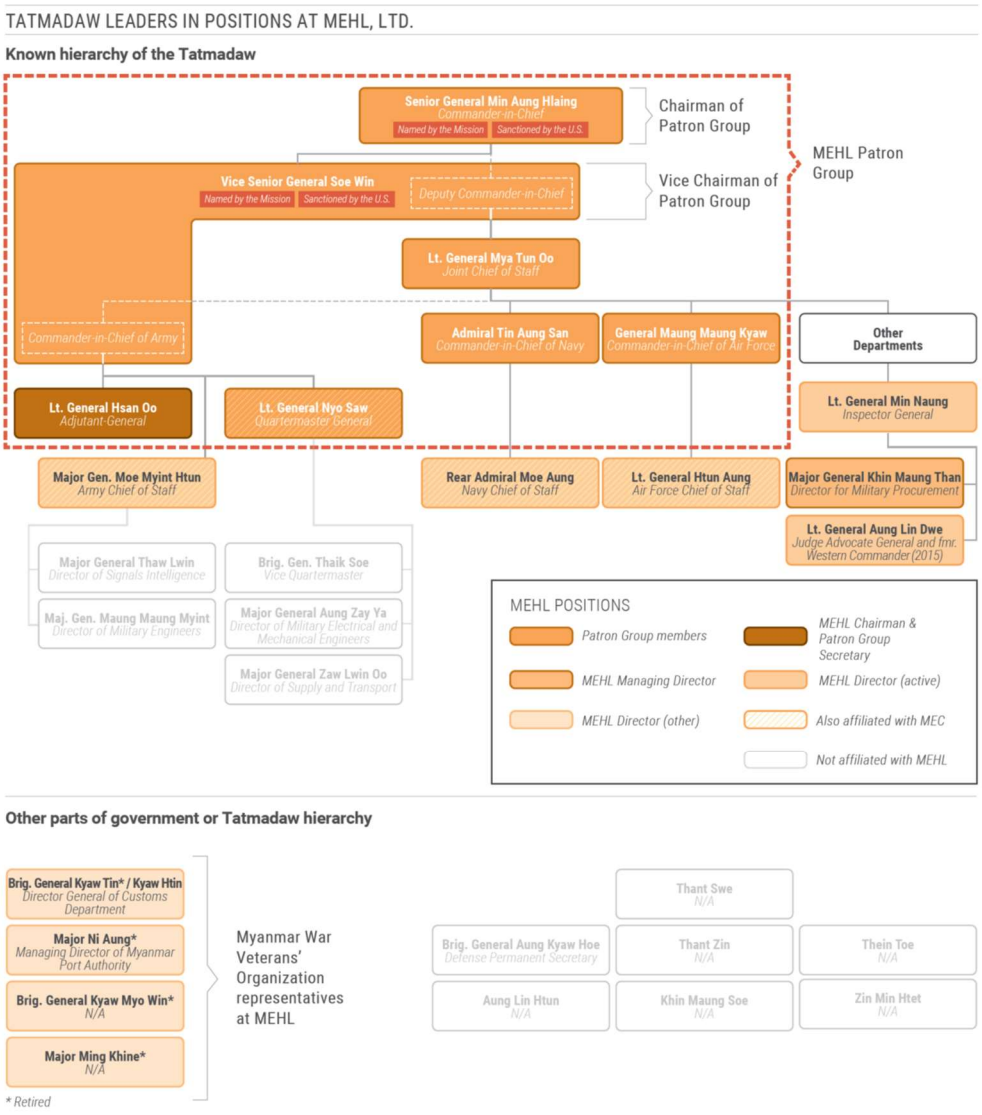
130 In spite of their outsized importance to the Myanmar economy, the Myanmar Internal Revenue Department reports that out of the nation's top 1,017 local taxpayers, MEC is ranked only 22nd for commercial tax and 13th for income tax, while MEHL is ranked slightly higher at 13th for commercial tax; 5th for income tax. Cited in Gerard McCarthy, "Military Capitalism in Myanmar: Examining the Origins, Continuities and Evolution of "Khaki Capital", Yusof Ishak Institute of Southeast Asian Studies (ISEAS) Trends Series, 2019.

131 Kevin M. Woods, "The Conflict Resource Economy and Pathways to Peace in Burma," USIP, November 2018.

132 "Update on Myanmar Economic Holdings' Activities", US State Department US Embassy in Rangoon, 6 February 2009, cited in "Myanmar: The Military-Commercial Complex," Financial Times, 2 February 2017 (https://www.ft.com/content/c6fe7dce-d26a-11e6-b06b-680c49b4b4c0)

60. The Tatmadaw's ability to supplement its budget with alternative sources of revenue, outside the official military budget, is a clear vehicle for bypassing civilian oversight. The Tatmadaw's official budget, which is subject to legislative approval and contributes to Tatmadaw salaries and procurement[133], has been gradually reduced since 2015.[134] While the amount of revenue that the Tatmadaw accrues from its economic activities remains unclear, it is indisputable that its holding companies and their subsidiaries and its relationships with State-owned enterprises and private businesses contribute to funding the Tatmadaw's leadership and operations. Examples examined in this report, such as company donations to Tatmadaw operations, illustrate the ability of the Tatmadaw to generate funds outside the official budget, thereby evading legislative approval and control.[135]

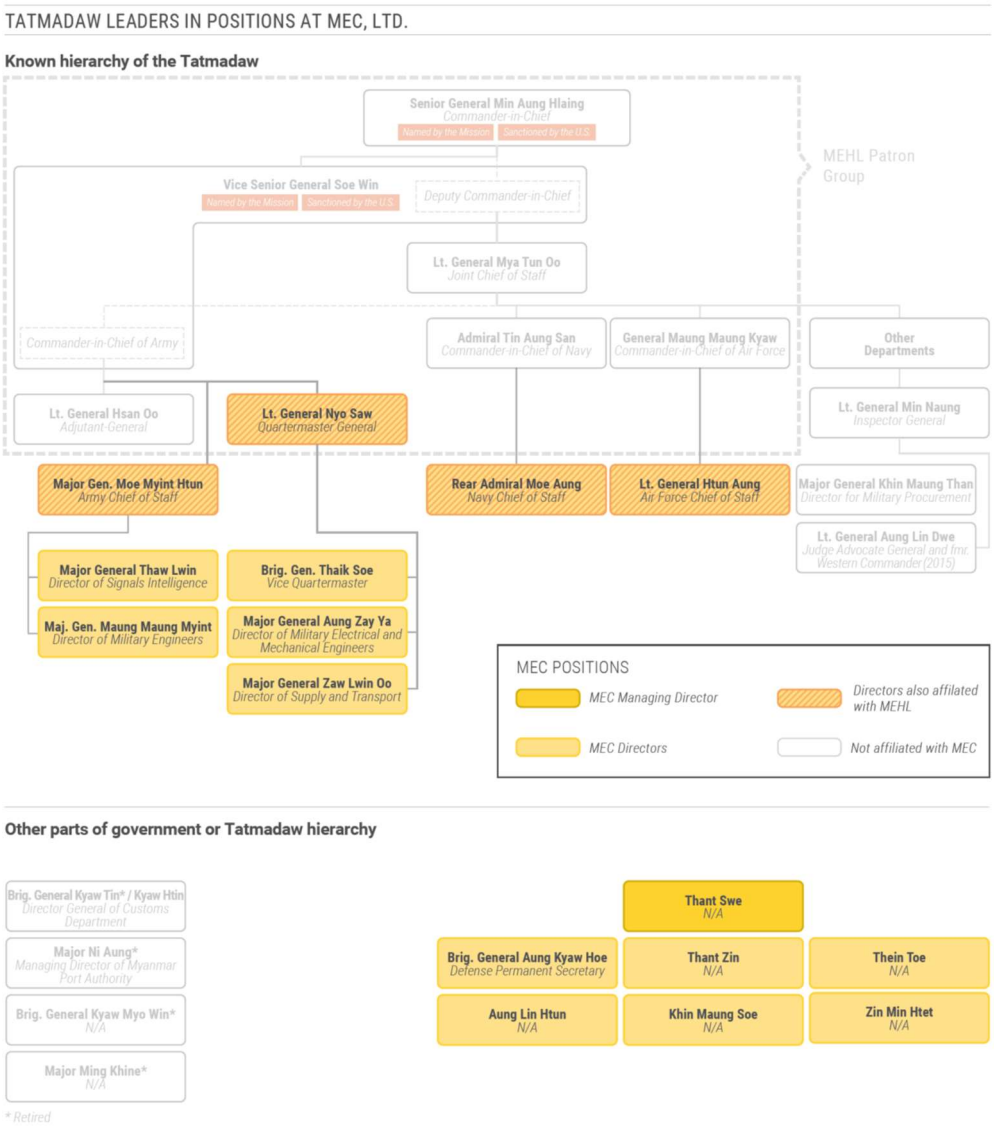
Figure 1: Governance Structure of MEHL and MEC



133 Gerard McCarthy, "Military Capitalism in Myanmar: Examining the Origins, Continuities and Evolution of "Khaki Capital", Yusof Ishak Institute of Southeast Asian Studies (ISEAS) Trends Series, 2019, p. 23.

134 SIPRI Military expenditure by country as percentage of gross domestic product, 1988-2018. Myanmar's military expenditure in 2015 was 4.1% of GDP, in 2016 3.7% of GDP, in 2017 3.2% of GDP, and in 2018 2.9% of GDP.

135 See paragraphs 115-127.



B. MEHL and MEC subsidiaries

61. Through its investigations, the Mission identified 106 military businesses that it concluded on reasonable grounds are fully owned by MEHL and MEC, among them 45 subsidiaries of MEHL and 61 subsidiaries of MEC. The Mission identified a further 27 businesses that it concluded on reasonable grounds are affiliated with MEHL and MEC through their corporate structures. The Mission is certain that it has not been successful in identifying all MEHL and MEC subsidiaries.

62. Identified MEHL subsidiaries span a diverse range of industries, including ruby and jade mining, cement manufacturing, construction, tourism, banking and insurance. MEHL businesses are structured into three departments: service, trade and production. The MEHL service department is led by Major General Aung Ye Win, a retired member of the Tatmadaw, who serves as a managing director.[136] The trade department is led by Dr. Tun Zan Aung, a

[136] The Union of Myanmar Economic Holdings Ltd. (Ministry of Defense), Announcement of Status Change to a Public Company, 30 March 2016 "Announcement to Shareholders" and 6 May 2019 summary of governance structure.

director. The production department is led by Colonel Win Kyi, a retired Tatmadaw officer, and deputy managing director.[137]

63. Under the production department, MEHL has 41 factories, including for the production of palm oil, sugar, soap and cement. Some of these factories supply others as part of an integrated production business. For example, the MEHL Kanpauk Oil Palm Estate and Palm Oil Mill Project in Tanintharyi Region produce raw oil for the MEHL Padonma Soap Factory in Mon State.[138] The Mission has also identified MEHL subsidiaries under its service and trade departments. MEHL subsidiaries include three beverage and drinking water companies, four companies producing construction materials, three construction businesses, five businesses in finance and insurance, four companies in the food, agriculture and fisheries sectors, two companies in the tourism sector and five trade and logistics firms. In the mining and gems sector, MEHL has 31 companies, including subsidiaries specializing in the extraction of jade and rubies.[139]

64. MEC subsidiaries are equally diverse but with a greater focus on the production of raw materials, including coal and gas, and manufacturing. Among the subsidiaries, the Mission identified five companies in the finance and insurance sector, eight food production companies, seven companies producing raw materials and six companies in the telecommunications sector. These sectors are consistent with information that the Mission received characterizing MEC as a conglomerate that supplies natural resources to the Tatmadaw and operates factories manufacturing goods for use by the Tatmadaw.[140]

65. Among their subsidiaries, MEHL and MEC also operate two of Myanmar's largest private banks.[141] Established in 1993, Myawaddy Bank is owned by MEHL. As of March 2016, the International Finance Corporation of the World Bank reported Myawaddy Bank to have Ks 1.3 trillion in total assets (855 million USD), making it the fourth largest private bank in Myanmar.[142] Its shares are held by serving and retired military personnel and related organizations such as the Veterans' Associations.[143] According to the German development agency Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, in May 2018, Infosys, an Indian multinational corporation, partnered with Myawaddy Bank to provide it digital banking software.[144] Separately, MEC owns Innwa Bank, which was established in 1997.[145] GIZ found that Innwa Bank Limited is managed by retired and active

[137] The Union of Myanmar Economic Holdings Ltd. (Ministry of Defense), Announcement of Status Change to a Public Company, 30 March 2016 "Announcement to Shareholders" and 6 May 2019 summary of governance structure.

[138] Lundsgaard-Hansen LM, Tun NN. 2018. Voices of Land from Southern Myanmar: Kanpauk Oil Palm Estate and Palm Oil Mill Project of Myanmar Economic Holdings Limited. Voices of Land from Southern Myanmar, Working Paper No. 3. Bern, Switzerland: Centre for Development and Environment (CDE), University of Bern.

[139] For further information, see Annex III. MEHL jade and ruby mining companies.

[140] See Annex II. Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC); and Annex III. MEHL jade and ruby mining companies.

[141] John Schellhase and Lena Sun, "The Banking Sector in Myanmar: An Assessment of Recent Progress," Milken Institute, August 2017 (https://assets1c.milkeninstitute.org/assets/Publication/Viewpoint/PDF/083117-MyanmarBanking.pdf).

[142] Elisa Minischetti, Margarete Biallas, Vanessa Vizcarra "IFC MOBILE MONEY SCOPING COUNTRY REPORT: MYANMAR," International Finance Corporation, World Bank Group, October 2017 (https://www.ifc.org/wps/wcm/connect/6f852818-47db-4f08-9b88-b57209b791c9/Myanmar+Market+Scoping+Report.pdf?MOD=AJPERES)

[143] Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, "Myanmar's Financial Sector A Challenging Environment for Banks," 3rd edition, 2016 (https://www.giz.de/en/downloads/giz2016-en-Banking_Report.pdf).

[144] Infosys Limited, "Myawaddy Bank, Myanmar Selects Infosys Finacle to Power its Digital Transformation," 3 May 2018 (https://www.prnewswire.com/in/news-releases/myawaddy-bank-myanmar-selects-infosys-finacle-to-power-its-digital-transformation-681600911.html). See Annex V. Foreign companies in commercial partnerships with MEHL and MEC.

[145] Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, "Myanmar's Financial Sector A Challenging Environment for Banks," 3rd edition, 2016 (https://www.giz.de/en/downloads/giz2016-en-Banking_Report.pdf).

military officers of the Tatmadaw, and it acts as a financial vehicle for the affiliates and subsidiaries of MEC.[146]

66. While it remains unclear how much profit Myawaddy and Innwa banks generate for the Tatmadaw, they provide an important means for MEHL and MEC, their subsidiaries and their owners to access the international banking system, even when U.S. sanctions remained in place against their parent companies, MEHL and MEC.[147] By providing a public banking service, they also provide mechanisms by which the Tatmadaw can draw funds, sometimes compulsorily, from soldiers, military veterans and other Myanmar residents to fund their operations.

67. MEHL and MEC subsidiaries have a wide range of commercial activities across various industries throughout Myanmar. Many benefit from joint ventures with domestic Myanmar businesses. As discussed later in this report, MEHL and MEC subsidiaries are extensively involved in the extraction of jade and rubies in Kachin and Shan States.[148] Some of those subsidiaries, however, operate in other parts of the country and in other extractive industries. For example, MEHL's wholly owned subsidiary Myanmar Ruby Enterprise has a joint venture with a private company, Geo – 70 Co. Ltd., for the extraction of an "industrial raw material" in Sin Phyu Daing, in Dawei Township, Dawei District, Tanintharyi Region.[149]

68. MEHL and MEC subsidiaries, as well as the Tatmadaw directly, own sizable amounts of land throughout Myanmar – much of it highly valuable real estate, generating a major revenue stream. The Mission received credible information that these include MEHL-owned Pyinmabin Industrial Zone in Yangon, the Ministry of Defence-owned "Golden City" residential development in Yangon, and the Quartermaster General Office-owned land leased to the Sule Shangri-La Hotel and Sule Square commercial project.[150] Some foreign companies entering the Myanmar market rent their premises in MEHL, MEC and Tatmadaw owned or leased commercial real estate. One example is Telenor, a Norwegian telecommunications company and the largest 4G network provider in Myanmar with offices in Sule Square, Yangon.[151] MEHL and MEC subsidiaries are also involved in the tourism industry. For example, MEHL operates Myawaddy Travels and Tours Co. Ltd. and Nawadae Hotel and Tourism Ltd.; MEC also runs the Okkala Golf Resort.[152]

69. MEHL and MEC subsidiaries are also allegedly linked through familial ties to the Tatmadaw leadership.[153] The Mission received confidential submissions containing details of

[146] Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, "Myanmar's Financial Sector A Challenging Environment for Banks," 3rd edition, 2016 (https://www.giz.de/en/downloads/giz2016-en-Banking_Report.pdf).

[147] Sean Gleeson, "US eases sanctions on banks, little joys for tycoons," Frontier Myanmar, 17 May 2016 (https://frontiermyanmar.net/en/news/us-eases-sanctions-banks-little-joy-tycoons); US Department of the Treasury, "Issuance of Executive Order Terminating Burma-related Sanctions Program; Burma-related Designations Removals," 7 October 2016 (https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20161007.aspx).

[148] For further information, see Annex III. MEHL jade and ruby mining companies.

[149] Reference No. 5/3/Ah Kha Ya/Pai (2124/2018), "Submitting MEHL's information and data for EITI process," 25 June 2018 (https://myanmareiti.org/files/uploads/mehl_information_data_for_eiti.pdf)

[150] Digital record 2005.

[151] "Telenor now largest 4G network in Myanmar," The Myanmar Times (https://www.mmtimes.com/news/telenor-now-largest-4g-network-myanmar.html); "Norwegian Minister of International Development visited Telenor Myanmar," Telenor, 27 March 2019 (https://www.telenor.com.mm/en/article/norwegian-minister-international-development-visited-telenor-myanmar).

[152] See Annex II. Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC)

[153] See Annex IV. List of donors and details of donations solicited by the Tatmadaw in September 2017

these relationships,[154] which it has not been able to substantiate given the lack of MEHL and MEC corporate reporting to the Directorate of Investment and Company Administration (DICA).

70. These subsidiaries benefit the Tatmadaw both through the revenues they generate for MEHL and MEC and also more directly as described in the section below concerning other principal means of contributing to Tatmadaw operations and wealth.

C. Tatmadaw's role and interests in State-owned enterprises

71. The Tatmadaw also benefits from relationships that MEHL and MEC have with Myanmar's State-owned enterprises (SOEs) both in and outside of the extractive sector. State-owned enterprises play a dominant role in Myanmar's economy, generating about half the government's revenue, spending half the government's budget and regulating much of the formal economy. The natural resource SOEs — namely the Myanmar Oil and Gas Enterprise (MOGE), the three Myanmar Mining Enterprises (ME1, ME2, and ME3), Myanmar Gems Enterprise (MGE) and Myanmar Timber Enterprise (MTE) — are some of the largest and most powerful of these entities.[155] Their finances, however, remain largely opaque.

72. Myanmar's SOEs have direct business relationships with MEHL and MEC. One instructive example is in the coal mining industry. According to Myanmar EITI, a coal mine in Kyauk Ohn Chaung, Kalaywa, Sagaing State is operated by Htoo Han Thit Co. Ltd. with proceeds from the mine divided with 31.5 per cent going to the SOE Mining Enterprise 1 (ME1), 67.5 per cent to Htoo Han Thit Co. Ltd. and one per cent to MEHL.[156]

73. SOEs also have relationships with MEHL and MEC subsidiaries in other extractive industries. According to MEHL records, in Kayah State, MEHL's wholly owned subsidiary Kayah State Mineral Production Co. Ltd. has a strong business relationship with Ye Htut Kyaw Mining Extracting Co. Ltd., with the MEHL subsidiary Kayah State Mineral Production Co. Ltd. receiving a 13 per cent share of production of minerals, including tin, tungsten and scheelite, Ye Htut Kyaw Mining Extracting Co., Ltd. receiving a 54 per cent share and the SOE ME2 receiving the remaining 33 per cent.[157]

74. Apart from the revenue they generate through their partnerships with MEHL, MEC and their subsidiaries, SOEs may also benefit the Tatmadaw more directly. As a result of reforms implemented in the 1990s and in 2012 through which the government granted SOEs greater financial autonomy, SOEs have adopted a practice of amassing large reserves in independent accounts that carry over from one year to the next. As a result, a significant portion of revenues from extractive industries in the oil and gas, gems and timber sectors are retained by SOEs under a budget line known as "Other Accounts". "Other Accounts" are considered to be a SOE's own funds and are held for the purpose of its exclusive operations and capital investment.[158] The Mission reviewed credible reports that the "Other Accounts"

[154] Digital record 2005.

[155] Andrew Bauer, Arkar Hein, Khin Saw Htay, Matthew Hamilton and Paul Shortell, "State-Owned Economic Enterprise Reform in Myanmar: The Case of Natural Resource Enterprises," Natural Resource Governance Institute, pg. 8. Myanmar's natural resource State-owned enterprises are powerful in large part due to the 1989 State-owned Economic Enterprises Law, which grants them a monopoly in various industries.

[156] Myanmar Extractive Industries Transparency Initiative (MEITI): The Fourth Myanmar EITI Report For the Period 1 April 2016 to 31 March 2017 (FY 2016-2017), Oil and Gas, Gems and Jade, Other Minerals and Pearl, 30 March 2019 (https://myanmareiti.org/sites/myanmareiti.org/files/publication_docs/4th_meiti_report_30_march_2019_1.pdf), pg. 72.

[157] Reference No. 5/3/Ah Kha Ya/Pai (2124/2018), "Submitting MEHL's information and data for EITI process," 25 June 2018 (https://myanmareiti.org/files/uploads/mehl_information_data_for_eiti.pdf).

[158] Natural Resource Governance Initiative, "Who gets Myanmar's oil and gas revenues? Understanding MOGE's "other accounts," March 2016

of SOEs are used to spread benefits to a network of private political patrons that support the government.[159] A clear example of this dynamic is the SOE Myanmar Gems Enterprise, whose leadership is dominated by former military officials, which the media has reported as being responsible for protecting the interests of Tatmadaw and Tatmadaw-linked businesses in the jade sector.[160] The Mission notes, however, the recent announcement by the Government that the "Other Accounts" of the extractive industry State-owned economic enterprises will be abolished and all their income will be transferred to the Union Government.[161]

D. Tatmadaw-linked private Myanmar companies and conglomerates

75. In 1998 the State Law and Order Restoration Council (SLORC) seized control of government operations, commencing a new period of Tatmadaw rule and partial liberalization of Myanmar's economy.[162] This came in response to widespread anti-government protests against human rights violations, high levels of corruption and economic mismanagement by the Burma Socialist Programme Party regime of Senior General Ne Win. During this period of partial economic liberalization, the SLORC fostered a political and economic system where connections with political leadership, rather than productivity and competitiveness, led to the success of private enterprises. This, in turn, gave rise to corruption and the inequitable distribution of public resources, promoting the growth of a number of private companies and conglomerates that profited from preferential treatment by the ruling military junta in exchange for political loyalty, and thus became known as "crony companies."[163]

76. Today, despite the changes in the political and economic landscape in Myanmar, the Tatmadaw, its conglomerates MEHL and MEC, and a number of crony companies remain closely linked through economic, commercial, familial, political and operational relationships that directly or indirectly benefit the Tatmadaw and its leadership. The Mission regards the following conglomerates as among the largest crony companies in Myanmar: Asia World Group, Eden Group, First Myanmar Group of Companies, Htoo Group, IBTC, IGE Group, Kanbawza Group (KBZ Group), Loi Hein, Max Myanmar, Shwe Taung, and Shwe Than Lwin Group.[164] Many but not all of these crony companies contributed financial support to the Tatmadaw in the form of donations solicited by the senior Tatmadaw leadership to support its operations in northern Rakhine, following the commencement of the "clearance operations" against the Rohingya in northern Rakhine on 25 August 2017.[165]

(https://resourcegovernance.org/sites/default/files/documents/infobooklet-moge-other-accounts-english.pdf).

159 Patrick R.P. Heller and Lorenzo Delesgues, "Gilded Gatekeepers: Myanmar's State-Owned Oil, Gas and Mining Enterprises," Natural Resource Governance Initiative, pg. 2. (https://resourcegovernance.org/sites/default/files/documents/nrgi_myanmar-state-owned-enterprises_full-report.pdf).

160 Daniel Pye, "The dark shadow of Myanmar's jade trade," 26 September 2016, Financial Times (https://www.ft.com/content/cf46e086-6909-11e6-a0b1-d87a9fea034f).

161 The Republic of the Union of Myanmar, President Office, "President U Win Myint addresses Finance Commission meeting 3/2019," 18 June 2019 (http://www.president-office.gov.mm/en/?q=briefing-room/news/2019/06/18/id-9397).

162 For further details, see A/HRC/39/CRP.2, paragraphs 73-75. D. Steinberg, *Myanmar: The Anomalies Of Politics And Economics,* The Asia Foundation Working Paper Series - Working Paper #5 (1997).

163 For more information, see Aung Min and Toshihiro Kudo, "Business Conglomerates in the Context of Myanmar's Economic Reforms."; Michael Peel, "Myanmar: The Military-Commercial Complex," Financial Times, 2 February 2017 (https://www.ft.com/content/c6fe7dce-d26a-11e6-b06b-680c49b4b4c0).

164 For more information, see Aung Min and Toshihiro Kudo, "Business Conglomerates in the Context of Myanmar's Economic Reforms"; Michael Peel, "Myanmar: The Military-Commercial Complex," Financial Times, 2 February 2017 (https://www.ft.com/content/c6fe7dce-d26a-11e6-b06b-680c49b4b4c0); "Tracking the Tycoons," The Irrawaddy, September 2008 (https://www2.irrawaddy.com/article.php?art_id=14151&page=1).

165 See Annex IV. List of donors and details of donations solicited by the Tatmadaw in September 2017.

77. Mining operations provide a clear illustration of the strong business interests of MEHL, MEC and its subsidiaries in crony companies. For example, according to Myanmar EITI and corporate records, MEHL entered into an arrangement whereby it is allocated 20 per cent of the production of the Jing Hpaw Aung Jade mine in Kantee, Sagaing Region, which is licensed to the KBZ Group.[166]

78. The links between domestic companies and MEHL, MEC and its subsidiaries are also reportedly familial. Ne Aung, the founder and chairperson of IGE Group, is reportedly the brother of Rear Admiral Moe Aung, the Chief of Staff of the Myanmar Navy and director of MEHL, MEC Ltd and some of their subsidiaries. IGE Group is a major conglomerate operating across various sectors including forestry, agriculture, construction and energy. IGE Group is also involved in Mytel, the MEC telecommunications joint venture and Myanmar's fourth largest telecommunications network service provider.[167]

79. There are also serious allegations of crony companies concealing the wealth of the Tatmadaw and its leadership. These allegations require further investigation. The Mission notes however that the Managing Director of Asia World Group, Steven Law (also known as Htun Myint Naing), has been accused by the U.S. Government of involvement in laundering money for the Tatmadaw.[168] Asia World has three "overseas branch companies" in Singapore, run by Steven Law[169] and his spouse Cecilia Ng, a Singaporean national. More than half of Singapore's investment in Myanmar reportedly goes through partnerships with Asia World Group, totalling more than USD 1.3 billion.[170]

IV. Tatmadaw and the extractive industry

80. Tatmadaw economic activity in some sectors is linked to its military strategy. This is particularly evident in the Tatmadaw's involvement in jade and ruby mining in Kachin and Shan States, where its economic interests overlap with its military objectives. The Tatmadaw's "Four Cuts" counterinsurgency policy, in place since the 1960s, is aimed at cutting off non-State armed groups from access to food, finances, intelligence and recruits from the local civilian population.[171] The policy is consistent with the Tatmadaw "clearance operations", which include scorched earth campaigns in which large numbers of civilians are

[166] Myanmar Extractive Industries Transparency Initiative (MEITI): The Fourth Myanmar EITI Report For the Period 1 April 2016 to 31 March 2017 (FY 2016-2017), Oil and Gas, Gems and Jade, Other Minerals and Pearl, 30 March 2019 (https://myanmareiti.org/sites/myanmareiti.org/files/publication_docs/4th_meiti_report_30_march_2019_1.pdf), pg. 72. The Mission has identified 47 companies in which Aung Ko Win, the owner of the KBZ Group, serves as an officer, and another 23 companies in which his wife, Daw Nang Than Htwe, serves as an officer. The corporate records are on file with the Mission.

[167] See Annex IV. List of donors and details of donations solicited by the Tatmadaw in September 2017.

[168] Earthrights International 2011. "The Burma-China Pipelines: Human rights Violations, Applicable Law, and Revenue Secrecy." March, p. 4; and U.S. Department of Treasury, Specially Designated Nationals and Blocked Persons, 25 February 2011 (http://www.treasury.gov/ofac/downloads/t11sdn.pdf).

[169] Aung Min and Toshihiro Kudo, "Business Conglomerates in the Context of Myanmar's Economic Reforms," p. 147. Steven Law is the son of Lo-Hsing Han. He and his father were previously sanctioned by the US. He is the director of Asia World Group, which would own 5 per cent of the controversial Myitsone Dam with 80 per cent being held by the State Power Investment Corporation (SPIC) of Yunnan and 15 per cent by Myanmar's Ministry of Electricity and Energy (MOEE).

[170] Aung Min and Toshihiro Kudo, "Business Conglomerates in the Context of Myanmar's Economic Reforms," p. 147; "Thiha Ko Ko, "Singapore tops list of foreign direct investors," The Myanmar Times, 28 March 2019 (https://www.mmtimes.com/news/singapore-tops-list-foreign-direct-investors.html).

[171] For more information see, A/HRC/39/CRP.2, paragraph 1367; XM-009, XM-010; Maung Aung Myoe, *Building the Tatmadaw: Myanmar Armed Forces since 1948* (Institute of Southeast Asian Studies, Singapore, 2009); Andrew Selth, *Burma's Armed Forces: Power Without Glory* (EastBridge, 2002).

killed and entire villages are destroyed, leading to mass displacement.[172] In natural resource-rich Kachin, Shan and Rakhine States, policies consistent with the "Four Cuts" strategy, aiming to gain control of resources while cutting-off resources and revenue to armed groups, have also been implemented through business activities in the extractive industries, which generate revenue for the Tatmadaw.

81. As previously reported by the Mission, many violations of international human rights law and international humanitarian law have been committed within the context of the exploitation of natural resources or development projects by parties to the armed conflicts, including the Tatmadaw.[173] Some interviewees asserted that the Tatmadaw targeted them because they had witnessed illegal timber exploitation[174] or that they were tortured because the Tatmadaw wanted information on access to mines located in areas controlled by the Kachin Independence Army (KIA).[175] Victims and witnesses of hostilities in Tanai Township, Kachin State, in 2017 and 2018 said that the overall objective of the Tatmadaw operations was to destroy the KIA's economy by appropriating amber and mining resources under KIA control.[176] The Mission also investigated a case from October 2015 of the Tatmadaw shooting at a group of villagers as they approached a gold mine in Tachilek Township in eastern Shan State. One man was shot and killed as a result. The group had walked to the mining area with a plan of discussing with company management concerns they had about the mine's environmental hazards, including possible contamination of water sources.[177]

82. As another example, though outside Kachin and Shan States, the Mission verified that on 20 December 2017 Tatmadaw soldiers killed three Karenni National Progressive Party (KNPP)/Karenni Army members and one civilian at a KNPP checkpoint in Kayah State.[178] The Tatmadaw soldiers held the men at the checkpoint and executed them on the spot. One KNPP member managed to escape and is now in hiding. The Mission has reasonable grounds to conclude that the victims were unlawfully killed because they observed the Tatmadaw transporting illegally logged timber.[179]

A. Tatmadaw, MEHL and MEC involvement in jade and ruby mining in Kachin and Shan States

83. To understand better the nature and consequences of the Tatmadaw's economic operations generally, the Mission examined more closely the involvement of the Tatmadaw and its holding companies in jade and ruby mining in Kachin and Shan States. The Tatmadaw benefits from and supports extractive industry businesses operating in conflict-affected areas in northern Myanmar, at a significant human cost. These industries include natural resources, particularly oil and gas, minerals and gems. According to the most up-to-date figures available to the Mission, in 2015-2016 the extractive sector accounted for 6 per cent of Myanmar's GDP, 20 per cent of State revenue and 47.6 per cent of exports.[180] The extractive

[172] XM-010, XM-009, XM-012; also, International Human Rights Clinic at Harvard Law School, *Legal Memorandum: War Crimes and Crimes Against Humanity in Eastern Myanmar* (2014). International Human Rights Clinic at Harvard Law School, "*Preventing Indiscriminate Attacks and Wilful Killings of Civilians by the Myanmar Military*" (2014).

[173] A/HRC/39/CRP.2, paragraph 111. PI-013, PI-022, PI-026, PI-032, PI-039, PI-048, PI-054, PI-061, PI-077, PI-103, QI-080.

[174] For example, PI-039, PI-048.

[175] For example, PI-054; for further information on the Kachin Independence Army (KIA), see: A/HRC/39/CRP.2, paragraphs 52, 53.

[176] For example, PI-043, PI-049, PI-054.

[177] GI-050, GI-001, GI-002.

[178] K-135, PI-039, PI-048.

[179] A/HRC/39/CRP.2, paragraph 113.

[180] "Extractive industries contribution," Extractive Industries Transparency Initiative Myanmar (https://eiti.org/myanmar#extractive-industries-contribution).

sector is the second largest source of foreign direct investment in Myanmar, with gas and gems being the two main revenue-generating commodities.[181]

84. One of the close, mutually beneficial relationships that the Mission has documented is between the Tatmadaw and mining businesses in Kachin and Shan States, in areas which have been affected by hostilities in the ongoing non-international armed conflict.[182] Currently, much of MEHL and MEC's involvement in mining is in Kachin and Shan States. The Mission has identified 23 MEHL subsidiaries involved in jade and ruby mining.[183]

85. The Tatmadaw's economic imprint extends beyond MEHL, MEC and their subsidiaries, particularly in northern Myanmar where the Tatmadaw operates other, distinct companies. For example, the Mission received information from a credible source that the Myanmar Northern Star Company, which is involved in jade mining in Hpakant, Kachin State, was founded by the Tatmadaw's Northern Command as a way to supplement Tatmadaw revenues.[184] Similar to MEHL and MEC, these other companies provide revenue to support regional Tatmadaw activities and operations, fuel conflict in mining areas and pose a barrier to civilian oversight of the Tatmadaw.[185] This is consistent with research that has found that since the early 2000s, higher-level Tatmadaw officials have granted land and resource concessions in Kachin and Shan States as a way to generate personal revenue and develop a political and economic power base.[186]

1. Tatmadaw involvement in jade mining areas in Kachin State

(a) Hpakant Township

86. Jade mining areas and jade export routes from Kachin State to China have become heavily militarized, particularly since the Tatmadaw resumed hostilities against the KIA in June 2011, breaking a 17-year ceasefire. A recent *US Institute of Peace* report observed, "The jade mines in Hpakant have become a battlefield in two senses of the word: over who has the right to engage in rent-seeking opportunities, and as a war to push out the Kachin Independence Army (KIA) units from jade-producing (and taxing) areas".[187]

87. The Mission received accounts that illustrate the human rights consequences of the Tatmadaw's heavy presence around jade mining areas in Hpakant Township, in addition to turf battles that result in direct hostilities. Victims provided the Mission with consistent accounts of being subjected to arbitrary detention and physical violence at the hands of Tatmadaw soldiers in Hpakant.[188] In 2016, for example, a "hand-picker" working at a jade mine in Hpakant said he was detained by Tatmadaw soldiers when passing through a checkpoint. The soldiers searched him, looking for raw jade. When the man told them he had no jade, he was beaten, his feet were cuffed and he was detained in a makeshift tent near a checkpoint for one night. Tatmadaw soldiers identified as being part of Northern Command were present at the checkpoint.[189] Another interviewee who worked as a miner for a jade

[181] "EITI REPORT FOR THE PERIOD APRIL 2014 - MARCH 2015 OIL, GAS AND MINING SECTORS," Myanmar Extractive Industries Transparency Initiative (MEITI), March 2018 (http://themimu.info/sites/themimu.info/files/documents/Report_Myanmar_Extractive_Industries_Transparency_Initiative_Report_2014-2015.pdf).

[182] A/HRC/39/CRP.2, paragraph 1513.

[183] See Annex III. MEHL jade and ruby mining companies.

[184] Digital record 2005.

[185] Digital record 2005; Global Witness, "Jade mining concessions in the Lone Khin area of Hpakant" in "Jade: Myanmar's Big State Secret," 23 October 2015, p. 31.

[186] Kevin Woods, "The Conflict Resource Economy and Pathways to Peace in Burma," US Institute of Peace, November 2018.

[187] Kevin Woods, "The Conflict Resource Economy and Pathways to Peace in Burma," US Institute of Peace, November 2018, pg. 15.

[188] PI-004.

[189] DI-064; Tatmadaw violations against jade "hand-pickers" have also been documented by the Special Rapporteur on the situation of human rights in Myanmar, who reported that "In November 2018, three jade pickers were reportedly killed by Tatmadaw soldiers." See A/HRC/40/68, paragraph 6.

mining company in Hpakant was subjected to similar searches by the Tatmadaw in 2013.[190] The Mission also received allegations that soldiers of the Light Infantry Division (LID) 33 stationed in Hpakant Township in 2013 looted civilian livestock.[191] The Mission identified LID 33 as one of the divisions most responsible for the crimes under international law perpetrated in northern Rakhine State from August to December 2017.[192]

88. In addition to the Tatmadaw's violations of international human rights law and international humanitarian law and the risk of hostilities erupting around mining areas, investigative journalists have found that the working conditions at the jade mines in Hpakant Township are highly hazardous.[193] According to the Ministry of Natural Resources and Environmental Conservation, more than 400,000 people work in the gemstone mines in northern Myanmar as "hand-pickers".[194] "Hand-pickers" or "kinase" have historically been women and children, but increasingly scarce jobs have pushed more men into these roles.[195] The *New York Times* reported that a July 2018 landslide in Hpakant Township killed 18 miners and injured a further 100 at a jade mine owned by a company associated with U Ohn Myint, a former commander of Northern Command and former Minister of Mining.[196] U Ohn Myint's jade mining company, Myanmar Win Gate, partners with MEHL.[197]

(b) Tanai Township

89. The Mission has documented how the Tatmadaw's Northern Command, from the rank-and-file to the commander level, profits from the jade industry in the areas under its control in Tanai Township, Kachin State.[198] The militarization of mining areas manifests through a network of Tatmadaw checkpoints, which have been sites of international human rights and international humanitarian law violations against jade miners.

90. Since November 2017 the Tatmadaw and the KIA have engaged in armed conflict around the amber and gold mines near Noije Bum hill, south of Tanai town, resulting in civilian casualties.[199] Additionally, the Mission documented civilians being abducted into forced labour in Tanai by the Tatmadaw in 2016.[200]

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190 QI-083.

191 DI-067; GI-028 corroborates that the LID 33 was stationed in Hpakant, Kachin State, at least until July 2018.

192 A/HRC/39/CRP.2, paragraphs 1544, 1555.

193 Hannah Beech, "Battling for Blood Jade," TIME Magazine, 9 March 2017 (https://time.com/battling-for-blood-jade/)

194 International Growth Centre, Artisanal Jade Mining in Myanmar, 2017 (https://www.theigc.org/project/artisanal-jade-mining-myanmar)

195 Mia Newman, "Multifaceted: Governance and Conflict Risks in Myanmar's Ruby Industry," Natural Resource Governance Institute, March 2018 (https://resourcegovernance.org/sites/default/files/documents/multifaceted-goverance-and-conflict-risks-in-myanmar-ruby-industry.pdf)

196 "Gems, jade net $2.8b," 4 April 2011, The Myanmar Times (https://www.mmtimes.com/business/3118-gems-jade-net-2-8b.html) Hannah Beech and Saw Nang, "Dozens Swept Away in Myanmar Landslide While Hunting for Jade," The New York Times, 17 July 2018 (https://www.nytimes.com/2018/07/17/world/asia/myanmar-landslide-jade-mine.html); From 2005 – 2010, U Ohn Myint served as the commander of Northern Command. See also "Gems, jade net $2.8b," 4 April 2011, The Myanmar Times (https://www.mmtimes.com/business/3118-gems-jade-net-2-8b.html).

197 Global Witness, "Jade: Myanmar's Big State Secret," 23 October 2015, p. 44, reports that U Ohn Myint owns a large jade mining company called Myanmar Win Gate, which has subsidiaries in Hpakant Township and that Myanmar Win Gate partners with MEHL.

198 PI-086, PI-061.

199 DI-061.

200 PI-061; For further information on a pattern of forced labour used by the Tatmadaw in and around mining, see: International Labour Conference, Committee on the Application of Standards, C.App./PV.4/ Myanmar/C29, Myanmar Forced Labour Convention, 1930 (No. 29), 13 June 2019, pg 16, which noted that "forced labour is also persistent in the private sector. In 2016, the ILO undertook a detailed survey on child labour and agriculture and specifically in inland fisheries, sugarcane and beans. The findings of that survey were alarming and found that in all three subsectors, children were

91. The Mission documented numerous accounts of violations of international human rights and international humanitarian law perpetrated by the Tatmadaw in Tanai, Kachin State, including the rape of a female miner in an amber mining area in 2016.[201] The heavy Tatmadaw presence in these areas is accompanied by harassment of the local population, including through small-scale corruption. In Tanai, the Northern Command extracts bribes from both miners and mining companies operating in the area. One goldminer told the Mission that he and other miners had to pay local Tatmadaw soldiers to be permitted to mine amber and gold at the "Pha Ka" mine in Ting Kawk village near Noije Bum hill.[202] Another person described working in Tanai for a company called Season Star (also referred to as Seasun Star), and how the company bribed a commander of Northern Command to secure its mining license.[203] Season Star (or Seasun Star) is one of the main mining companies operating in Tanai.[204]

92. The Mission has also documented the Tatmadaw's direct involvement in amber mining in the Namyang mining area, located near Tanai Township. Tatmadaw soldiers abducted civilians for forced labour to mine amber and subjected them to physical and sexual violence. One witness described how in November 2016 the Tatmadaw took five men by force to work for the Tatmadaw in the Namyang amber mining area.[205] One woman, who had also been abducted for forced labour at the amber mine, and her son were taken into the forest in the mining area by two Tatmadaw soldiers. She told the Mission, "They did something very bad to me. They harassed me. They slapped me. They threw my son back to me after they were finished." After she was raped by one Tatmadaw soldier, the other said it was his turn. She told the Mission, "I think he did not finish me off because my son was crying, there are also other tents in the mining area… maybe because of the noise he did not rape me too."[206]

2. MEHL and MEC involvement in jade and ruby mining in Kachin and Shan States

93. The majority of jade and rubies on the world markets originate from Myanmar. In addition to direct Tatmadaw involvement, the significant involvement of Tatmadaw companies in the jade and ruby industries means that there is a high risk that revenue from the sale of jade and rubies benefits the Tatmadaw. Ninety per cent of all jade bought and sold in the world in any given year originates from Myanmar.[207] Estimates of the value of the Myanmar jade trade are as high as USD 31 billion,[208] nearly half the country's official GDP of USD 69 billion.[209] Similarly, according to one estimate published in 2007, 90 per cent of rubies on world markets have at times originated from Myanmar.[210] According to reports,

in conditions of forced labour. Creditable reports have indicated that men, women and children are found in situations of forced labour in agriculture, fishing and prospecting for jade and other precious stones. The use of forced labour in the jade industry has attracted significant international attention in recent years. The mines are guarded by the Tatmadaw and their presence, and the presence of armed ethnic groups, has led to increased abuses such as rape and forced labour around mine sites. Those who risk their lives to extract the jade in this multibillion dollar industry see little for their labour, with the vast majority of the benefit going to the army and traders."

201 PI-146; See also PI-069, PI-054, PI-145.

202 PI-086.

203 PI-061.

204 Thin Thin Aye, Zaw Lynn Aung, K Khine Kyaw and Margaret Wong, "Historical Significance of the Ledo Road," Department of History, University of Yangon, JARC-YU, Vol. 7, No. 1 & 2, 2018.

205 PI-146.

206 PI-146.

207 Paul Shortell, "Tip-Toeing Toward Transparency: Jade and Gemstone Sector Disclosures in Myanmar," December 2018, Natural Resource Governance Institute (https://resourcegovernance.org/analysis-tools/publications/tip-toeing-toward-transparency-jade-and-gemstone-myanmar).

208 Global Witness, "Jade: Myanmar's Big State Secret," 23 October 2015, pg. 26-27.

209 World Bank, data on Myanmar (https://data.worldbank.org/country/myanmar).

210 Russell Shor and Robert Weldon, "Ruby and Sapphire Production and Distribution: A Quarter Century of Change," Gems & Gemology 45, no. 4 (Winter 2009): 239 (Citing to Robertson S. (2007) Burma: Shades of grey. Gem Market News, Nov.-Dec., pp. 1, 4–7, 15.)

the vast majority of Myanmar's jade is exported – both legally and illegally – to China.[211] Available reliable data indicates that imports of jade into the European Union from Myanmar have spiked since 2016.[212] According to additional available reliable data, imports of rubies and other precious stones into the European Union from Myanmar have steadily increased from 2015 to 2017, with the trade value totalling over USD 56.2 million in 2017.[213] As previously noted, the Mission identified 23 MEHL subsidiaries in the jade and ruby mining industry.[214]

94. Tatmadaw conglomerates MEHL and MEC are among the largest jade producers in Kachin State and globally.[215] MEHL recorded USD 230 million in official sales in 2013 and 2014, the second highest combined sales of any jade company in Myanmar during that two-year period,[216] and in 2016 and 2017, was ranked among the ten highest value producers of jade.[217] According to the Myanmar Extractive Industries Transparency Initiative (EITI Myanmar), 614 licenses have been awarded to MEHL jade subsidiaries[218].

95. Both of the Tatmadaw's conglomerates are significant players in the jade business in Hpakant Township, Kachin State, where the Mission has documented international human rights and international humanitarian law violations by the Tatmadaw.[219] MEC has 22 jade permits, with many of them in Hpakant Township, Kachin State.[220] In Hpakant, MEC has a joint venture in the production of jade with Silver Elephant Gems and Jewellery Co. Ltd,[221] which alone produces the fifth highest volume of jade in Myanmar.[222] MEHL is also involved in jade production in Hpakant, through its wholly owned subsidiary, Myanmar Imperial Jade, which has a joint venture with Myanmar Aung Naing Yay Moke Oo Company in Hpakant Township, Kachin State.[223]

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211 Paul Shortell, "Losing Luster: Addressing Tax Evasion in Myanmar's Jade and Gemstone Industry," Natural Resource Governance Initiative, February 2019 (https://resourcegovernance.org/sites/default/files/documents/losing-luster-addressing-myanmar-tax-evasion.pdf); Global Witness, "Jade: Myanmar's Big State Secret," 23 October 2015, pg. 24, which notes that "numerous industry sources have told Global Witness that 50%-80% of jade is smuggled straight over the Myanmar-China border. Chinese customs data supports these claims, showing that less than a third of Myanmar's official jade production entered China legally, even though China is where almost all Myanmar's jade ends up."

212 Imports to the European Union from Myanmar, using commodity codes 710310, 710399, and 711620; JM-001.

213 UN Comtrade data, using commodity code 710391, https://comtrade.un.org/data.

214 See Annex III. MEHL jade and ruby mining companies.

215 See, Paul Shortell, "Tip-Toeing Toward Transparency: Jade and Gemstone Sector Disclosures in Myanmar," December 2018, Natural Resource Governance Institute (https://resourcegovernance.org/analysis-tools/publications/tip-toeing-toward-transparency-jade-and-gemstone-myanmar), data regarding Myanmar as producing 90 per cent of jade in the world, with Kachin State producing the largest amount of jade in Myanmar; and with MEHL and MEC having among the highest officially recorded jade sales in Myanmar.

216 Global Witness, "Jade: Myanmar's Big State Secret," 23 October 2015, pg. 40.

217 Global Witness, "Jade: Myanmar's Big State Secret," 23 October 2015, pg. 40. Myanmar Extractive Industries Transparency Initiative (MEITI): The Fourth Myanmar EITI Report For the Period 1 April 2016 to 31 March 2017 (FY 2016-2017), Oil and Gas, Gems and Jade, Other Minerals and Pearl, 30 March 2019 (https://myanmareiti.org/sites/myanmareiti.org/files/publication_docs/4th_meiti_report_30_march_2019_1.pdf)

218 See Annex III. MEHL jade and ruby mining companies.

219 GI-028, GI-023, PI-004, DI-064, PI-104.

220 See Annex III. MEHL jade and ruby mining companies.

221 Marketing and Research Department, Myanmar Economic Corporation, "The Republic of the Union of Myanmar: Myanmar Economic Corporation".

222 Myanmar Extractive Industries Transparency Initiative (MEITI): The Fourth Myanmar EITI Report For the Period 1 April 2016 to 31 March 2017 (FY 2016-2017), Oil and Gas, Gems and Jade, Other Minerals and Pearl, 30 March 2019 (https://myanmareiti.org/sites/myanmareiti.org/files/publication_docs/4th_meiti_report_30_march_2019_1.pdf), pg. 73.

223 "Submitting MEHL's information and data for EITI process," 25 June 2018: 2.

96. MEHL is also heavily involved in ruby mining in Shan State. The ruby mines in Mong Hsu in Shan State are under military control.[224] No entity can mine there without being subjected to the "explicit or implicit oversight of the Tatmadaw".[225] A wholly owned ruby mining subsidiary of MEHL, Myanmar Ruby Enterprise, has at least 16 subsidiaries carrying out ruby mining.[226] According to the Myanmar Extractive Industries Transparency Initiative (EITI Myanmar), 476 licenses have been awarded to MEHL ruby subsidiaries[227]. Reports on the total number of ruby mining permits held by the Tatmadaw's other main conglomerate, MEC, in both Mogok, Mandalay Region and Mong Hsu, Shan State, vary from 31 to 95.[228] As one example, MEC collaborates with Great Nine Gems and Jewellery Co. Ltd. in the extraction of rubies in Shan State.[229]

97. In addition to obtaining licenses for its own operations, MEHL and MEC act as unofficial gatekeepers for private companies seeking access to ruby mining plots and licenses.[230] It has been reported that Tatmadaw conglomerates play a role in the bidding process for jade mining licenses. According to a U.S. diplomatic cable, Kachin miners have said that partnering with MEHL ensures the best results during the bidding process for licenses. They also explained how the Tatmadaw conglomerates benefit from such partnerships, claiming more than their share of profits from the subsequent mining operations and sales.[231]

98. MEHL and MEC subsidiaries are also engaged in other extractive industries in Shan State. Further investigation is required into their mining activities in Shan State, to determine their relationship with ongoing Tatmadaw operations in mining areas and documented international human rights and international humanitarian law violations. In addition to jade and ruby mining, a subsidiary of MEHL's Myanmar Ruby Enterprise Thit Sar Pan (Jewellery) Co. Ltd. collaborates with Game Gemstone Co. Ltd. in the extraction of gold

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224 As explained in Mia Newman, "Multifaceted: Governance and Conflict Risks in Myanmar's Ruby Industry," Natural Resource Governance Institute, March 2018, p. 8 (https://resourcegovernance.org/sites/default/files/documents/multifaceted-goverance-and-conflict-risks-in-myanmar-ruby-industry.pdf), Mong Hsu is surrounded by areas of Shan State that have long been contested by the Tatmadaw, ethnic armed groups such as the Shan State Progress Party/Shan State Army-North (SSPP/SSA-N) and Restoration Council of Shan State/Shan State Army-South (RCSS/SSA-S), and both pro- and anti-government militia. However, word-of-mouth reports indicate the mines of Mong Hsu have since been primarily consolidated under military control.

225 Mia Newman, "Multifaceted: Governance and Conflict Risks in Myanmar's Ruby Industry," Natural Resource Governance Institute, March 2018, p. 8 (https://resourcegovernance.org/sites/default/files/documents/multifaceted-goverance-and-conflict-risks-in-myanmar-ruby-industry.pdf); According to ruby miners in Shan State, the "Tatmadaw is still controlling most of the ruby trade and the bulk of money goes directly to them from Mogok," cited in Suthep Kritsanavarin and Jittima Jantanamalaka, "No Commitment to Peace Wastes Valuable Natural Resources in Shan State," Unearth Myanmar, Natural Governance Resource Institute (http://unearthmyanmar.com/en/story/no-commitment-peace-wastes-valuable).

226 See Annex III. MEHL jade and ruby mining companies.

227 See Annex III. MEHL jade and ruby mining companies.

228 See Myanmar Extractive Industries Transparency Initiative (MEITI): The Fourth Myanmar EITI Report For the Period 1 April 2016 to 31 March 2017 (FY 2016-2017), Oil and Gas, Gems and Jade, Other Minerals and Pearl, 30 March 2019 (https://myanmareiti.org/sites/myanmareiti.org/files/publication_docs/4th_meiti_report_30_march_2019_1.pdf), pg. 73; and further, Mia Newman, "Multifaceted: Governance and Conflict Risks in Myanmar's Ruby Industry," Natural Resource Governance Institute, March 2018, p. 9 (https://resourcegovernance.org/sites/default/files/documents/multifaceted-goverance-and-conflict-risks-in-myanmar-ruby-industry.pdf).

229 Marketing and Research Department, Myanmar Economic Corporation, "The Republic of the Union of Myanmar: Myanmar Economic Corporation", pg. 48.

230 Mia Newman, "Multifaceted: Governance and Conflict Risks in Myanmar's Ruby Industry," Natural Resource Governance Institute, March 2018, p. 9 (https://resourcegovernance.org/sites/default/files/documents/multifaceted-goverance-and-conflict-risks-in-myanmar-ruby-industry.pdf)

231 Kachin Jade Mining: The Road to Riches and Ruin; 12 December 2001, unclassified Cable of the U.S. Government.

from Moh Hark, in Moe Mate Township, Shan State.[232] MEC Director Khin Maung Soe also serves as a director of a gold mining company, Aye Mya Pye Sone Gold & Mining Production Co. Ltd.[233] MEC is also reported to have a coal mine and power plant, two gypsum mines and two limestone mines in Shan State.[234]

99. While the conduct of ethnic armed organizations (EAOs) is outside the scope of this report, the Mission notes that, since the early 1990s, the Tatmadaw has coupled brutal counter-insurgency campaigns against EAOs with offers to share the proceeds from natural resource extraction with EAOs in exchange for signing ceasefire agreements[235]. The Mission has documented how this has led to incentives for both Tatmadaw and EAOs in contested areas to profit from direct resource extraction.[236] The Mission has also reviewed research on how they have entered into commercial joint ventures, formal and informal taxation arrangements and money-laundering.[237] The media and investigative organizations have also implicated private companies in these arrangements, appropriating or exploiting natural resources by collaborating with or upon the authorization of an EAO.[238] All of these are areas of concern that require further investigation.

3. Legal findings on jade and ruby mining in Kachin and Shan States

100. The Mission concludes on reasonable grounds that the Tatmadaw's business and military interests in the jade and ruby extractive industries benefited from and directly contributed to international human rights violations in conflict-affected areas in Kachin State. The Mission has a similar concern with respect to Shan State due to the existence of hostilities in that state. The Tatmadaw has used forced labour to increase mining revenue and has used mining areas as staging grounds for abductions, forced labour, sexual violence and murder. The perpetration of these serious violations suggests that civilians, in particular women, living and working in mining areas are at a particularly heighted risk of experiencing sexual violence by the Tatmadaw. Many of the human rights violations the Mission documented are also violations of international humanitarian law and some rise to the level of war crimes, due to their association with non-international armed conflict.

101. The Mission also finds specifically that hostilities around Hpakant and Tanai Townships in Kachin State are inextricably linked to the natural resource economy in these areas. The Mission has documented numerous accounts of fighting taking place at or around mining areas, with the apparent objective of the parties to the conflict obtaining control over the resources or destroying their adversary's economy.[239]

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232 Reference No. 5/3/Ah Kha Ya/Pai (2124/2018), "Submitting MEHL's information and data for EITI process," 25 June 2018 (https://myanmareiti.org/files/uploads/mehl_information_data_for_eiti.pdf)

233 DICA registration number 364/2003-2004.

234 The coal mine and power plant in Mai Khot are a joint venture between MEC and Saraburi Coal Co, Ltd (a Hong Kong-based company). See Myanmar Extractive Industries Transparency Initiative (MEITI): The Fourth Myanmar EITI Report For the Period 1 April 2016 to 31 March 2017 (FY 2016-2017), Oil and Gas, Gems and Jade, Other Minerals and Pearl, 30 March 2019 (https://myanmareiti.org/sites/myanmareiti.org/files/publication_docs/4th_meiti_report_30_march_2019_1.pdf), pg. 73.

235 Min Zaw Oo, "Understanding Myanmar's Peace Process: Ceasefire Agreements," Swisspeace, 2014, pg. 8-9 (https://www.swisspeace.ch/fileadmin/user_upload/Media/Publications/Catalyzing_Reflections_2_2014_online.pdf)

236 QI-080; PI-061; SI-004.

237 Kevin Woods, "Ceasefire Capitalism: Military-private partnerships, resource concessions, and military-state building in the Burma-China borderlands", *Journal of Peasant Studies*, 28, no. 4 (2011): 747-70; Kevin M. Woods, "The Conflict Resource Economy and Pathways to Peace in Burma," USIP, November 2018.

238 Global Witness, "Jade: Myanmar's Big State Secret," 23 October 2015; " Myanmar's tin-mining hub," Reuters; Yimou Lee and Joel Schectman, "For Apple and others, tin supply chain has ties to rebel-held Myanmar mine," Reuters, 28 November 2016 (https://www.reuters.com/article/us-myanmar-tin-insight/for-apple-and-others-tin-supply-chain-has-ties-to-rebel-held-myanmar-mine-idUSKBN13N1VV)

239 SI-004, PI-043, PI-049, PI-054.

102. The interdependent relationship between the Tatmadaw, the mining industry, and violations of international human rights law and international humanitarian law in various mining areas leads the Mission to conclude on reasonable grounds that Myanmar has failed to apply the content of the Guiding Principles effectively. Myanmar specifically failed in its obligation to respect and ensure respect for international human rights and international humanitarian law through the unlawful acts of the Tatmadaw and by not effectively regulating the mining industry and preventing and mitigating the risks to human life to which their activities contribute.

103. The Mission also found reasonable grounds to conclude that any extractive industry business seeking to do business or doing business in Kachin and Shan States should fulfil their responsibility to respect human rights by not contracting with Tatmadaw-related businesses (including their subsidiaries) directly or indirectly – i.e. they should not source from or have Tatmadaw-related businesses in their supply chain, given the involvement of the Tatmadaw in natural resource extraction and its responsibility for violations of international human rights law and international humanitarian law in mining areas.[240] Doing so could expose them to criminal and civil liability.

104. In addition, any businesses seeking to or doing business in these areas should conduct heightened due diligence to ensure it is not otherwise causing, contributing to or directly linked to the many international human rights and international humanitarian law violations in the area perpetrated by the Tatmadaw. In line with the Guiding Principles, any extractive industry business should also conduct heightened due diligence to ensure that they are not exacerbating the conflict (conflict sensitive due diligence) and to ensure that its operations do not result in negative human rights impacts, even in these challenging operating environments. Tiffany & Co. is an example of a company that demonstrated a sensitivity to this responsibility when it reported publicly on its decision to "go above and beyond government regulations" after the lifting of U.S. sanctions in 2016, and not purchase gemstones from Myanmar since the 2003 U.S. Burmese Freedom and Democracy Act, which was adopted due to the severity of human rights violations in Myanmar.[241]

V. Other principal means of contributing to Tatmadaw operations and wealth

A. Donor companies

1. Companies' donations to Union Enterprise for Humanitarian Assistance, Resettlement and Development in Rakhine

105. The Mission concludes on reasonable grounds that several crony companies are implicated in the Myanmar Government's concerted effort to fundamentally alter the landscape of northern Rakhine State during and following the "clearance operations" against the Rohingya that began on 25 August 2017. Much of this has been done in the name of "development", with the Government espousing a clear discourse that the economic development of northern Rakhine is the solution to root causes of the violence.[242] As the Mission has documented, the impact of the 2017 violence against the Rohingya, which included the displacement of over 850,000 and the death of thousands, is being cemented through civilian Government and Tatmadaw-led activities making it very difficult if not impossible for the Rohingya to return to their villages of origin and access their properties

[240] See above sections on Responsible business policies and practices and Business officials and criminal liability.

[241] "Burmese Gemstones," Tiffany & Co Sustainability Report, 2017 (https://media.tiffany.com/is/content/Tiffany/Tiffany_Sustainability_Full_Report).

[242] Simon Lewis, "Myanmar's Suu Kyi woos investors to crisis-hit Rakhine, decries "negative" focus," Reuters, 22 February 2019 (https://www.reuters.com/article/us-myanmar-rakhine-investment/myanmars-suu-kyi-woos-investors-to-crisis-hit-rakhine-decries-negative-focus-idUSKCN1QB0HO).

and communities. Some of these activities include: construction of the border fence, an inadequate framework for repatriation, lack of conditions conducive for return, use of landmines at the border, demolition and other forms of terrain clearance, security-related construction, construction of other infrastructure, and the destruction of evidence.[243]

106. This infrastructure development has been predominantly orchestrated by the Government's Union Enterprise for Humanitarian Assistance, Resettlement and Development in Rakhine (UEHRD), a public-private partnership for implementing government policy in Rakhine State, formed in response to widespread international condemnation of the "clearance operations" that began in August 2017 in northern Rakhine State. In addition to its stated aim of providing humanitarian assistance to violence-affected populations and facilitating the return of Rohingya refugees from Bangladesh, the UEHRD formed an Infrastructure Development and Construction Task Force to renovate buildings and undertake new construction in partnership with private companies. For reasons stated above and elaborated on below, the Mission does not assess these development projects as benefiting the Rohingya people.

107. The UEHRD is chaired by State Counsellor Aung San Suu Kyi, with Dr. Win Myat Aye, the Union Minister for Social Welfare, Relief and Resettlement, as vice chairperson.[244] During a ceremony held in Nay Pyi Taw on 20 October 2017, owners of various companies pledged close to USD 13.5 million to the UEHRD for this reconstruction.[245] In support of the UEHRD initiative, Asia World Group, Eden Group, KBZ Group, and Max Myanmar have been involved in the construction of roads that go through villages destroyed in the 2017 clearance operations,[246] the building of processing sites for Rohingya that have been described as internment camps,[247] and the construction of a border fence between Myanmar and Bangladesh.[248]

108. Asia World Group, as part of UEHRD's Infrastructure Development and Construction Task Force, built an 80 kilometre road in northern Rakhine State through its charitable arm, the Foundation of the Asia World Group.[249] Satellite imagery and analysis shows that the

[243] A/HRC/39/CRP.2, paragraphs 1180-1244.

[244] Official website of the Office of the Union Enterprise for Humanitarian Assistance, Resettlement and Development in Rakhine (UEHRD), http://rakhine.unionenterprise.org/index.php/about-uehrd. The UEHRD was established by Order no. 86/2017 on 17 October 2017 by the Office of the President.

[245] Radio Free Asia, "Myanmar Executives Pledge Millions to Rebuild Tattered Rakhine State," 20 October 2017 (https://www.rfa.org/english/news/myanmar/myanmar-executives-pledge-millions-to-rebuild-tattered-rakhine-state-10202017162452.html).Ben Dunant, "Tycoons on the Frontline of Rakhine Reconstruction," Voice of America, 23 January 2018 (https://www.voanews.com/a/business-leaders-support-myanmar-reconstruction/4219898.html).

[246] As documented below, the route runs through many of the villages attacked and burned during the 2017 violence, including Koe Tan Kauk, Rathedaung Township, and Inn Din, Maungdaw Township. The Asia World Group segment of the road, runs from Ah Ngu Maw village tract, at the southern tip of the peninsula in Rathedaung Township to Maungdaw Township in northern Rakhine. For more information, see: "Asia World Foundation Fulfil the Needs of Local Communities along the Upgraded Angumaw-Maungdaw Road," 28 March 2019 (http://asiaworldfoundation.org/english/2019/03/28/asia-world-foundation-fulfill-the-needs-of-local-communities-along-the-upgraded-angumaw-maungdaw-road/).

[247] Concerns regarding Rohingya being deprived of their liberty and freedom of movement in transit or resettlement camps built for Rohingya in northern Rakhine have been informed by statements of the Commander-in-Chief, Senior General Min Aung Hlaing. On 5 May 2018, he was quoted as saying that for returning Rohingya, who he referred to as "Bengalis", "There is no need to be worried about their security if they stay in the areas designated for them." See: "Rohingya safe in designated areas: Myanmar army chief," The Straights Times, 6 May 2018 (https://www.straitstimes.com/asia/se-asia/rohingya-safe-in-designated-areas-myanmar-army-chief).

[248] Htet Naing Zaw, "Myanmar Govt to Fence Remaining 40-mile Border with Bangladesh", The Irrawaddy, 8 September 2017 (https://www.irrawaddy.com/news/burma/myanmar-govt-to-fence-remaining-40-mile-border-with-bangladesh.html).

[249] Asia World Foundation responds to call by UEHRD and contributes not-for-profit road project in Rakhine," Asia World Foundation, 6 January 2018 (http://asiaworldfoundation.org/english/2018/01/06/asia-world-foundation-responds-to-call-by-uehrd-and-contributes-not-for-profit-road-project-in-rakhine/).

road connects Ah Ngu Maw village tract, at the southern tip of the peninsula in Rathedaung Township, with the border crossing at Taung Pyo Let Yar.[250] The route runs through many of the villages attacked and burned during the 2017 violence, including Koe Tan Kauk[251] and Inn Din.[252]

109. Chit Khine, the chairperson of Eden Group, has announced that his construction company would build one of two processing sites for returning Rohingya refugees in Nga Khu Ya near the Myanmar-Bangladesh border.[253] Local civil society organisations have serious concerns that these processing sites will function as internment camps, given their similarities to the displacement camps and sites established after the 2012 violence in Rakhine where around 1.2 million displaced Rohingya people still live seven years later.[254] The Mission has found these camps to be effectively places of deprivation of liberty.[255]

110. In addition to the projects described above, the civilian Government and the Tatmadaw began in earnest soliciting donations to reinforce a barrier fence between Myanmar and Bangladesh. On 6 September 2017, a high-level meeting was held in Nay Pyi Taw, at which President U Htin Kyaw, State Counsellor Aung San Suu Kyi, Senior General Min Aung Hlaing and Vice Senior General Soe Win reportedly discussed the need to urgently repair fences and construct new barriers along the Myanmar-Bangladesh border.[256] Although the barrier fence had been previously discussed in Parliament on several earlier occasions,[257] its reinforcement and construction did not appear to have been a priority for the Myanmar Government up to this point, as no budget had been allocated to the Ministry of Home Affairs for it in the 2017-2018 fiscal year.[258] Following the forcible deportation of the Rohingya to Bangladesh,[259] however, strengthening the barrier became an urgent priority for the Government. The spokesperson for the President's Office stated, "We will fence it by all means… We don't know where the funds will come from, but we'll do it anyway."[260] The Mission found that the civilian government raised funds for the fence through UEHRD. In this context, the purpose of the fence is revealed as one of several UEHRD projects aimed at ensuring the Rohingya cannot return to their communities and homeland.

111. In tandem, the Tatmadaw also solicited funds to build the barrier fence. This is elaborated in detail below in the section concerning the Tatmadaw fundraising ceremonies.

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250 UNOSAT Report, February 2019.

251 "Asia World Foundation has completed the first 21 km of the Angumaw-Maungtaw Road Development Project in Rakhine State from Angumaw to Kotankauk," Asia World Foundation, 17 May 2018 (http://asiaworldfoundation.org/english/2018/05/17/asia-world-foundation-has-completed-the-first-21-km-of-the-angumaw/).

252 Mratt Kyaw Thu, "Security, infrastructure in northern Rakhine receives massive cash boost after refugee exodus," Frontier Myanmar, 11 October 2017 (https://frontiermyanmar.net/en/security-infrastructure-in-northern-rakhine-receives-massive-cash-boost-after-refugee-exodus).

253 Ben Dunant, "Tycoons on the Frontline of Rakhine Reconstruction," Voice of America, 23 January 2018 (https://www.voanews.com/a/business-leaders-support-myanmar-reconstruction/4219898.html). Eden Group partners with China Heavy Machinery Corporation in Myanmar's largest coal mine, the Tigyit Mine, in Shan State.).

254 Laignee Barron, "Internment fears as Myanmar plans new camps for scattered Rohingya," The New Humanitarian, 19 September 2017 (http://www.thenewhumanitarian.org/news/2017/09/19/internment-fears-myanmar-plans-new-camps-scattered-rohingya).

255 A/HRC/39/CRP.2, paragraph 517.

256 Htet Naing Zaw, "Myanmar Govt to Fence Remaining 40-mile Border with Bangladesh", The Irrawaddy, 8 September 2017 (https://www.irrawaddy.com/news/burma/myanmar-govt-to-fence-remaining-40-mile-border-with-bangladesh.html).

257 Pyithu Hluttaw discusses Rakhine state of affairs, 24 August 2017, posted by Myanmar News Agency (http://www.globalnewlightofmyanmar.com/pyithu-hluttaw-discusses-rakhines-state-of-affairs/).

258 Htet Naing Zaw, "Myanmar Govt to Fence Remaining 40-mile Border with Bangladesh", The Irrawaddy, 8 September 2017 (https://www.irrawaddy.com/news/burma/myanmar-govt-to-fence-remaining-40-mile-border-with-bangladesh.html).

259 A/HRC/39/CRP.2paragraph 1490.

260 Htet Naing Zaw, "Myanmar Govt to Fence Remaining 40-mile Border with Bangladesh", The Irrawaddy, 8 September 2017 (https://www.irrawaddy.com/news/burma/myanmar-govt-to-fence-remaining-40-mile-border-with-bangladesh.html).

During at least two of the three ceremonies, Commander-in-Chief, Senior General Min Aung Hlaing specifically sought donations to reinforce the fence.

112. Strengthening the barrier commenced in early September 2017, with the Commander-in-Chief, Senior General Min Aung Hlaing, confirming the construction in public statements at that time.[261] The border area was reportedly further fortified with additional troops and military posts.[262] According to witnesses, following the "clearance operations" that began in August 2017, Tatmadaw soldiers and Myanmar Border Guard started installing barbed wire fencing at the Myanmar-Bangladesh border with Rakhine State. New barriers were erected 200 metres from the border in Myanmar territory to avoid consultations with Bangladesh authorities required for any construction within 150 metres of the international border.[263] One such barrier, made out of reinforced concrete, surrounds approximately 4,000 Rohingya internally displaced persons (IDPs) living less than 200 meters from the Bangladesh border inside Myanmar territory in Konar Para, segregating them from the rest of Myanmar.[264] In 2018 Rohingya told the UN Special Rapporteur on the situation of human rights in Myanmar that on the Myanmar side of the fence loudspeakers play a recording telling them that it is illegal for them to be there and demanding that they leave the area.[265] This is a further indication that the fence's purpose was to keep Rohingya away from their homes and off their land. The Experts of the Mission visited this community and spoke to its leaders in May 2019.[266] By March 2018 new fencing was reportedly completed along all but 60 kilometres of the border, following a February 2018 parliamentary approval of USD 15 million for this purpose.[267] The timing and the context of the fence's re-inforcement and purpose further substantiates the Mission's previous finding that the building of the fence substantially contributed to an official plan or policy that prevents the Rohingya refugees in Bangladesh from returning to their homeland and communities.[268]

113. The Mission found that companies played a substantial role in the Government's building of this barrier fence along the Bangladesh-Myanmar border. In late October 2017, as people were still fleeing to Cox's Bazaar, Bangladesh,[269] KBZ Group donated USD 2.2

[261] Global New Light of Myanmar, "Senior General meets locals in N-Rakhine, receives Japanese delegation in Nay Pyi Taw" (22 September 2017).

[262] J. Emont, "Myanmar Blocks Rohingya Return With Fence, Barbed Wire and Land Mines" (Wall Street Journal, 20 March 2018).

[263] XM-005.

[264] Muktadir Rashid, "Myanmar Urges Rohingya to Leave 'No-man's land' on Bangladesh Border", The Irrawaddy, 21 May 2018 (https://www.irrawaddy.com/news/burma/myanmar-urges-rohingya-leave-no-mans-land-bangladesh-border.html).

[265] Oral update by the High Commissioner for Human Rights on the situation of human rights of Rohingya people, A/HRC/38.CRP.2, para 14, also see End of mission statement by Special Rapporteur on the situation of human rights in Myanmar, Dhaka, 8, July 2018, https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23347&LangID=E. See also FI-051 and FM-006.

[266] "UN Independent International Fact-Finding Mission on Myanmar urges financial isolation of Myanmar military", 14 May 2019 (https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24608&LangID=E

[267] V-207; Global New Light of Myanmar, "Pyidaungsu Hluttaw discusses housing, infrastructure loans" (23 May 2018); Meeting summary, 9th day of the 7th Regular Session, 2nd Pyidaungsu Hluttaw, Republic of Union of Myanmar (Official meeting notes, 22 February 2018), https://pyidaungsu.hluttaw.mm/uploads/pdf/okyLLx_9%20Day%20Meeting(22-2-2018).pdf. In addition, activities to reinforce the fences intensified after March 2018 following a "flag meeting" between Bangladesh and Myanmar authorities. (See Myanmar defends troop deployment at flag meeting with BGB, Dhaka Tribune, 3 March 2018, https://www.dhakatribune.com/bangladesh/2018/03/02/myanmar-sends-soldiers-tambru-border, see also Myanmar building bunkers, fences at the border, Dhaka Tribune 9 March 2018, https://www.dhakatribune.com/bangladesh/2018/03/08/myanmar-building-bunkers-barbed-wire-fences-border-area).

[268] A/HRC/39/CRP.2, paragraph 1215.

[269] Compare Cox's Bazaar arrival figures between August and October 2017 (607,000), August and November 2017 (620,000), and August and December 2017 (646,000) in Inter Sector Coordination Group situation reports for Cox's Bazaar. See, Situation Report: Rohingya Refugee Crisis Cox's

million to UEHRD through its charitable arm, the Brighter Future Foundation, to build a section of the border fence between Myanmar and Bangladesh.[270] The media reported that Nyo Myint, senior managing director of KBZ Group, said his donation was meant to deter illegal migration.[271] The Mission has determined that reference to "illegal migration" is indicative of the pervasive climate of hatred and contempt toward the Rohingya and a false narrative propagated to breed hatred against the Rohingya.[272]

114. Also in late October 2017, Max Myanmar's Ayeyarwady Foundation reported that chairperson Zaw Zaw donated Ks 1 billion (USD 654,000) to the UEHRD during a fundraising ceremony on 20 October 2017,[273] at which the State Counsellor spoke about improving the border fence.[274] The media subsequently reported that Zaw Zaw accompanied the State Counsellor on a visit to northern Rakhine on 2 November 2017.[275]

2. Business donations to the Tatmadaw for the "clearance operations" following fundraising ceremonies

115. In the month following the "clearance operations" in northern Rakhine State that began on 25 August 2017, the Commander-in-Chief, Senior General Min Aung Hlaing, and other high-ranking Tatmadaw leaders held three ceremonies in Nay Pyi Taw, Yangon and Sittwe to solicit donations in support of the Tatmadaw's military and other activities in northern Rakhine against the Rohingya. This is yet another example of the Tatmadaw's ability to acquire financial resources in support of its activities but without civilian oversight.

116. During these meetings, Senior General Min Aung Hlaing made statements describing the conduct of the Tatmadaw in northern Rakhine, outlined the policy and military objectives of the "clearance operations", denied the existence of the Rohingya and advanced justifications for the Tatmadaw's acts. He framed his request for donations in the false hateful narrative of the Tatmadaw having a responsibility to protect the country from the invading Rohingya people while refusing to acknowledge their identity, referring the Rohingya in a derogatory manner as "Bengali". He said: "The Bengali problem was a long-standing one which has become an unfinished job."[276] Senior General Min Aung Hlaing's official website provided lengthy descriptions of the content of these ceremonies, who attended and what donations attendees provided.

117. Tatmadaw leaders solicited donations for the construction of the border fence between Myanmar and Bangladesh; security and other personnel; and ethnic Rakhine victims of the

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Bazar, 29 October 2017; and Situation Report: Rohingya Refugee Crisis Cox's Bazar, 16 November 2017; Group situation reports for Cox's Bazaar. Situation Report: Rohingya Refugee Crisis Cox's Bazar, 29 October 2017; and Situation Report: Rohingya Refugee Crisis Cox's Bazar, 7 December 2017.; The Mission notes that the Ministry of Home Affairs Facebook page cites "area clearance operations" on 11 September 2017 and 13 September 2017, after the date of the border fence donation on 10 September. 12 September 2017: https://www.facebook.com/officemohamyanmar/posts/2017923114899959, 14 September 2017: https://www.facebook.com/officemohamyanmar/posts/2020568591302078.

270 Ben Dunant, "Tycoons on the Frontline of Rakhine Reconstruction," Voice of America, 23 January 2018 (https://www.voanews.com/a/business-leaders-support-myanmar-reconstruction/4219898.html)

271 Ben Dunant, "Tycoons on the Frontline of Rakhine Reconstruction," Voice of America, 23 January 2018 (https://www.voanews.com/a/business-leaders-support-myanmar-reconstruction/4219898.html)

272 A/HRC/39/CRP.2 paragraphs 1501, 1315.

273 Ayeyarwady Foundation, "Ayeyarwady Foundation donated for Rakhine State" (http://www.ayeyarwadyfoundation.org/en_US/ayeyarwady-foundation-donated-for-rakhine-state/)

274 The Republic of the Union of Myanmar, "Voices from Donation Ceremony for UEHRD," State Counsellor Office 21 October 2017 (https://www.statecounsellor.gov.mm/en/node/1185)

275 Min Aung Khine, "DASSK visits Northern Rakhine in Unprecedented Trip," The Irrawaddy, 2 November 2017 (https://www.irrawaddy.com/news/burma/dassk-visits-northern-rakhine-unprecedented-trip.html)

276 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

violence.[277] Donations were collected during the ceremonies by Senior General Min Aung Hlaing and other Tatmadaw leaders, including the Deputy Commander-in-Chief Soe Win, and the commanders-in-chief of the Air Force and Navy. In total, based on information reported on the official website of the Commander-in-Chief, the Mission has identified 45 businesses and organizations from which the Tatmadaw leadership solicited and received financial support for its "clearance operations" against the Rohingya that began in August 2017 in northern Rakhine. The three ceremonies yielded over USD 6.15 million for the Tatmadaw.[278] Many of the donors had family or other forms of close links to the Tatmadaw. The donors included Tatmadaw and other government officials, the families of high-ranking Tatmadaw leaders, private businesses, the foundations of large conglomerates, MEHL, MEC, as well as their subsidiaries and joint venture partners. It is particularly noteworthy that among the foreign businesses partnering with MEHL or MEC, Kirin Holdings Pte Ltd. provided financial support to the Tatmadaw during the first of these fundraising ceremonies.[279] The Mission notes that following a public condemnation from Amnesty International,[280] Kirin Holdings Pte Ltd. issued a response which demonstrated its sensitivity to external scrutiny by taking measures to influence MEHL, their joint venture partner, by announcing a 6-step action plan.[281]

118. The first fundraising ceremony was held one week after the "clearance operations" began on 25 August 2017. On 1 September 2017 Senior General Min Aung Hlaing presided over a ceremony in Nay Pyi Taw, calling for "cash donations for security personnel and State service personnel who risked their lives while shouldering national defence and security duties and ethnic natives who fled their homes due to brutal attacks of ARSA extremist Bengali terrorists".[282] During the ceremony, Senior General Min Aung Hlaing justified the actions of the Tatmadaw in northern Rakhine through a false narrative that treated all Rohingya as murderous invaders, stating that "absolutely, our country has no Rohingya race".[283] He stated that the "Bengali problem was a long-standing one which has become an

277 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

278 See Annex IV. List of donors and details of donations solicited by the Tatmadaw in September 2017.

279 See Annex IV. List of donors and details of donations solicited by the Tatmadaw in September 2017.

280 Amnesty International, "Japan: Investigate brewer Kirin over payment to Myanmar military amid ethnic cleansing of Rohingya," 14 June 2018 (https://www.amnesty.org/en/press-releases/2018/06/japan-investigate-brewer-kirin-over-payments-to-myanmar-military-amid-ethnic-cleansing-of-rohingya/).

281 Kirin, "The Progress Updates Concerning The Letter from Amnesty International," 14 December 2018 (https://www.kirinholdings.co.jp/english/news/2018/1214_01.html).

282 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/) Although the border fence is not explicitly mentioned in the report on the official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, because of the wording in a banner hung during the second ceremony, it may be inferred that the fence was mentioned during this first ceremony. A translation of the banner is as follows: "Second ceremony to present cash and kind to Security forces, departmental staff who risked their lives for national security and defence duties in Rakhine State, and the displaced natives who had to leave their homes due to the violent attacks of the ARSA extremist Bengali terrorists; and to erect the border fence." (http://www.seniorgeneralminaunghlaing.com/2017/09/cash-donations-will-be-used-in-areas.html?view=mosaic).

283 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

unfinished job". [284] In the presence of Deputy Commander-in-Chief of Defence Services and Commander-in-Chief (Army) Vice Senior General Soe Win, Union Ministers Lieutenant-General Sein Win and Lieutenant-General Ye Aung, Chief of the General Staff (Army, Navy and Air) General Mya Tun Oo, Commander-in-Chief (Navy) Admiral Tin Aung San, Commander-in-Chief (Air) General Khin Aung Myint and other senior military officers, parliamentary representatives, Yangon Region Minister for Rakhine Ethnic Affairs U Zaw Aye Maung, and members of the Arakan National Party, the Commander-in-Chief and other high-ranking members of the Tatmadaw accepted donations from businesses, foundations of conglomerates, and the families of Tatmadaw leaders, including MEHL and its partner businesses.[285]

119. On 10 September 2017, Senior General Min Aung Hlaing held a second ceremony soliciting cash donations at Command Headquarters in Yangon, where he also called for donations for border fencing.[286] He and other high-ranking members of the Tatmadaw then accepted donations from businesses, including foundations of conglomerates, the families of Tatmadaw leaders, MEHL and numerous partner businesses, as well as MEC subsidiaries and joint ventures such as Mytel Co. Ltd., Myawaddy Bank Ltd. and MEHL-NORINCO joint venture, the Monywa Letpadaung copper mine.[287]

120. On 21 September 2017, Senior General Min Aung Hlaing held a third ceremony in Sittwe, Rakhine State, with a similar purpose as the two previous ceremonies. During the ceremony, he spoke of the Tatmadaw's "deployment of troops in advance for area clearance operations", conduct against "extremist Bengali terrorists" and "erecting the border fence".[288] He and other high-ranking members of the Tatmadaw then accepted donations from companies, foundations of conglomerates, the families of Tatmadaw leaders and the Race and Religion Protection Buddha Dhamma Parahita Foundation, commonly known as the MaBaTha.[289]

121. In total, 30 companies, often represented by their owners or directors, donated to the Tatmadaw. Among them, the Mission has identified six owned by former or retired Tatmadaw officials or Tatmadaw leaders' family members. One of the subsidiaries of the Aung Myin Thu Group of Companies, which donated a total of Ks 60 million (USD 42,857)

[284] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

[285] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

[286] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

[287] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/). See also Annex II. Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC).

[288] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

[289] UCA News, "Nationalist Buddhist group banned again in Myanmar," 23 July 2018 (https://www.ucanews.com/news/nationalist-buddhist-group-banned-again-in-myanmar/82894)

on 1 and 21 September 2017, is led by Senior General Min Aung Hlaing's daughter-in-law.[290] The Authentic Group of Companies, the family company of former Air Force Commander-in-Chief Major General Tin Tun, donated a total of Ks 60 million (USD 42,857) on 1 and 21 September 2017.[291]

122. The single largest donor to the Tatmadaw's three fundraising ceremonies was the International Gateways Group of Company Ltd., which donated Ks 6.3 billion (over USD 4.5 million) on 10 September 2017.[292] The Mission was unable to obtain detailed information on this group. However, the media has reported that its owners have previously participated in Tatmadaw fundraising events.[293]

123. MEC and MEHL subsidiaries also made significant donations during the ceremonies. MEHL and its partners, such as Myawaddy Trading and Myawaddy Bank, donated a total of Ks 265 million (USD 189,000) on 1 and 10 September 2017 during the Tatamadaw's fundraising ceremonies in support of the Tatmadaw's "clearance operations" that began on 25 August 2017 against the Rohingya in northern Rakhine.[294] As part of the same fundraising drive, MEC and its partners donated Ks 18.2 million (USD 13,000) to the Tatmadaw on 10 September 2017.[295] Other MEHL and MEC subsidiaries, such as Mytel and the Ngwe Pinlae Livestock Breeding and Fisheries Company, donated a further Ks 17.1 million (USD 12,100) to the Tatmadaw.[296]

124. IGE Group, a private Myanmar company with family links to senior Tatmadaw officials, also donated Ks 50 million (USD 35,000) to the Tatmadaw on 1 September 2017 in connection with the "clearance operations" that began on 25 August 2017 in northern Rakhine.[297]

125. Many of the foundations that made donations are linked to corporate groups with operational links to the Tatmadaw's businesses.[298] For example, the Brighter Future Foundation of the Kanbawza Group of Companies (KBZ Group) donated Ks 300 million on 1 September 2017 and Ks 3.17 billion on 10 September 2017, amounting to almost USD 2.5 million. The KBZ Group is a major conglomerate with dozens of subsidiaries across industries such as construction, garments, insurance, banking, oil, communications, cement, aviation and mining.[299] In addition to its past ties with Myanmar's military junta and the contributions it made to UEHRD, an investigative organization found that the KBZ Group currently partners with MEC through a joint venture in Jing Hpaw Aung Jade, a company operating jade mines in Kachin State.[300]

126. Max Myanmar's chairperson Zaw Zaw through the Ayeyarwady Foundation donated nearly Ks 1.37 billion at the 1 September 2017 and 21 September 2017 fundraising

[290] See Annex IV. List of donors and details of donations solicited by the Tatmadaw in September 2017. Digital record 2003.

[291] See Annex IV. List of donors and details of donations solicited by the Tatmadaw in September 2017. Digital record 2003.

[292] The Mission notes that International Gateways Group of Company Ltd., is identified as a MEHL "partner" company on the official website of Senior General Commander-in-Chief Min Aung Hlaing, and as donating to the Tatmadaw on 27 March 2019 for Armed Forces Day. On file with the Mission.

[293] The New Light of Myanmar, "Secretary-1 accepts cash, gifts for Tatmadawmen discharging duty in far-flung forward areas," 19 March 2001 (http://www.burmalibrary.org/NLM/archives/2001-03/msg00017.html).

[294] See Annex IV. List of donors and details of donations solicited by the Tatmadaw in September 2017.

[295] See Annex IV. List of donors and details of donations solicited by the Tatmadaw in September 2017.

[296] See Annex IV. List of donors and details of donations solicited by the Tatmadaw in September 2017.

[297] See Annex IV. List of donors and details of donations solicited by the Tatmadaw in September 2017.

[298] Eg. KBZ Group's Brighter Future Foundation, Max Myanmar's Ayeyarwady Foundation

[299] Mission research has identified 47 companies in which the Aung Ko Win, the owner of the KBZ Group serves as an officer, and another 23 companies in which his wife, Daw Nang Than Htwe, serves as an officer. This information is on file with the Mission.

[300] Global Witness, "Jade: Myanmar's Big State Secret," 23 October 2015.

ceremonies (totalling USD 976,857) to the Tatmadaw to support construction of two miles of fence along the Bangladesh border.[301]

127. The Eden Group, which donated Ks 30 million (USD 21,000) to the Tatmadaw on 1 September 2017, operates the Tigyit mine, Myanmar's largest coal mine in Shan State, together with a mine mouth power plant.[302] MAPCO, an Eden Group subsidiary, is also part of Mytel, the mobile network partly-owned by MEC.[303] Asia World Group, which donated Ks 10 million (USD 7,142) on 10 September 2017, has a build-operate-transfer agreement with MEC for a port in Ahlone, near Yangon.[304] Other donors, such as the Race and Religion Protection Buddha Dhamma Parahita Foundation, commonly known as the MaBaTha, which donated Ks 200 million (approximately USD 143,000)[305] played an important role in fuelling anti-Muslim violence in Myanmar.[306] The Mission received credible reports suggesting direct links between the leadership of MaBaTha and the Tatmadaw or some members of the Government affiliated with the Tatmadaw, suggesting that the relationship includes financial incentives.[307]

3. Legal Analysis and Findings

128. The Mission concludes on reasonable grounds that the Tatmadaw and civilian authorities of the UEHRD have sought support from crony companies to pursue an objective of changing the demographic landscape on northern Rakhine and keeping Rohingya displaced from Myanmar in a manner that is causing them considerable inhumane suffering. The Mission also concludes on reasonable grounds that several crony companies have willingly and knowingly provided such support and that the Tatmadaw has received this support outside the purview of effective civilian oversight. With these findings, the Mission also concludes that the companies providing their financial support to the Tatmadaw and UEHRD's activities noted above are failing in their corporate responsibility to respect human rights and have also failed to effectively conduct due diligence to ensure they are not otherwise causing, contributing to or directly linked to the many international human rights and international humanitarian law violations in the area perpetrated by the Tatmadaw and the civilian government.

(a) Liability of company officials for contributing to the construction of the barrier fence

129. In its 2018 report, the Mission concluded on reasonable grounds that crimes under international law were committed in Rakhine State, principally by the Tatmadaw.[308] The crimes included the crimes against humanity of deportation and persecution. For reasons set out below, the Mission now has reasonable grounds to also conclude that officials from KBZ Group and Max Myanmar should be criminally investigated and, if appropriate, prosecuted for making a substantial and direct contribution to the commission of the crime against humanity of "other inhumane acts" and persecution as outlined above in the applicable legal framework on business officials and criminal liability. The Mission came to this conclusion based on its finding that these company officials donated funds to the construction of a barrier fence along the Myanmar-Bangladesh border and were aware of the substantial likelihood

[301] Mratt Kyaw Thu, "Security, infrastructure in northern Rakhine receives massive cash boost after refugee exodus," Frontier Myanmar, 11 October 2017 (https://frontiermyanmar.net/en/security-infrastructure-in-northern-rakhine-receives-massive-cash-boost-after-refugee-exodus).

[302] Ye Mon, "As possible restart of Tigyit coal plant looms, opposition rallies," The Myanmar Times, 23 January 2017 (https://www.mmtimes.com/national-news/24647-as-possible-restart-of-tigyit-coal-plant-looms-opposition-rallies.html).

[303] See Annex IV. List of donors and details of donations solicited by the Tatmadaw in September 2017.

[304] See Annex IV. List of donors and details of donations solicited by the Tatmadaw in September 2017.

[305] UCA News, "Nationalist Buddhist group banned again in Myanmar," 23 July 2018 (https://www.ucanews.com/news/nationalist-buddhist-group-banned-again-in-myanmar/82894); See Annex IV. List of donors and details of donations solicited by the Tatmadaw in September 2017.

[306] A/HRC/39/CRP.2, paragraph 738.

[307] DI-011, K-106, DM-002. DI-011, K-101, K-106, DM-002. See also C4ADS, "Sticks and Stones: Hate Speech Narratives and Facilitators in Myanmar," 2016 (http://www.burmapartnership.org/wp-content/uploads/2016/02/SticksandStones.pdf).

[308] A/HRC/39/CRP.2, paragraph 1511.

that the fence would contribute to the prevention of the displaced Rohingya population from returning to their homeland and community, thereby causing great suffering and anguish. Moreover, the Rohingya population was explicitly targeted and discriminated against based on their ethnicity, constituting the crime against humanity of persecution.[309]

130. The crime against humanity of "other inhumane acts" is seen as a residual crime[310] and envisages physical or mental suffering, namely serious or great suffering rather than severe pain or suffering.[311] The seriousness of the harm or injury must be assessed on a case-by-case basis, taking into consideration various factors including the nature of the act or omission, the context in which it occurs, its duration and/or repetition, and its physical and mental effects on the victim. The harm inflicted does not need to be permanent and irremediable; it must, however, have more than a short-term or temporary effect on the victim.[312]

131. Where international courts have found that forcible transfer amounts to a crime against humanity of "other inhumane acts", they have explained the inherent suffering that it produces.[313] The tribunals have found consistently that the rights violated by deportation and forcible transfer are the "right of the victim to stay in his or her home and community and the right not to be deprived of his or her property by being forcibly displaced to another location".[314] The Appeals Chamber in *Prosecutor* v. *Krnojelac* expanded on the underlying harms of forced displacement when it explained that it is the "forced character of displacement and the forced uprooting of the inhabitants of a territory" that entails criminal responsibility, as opposed to the destination to which these victims are sent.[315] The *Krajsnik*

[309] A/HRC/39/CRP.2, paragraph 1499-1502.

[310] Decision on the Confirmation of Charges, *Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali* (CC-01/09-02/11), Pre-Trial Chamber II, 23 January 2012, § 269; Judgment, *Stanišić and Župljanin* (IT-08-91-T), Trial Chamber, 27 March 2013, § 58; Judgement, *Case 002/01* (Case File No. 002/19-09-2007/ECCC/TC), Trial Chamber, 7 August 2014, §§ 436-437; Judgment, *Case 002/01* (Case File No. 002/19-09-2007-ECCC/SC), Supreme Court Chamber, November 23, 2016, §§ 576-580.

[311] The war crime for inhumane treatment is related to international armed conflicts; the equivalent for non-international armed conflicts is called cruel treatment; both are considered similar in gravity as another war crime called wilfully causing great suffering or serious injury to body or health, Judgment, *Jelisić* (IT-95-10-T), Trial Chamber, 14 December 1999, § 52; Judgment, *Naletilić & Martinović* (IT-98-34-T), Trial Chamber, 31 March 2003, § 246; Judgment, *Gotovina et al.* (IT-06-90-T), Trial Chamber, 15 April 2011, § 1791; Judgment *Nyiramasuhuko et al.* (ICTR-98-42-T), Trial Chamber, 24 June 2011, § 6127; Judgment, *Perišić* (IT-04-81-T), Trial Chamber, 6 September 2011, § 111; Judgment, *Taylor* (SCSL-03-01-T), Trial Chamber, 18 May 2012, § 418-421; Judgment, *Haradinaj et al.* (IT-04-84*bis*-T), Trial Chamber, 29 November 2012, § 422; Judgment, *Lukić* (IT-98-32/1-A), Appeals Chamber, 4 December 2012, § 631; Judgment, *Tolimir* (IT-05-88/2-T), Trial Chamber, 12 December 2012, § 853; Judgment, *Prlić et al.* (IT-04-74), Trial Chamber, 29 May 2013, §§ 77 and 148; Judgment, *Karadžić* (IT-95-5/18-T), Trial Chamber, March 24, 2016, § 504; Judgment, *Habré*, EAC, TC, May 30, 2016, §§ 1590-1593; Judgment, *Case 002/01* (Case File No. 002/19-09-2007-ECCC/SC), Supreme Court Chamber, November 23, 2016, §580; Judgment, *Mladić*, (IT-09-92-T), Trial Chamber, November 22, 2017, § 3233; the situation is slightly different under the ICC Statute where the war crimes of inhumane treatment and cruel treatment have the same level of suffering as torture, namely severe, while the war crime (in international armed conflicts) of willfully causing great suffering had the lower level of suffering, namely great, see the ICC Elements of Crimes document under articles 8(2)(a)(ii)-2, 8(2)(a)(iii) and 8(2)(c)(i)-3.

[312] Judgment, Blagojević & Jokić (IT-02-60), Trial Chamber, 17 January 2005, § 586; Judgment, Tolimir (IT-05-88/2-T), Trial Chamber, 12 December 2012, § 854; Judgment, Stanišić and Župljanin (IT-08-91-T), Trial Chamber, 27 March 2013, § 59; Judgment, Prlić et al. (IT-04-74), Trial Chamber, 29 May 2013, §§ 78 and 119; Judgement, Case 002/01 (Case File No. 002/19-09-2007/ECCC/TC), Trial Chamber, 7 August 2014, §§ 438-439.

[313] Judgement, *Case 002/01* (Case File No. 002/19-09-2007/ECCC/TC), Trial Chamber, 7 August 2014, §§ 450-455; Judgment, *Karadžić* (IT-95-5/18-T), Trial Chamber, March 24, 2016, § 494 (re forcible transfer).

[314] Judgement, Simic (IT-95-9-T), 17 October 2003 at paragraph 130, upheld on appeal.

[315] *Milosevic Decision* on motion of Acquittal at para 69; *Simic* para 130. See also *Krajsnik*: When finding that specific acts of forcible transfer amount to "other inhumane acts" under Article 5(i) of the [1993 ICTY] Statute, a Trial Chamber has to be convinced that the forcible transfer is of a similar

Appeals Chamber endorsed the Trial Chamber's finding that "suffering serious mental harm" invariably occurs in situations of "forced departure from the residence and the community, without guarantees concerning the possibility to return in the future".[316]

132. The value of safeguarding the right and aspiration of individuals to live in their communities and homes, and the conditions of suffering outlined above apply to the Rohingya's inability to return to their homes. Inability to access one's property and live in one's own home results in serious mental suffering comparable to that of forcible transfer or deportation, and therefore, under the category of "other inhumane acts", it is as serious and grave as those classes of crimes against humanity. [317]

133. The Mission recognizes the sovereign right of States to secure, manage, and maintain their borders. They must not, however, do so in a manner contrary to international law, including in a manner that constitutes or contributes to a crime under international law. In its investigation into the human rights situation of the Rohingya, based on the totality of the following circumstances, the Mission has concluded on reasonable grounds that the barrier fence, in conjunction with other measures undertaken by the Myanmar Government and the Tatmadaw, has the purpose of preventing the displaced Rohingya from accessing their homeland.[318] First, the government prioritized the reinforcement of the fence immediately after the clearance operations began to force thousands of Rohingya out of Myanmar due to mass killings and forced displacement. Although there were earlier discussions about securing the fence, it did not become an urgent priority for the civilian government[319] and the Tatmadaw[320] until this point. Second, the stated purpose of the donations in the Tatmadaw Commander-in-Chief Senior General Min Aung Hlaing's speech during each of the fundraising ceremonies explicitly indicates that the aim is to prevent the Rohingya from returning to Myanmar. In speaking of the "root causes" of tension in Rakhine State, he stated: "The Bengali problem was a long-standing one which has become an unfinished job despite the efforts of the previous governments to solve it… we openly declare that "'absolutely, our country has no Rohingya race'".[321] Third, the situation at Konar Para is particularly revealing

seriousness to other enumerated crimes against humanity. This condition is satisfied in the present case. The acts of forcible transfer were of similar seriousness to the instances of deportation, as they involved a forced departure from the residence and the community, without guarantees concerning the possibility to return in the future, with the victims of such forced transfers invariably suffering serious mental harm Appeal Judgement para 331.

316 Judgement, *Krajsnik* (ICTY IT-00-39-A), Appeals Chamber, 17 March 2009, paragraph 331.

317 The Decision on the "Prosecution's Request for a Ruling on Jurisdiction under Article 19(3) of the Statute" concerning the situation of Bangladesh and Myanmar similarly suggested that inhumane acts were present; however, the Pre-Trial Chamber relied on the right of return whereas the Mission draws on the same rights as those protected by the crimes against humanity of deportation and forcible transfer. (ICC-RoC46(3)-01/18 at paragraph 77).

318 This finding has been made previously, first by the Mission in its 2018 Report, A/HRC/38.CRP.2, at paragraph 1215. The Office of the Prosecutor of the International Criminal Court also adopts this conclusion in their "Request for authorization of an investigation pursuant to article 15" dated 4 July 2019, ICC-01/19 at paragraphs 153-154.

319 The issue of the barrier fence was raised on 6 September 2017 at a joint high-level meeting and on 20 October 2017 at a UEHRD fundraising ceremony

320 This is evidenced by the Tatmadaw fundraising ceremonies on 10 and 21 September 2017, and possibly on 1 September. Although the border fence is not explicitly mentioned in Senior General Min Aung Hlaing's website report on the first of the three Tatmadaw funding ceremonies on 1 September 2017, the wording on a banner hung during the second ceremony infers that the fence may have been mentioned during this first ceremony. A translation of the banner is as follows: "Second ceremony to present cash and kind to Security forces, departmental staff who risked their lives for national security and defence duties in Rakhine State, and the displaced natives who had to leave their homes due to the violent attacks of the ARSA extremist Bengali terrorists; and to erect the border fence." (http://www.seniorgeneralminaunghlaing.com/2017/09/cash-donations-will-be-used-in-areas.html?view=mosaic).

321 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/); "Lack of country-loving

concerning the purpose of the barrier fence. There, the fence is 200 metres from the border, inside Myanmar territory, and surrounds the IDP Rohingya population, preventing them from accessing their villages and homes.[322] There have been daily loudspeaker announcements, directed at the IDP Rohingya population from the Myanmar side of the fence, broadcasting calls that the Rohingya are there illegally.[323] Fourth, the re-inforcement of the barrier fence was done in the context of a number of other projects implemented and actions taken by the Tatmadaw, including the destruction of Rohingya villages that have the effect of preventing the Rohingya from returning to their homes. These are elaborated on in the section below and reaffirm the purpose of the barrier fence.

134. The financial assistance that KBZ Group and Max Myanmar officials provided towards the construction of the fence was substantial. KBZ Group donated USD 2.2 million through UEHRD to build a section of the fence.[324] It also donated USD 2,477,857[325] to the Tatmadaw Commander-in-Chief, Senior General Min Aung Hlaing on 1 September 2017[326] and on 10 September 2017.[327] Max Myanmar donated USD 654,000[328] to the UEHRD during a fundraising ceremony at which the State Counsellor spoke about improving the border

spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/); https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/

322 As described in paragraph 112.

323 Oral update by the High Commissioner for Human Rights on the situation of human rights of Rohingya people, A/HRC/38.CRP.2, paragraph 14, also see End of mission statement by Special Rapporteur on the situation of human rights in Myanmar, Dhaka, 8, July 2018, https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23347&LangID=E. See also FI-051 and FM-006.

324 Ben Dunant, "Tycoons on the Frontline of Rakhine Reconstruction," Voice of America, 23 January 2018 (https://www.voanews.com/a/business-leaders-support-myanmar-reconstruction/4219898.html)

325 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

326 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

327 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

328 Ayeyarwady Foundation, "Ayeyarwady Foundation donated for Rakhine State" (http://www.ayeyarwadyfoundation.org/en_US/ayeyarwady-foundation-donated-for-rakhine-state/)

fence.[329] It donated USD 976,857[330] to Tatmadaw Commander-in-Chief Min Aung Hlaing on 1 September 2017[331] and following a ceremony on 21 September 2017.[332]

135. As noted above in the legal framework section, providing financial support to an organization directly committing crimes is sufficient for the contribution to be deemed substantial. KBZ Group and Max Myanmar, the two companies that the Mission identified as specifically funding the building of the fence, provided funds to the direct perpetrators, the Tatmadaw and civilian leaders, who needed money to build a barrier fence, which secured and consolidated the deportation of the Rohingya people from their homeland in northern Rakhine State and played an integral part in the inhumane act of preventing Rohingya from accessing their homeland. Therefore, they made a substantial contribution to the crime. In addition, the Mission has evidence that officials of KBZ Group and Max Myanmar were aware that the fence and other measures described in the fundraising ceremonies and in the UEHRD would contribute to the inhumane act of preventing the Rohingya from accessing their homes and property. This was evident by the repeated public hate-filled rhetoric of Tatmadaw Commander-in-Chief Senior General Min Aung Hlaing directed against the Rohingya people as a whole and his references to the "Bengali problem".[333] Nyo Myint, senior managing director of KBZ Group, demonstrated his awareness of the purpose of the fence when he told a journalist that his donation towards the fence was meant to contribute to preventing illegal migration.[334] As previously explained, the Mission has determined that reference to illegal migration is indicative of the pervasive climate of hatred and contempt toward the Rohingya and a false narrative propagated to breed hatred against the Rohingya.[335]

136. For these reasons, the Mission concludes on reasonable grounds that officials from KBZ Group and Max Myanmar aided, abetted, or otherwise assisted in the crimes against humanity of persecution and other inhumane acts. It is now the responsibility of the Myanmar Government or, failing action by the Myanmar Government, other justice systems with jurisdiction to investigate and, if there is sufficient evidence, prosecute those officials for

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329 The Republic of the Union of Myanmar, "Voices from Donation Ceremony for UEHRD," State Counsellor Office 21 October 2017 (https://www.statecounsellor.gov.mm/en/node/1185)

330 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

331 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/) Although the barrier fence was not explicitly mentioned in the website reporting on the 1 September fundraising ceremony, the intention to prevent Rohingyas from returning to Myanmar was elaborated on extensively and the fence was mentioned explicitly on the website reporting on the two subsequent ceremonies.

332 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

333 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/); "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/); https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/.

334 Ben Dunant, "Tycoons on the Frontline of Rakhine Reconstruction," Voice of America, 23 January 2018 (https://www.voanews.com/a/business-leaders-support-myanmar-reconstruction/4219898.html).

335 A/HRC/39/CRP.2 paragraphs 1501, 1315.

crimes under international law. The Mission also has reasonable grounds to conclude that a criminal investigation should be undertaken to determine if those and other company officials are responsible for crimes under international law for their involvement in the implementation of UEHRD and Tatmadaw measures other than the re-inforcement of the barrier fence that also caused great suffering by preventing the Rohingya from returning to their homes and communities. This includes, among others, Asia World Group and Eden Group.

(b) Liability of company officials for donations to Tatmadaw fundraising ceremonies

137. The Mission has reasonable grounds to conclude that a criminal investigation should be undertaken to determine if company officials additional to those from KBZ Group and Max Myanmar are responsible for crimes under international law arising from their financial contributions at the Tatmadaw's three funding ceremonies. As stated by Senior General Min Aung Hlaing, the funds raised during these ceremonies were needed for the express purpose of continuing the "area clearance operations" and finishing the "Bengali problem". [336] In addition to the construction of the barrier fence, the donations were intended to support "security troops and departmental personnel discharging [sic] State defence and security duties at risk of sacrifice in Rakhine State".[337] This description makes it clear that the Tatmadaw would direct the donations for Tatmadaw activities in support of their "clearance operations" in northern Rakhie State.

138. The context in which the fundraising ceremonies were taking place is crucial to understanding the purpose of the projects funded and the knowledge or awareness of the donors. Following the violence that began on 25 August 2017 and the expulsion of over 700,000 people[338], the Tatmadaw continued to engage in serious violations of international law in northern Rakhine State by destroying Rohingya villages, bulldozing partially destroyed homes, and clearing previously occupied land. Based on a review of satellite imagery, the Mission assessed that 20 per cent of the total destruction in northern Rakhine occurred after 16 September 2017, affecting more than 7,000 structures, and other destruction continued at least until March 2018.[339]

139. The ceremonies took place while mass atrocities including extermination and mass displacement of the Rohingya people, were still occurring. This timing, combined with Senior General Min Aung Hlaing's hateful rhetoric during the ceremonies directed towards the entire Rohingya population, provides reasonable grounds for the Mission to conclude that those attending and making donations at the Tatmadaw's funding ceremonies were aware of the likelihood that their donations would substantially contribute to ensuring the Rohingya population cannot return to their villages and communities. This is especially true in the context of the extremely close relationship between the Tatmadaw and many of the donors, who included current and former Tatmadaw members and their relatives.[340]

140. The amount of financial support received by Senior General Min Aung Hlaing during these funding ceremonies was significant (USD 6.15 million) and contributed in a meaningful way to the Tatmadaw's continuing operations in northern Rakhine State. Through their donations, these companies and their officials, supported and facilitated the "clearance

[336] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

[337] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

[338] A/HRC/39/CRP.2, paragraph 1331.

[339] For further details, see: A/HRC/39/CRP.2, paragraph 1180-1244. See, also, OTP Request for authorisation for an investigation pursuant to article 15, ICC-01/19-07 04-07-2019 2/146 RH PT, paras. 152-170.

[340] See paragraph 120; See Annex IV. List of donors and details of donations solicited by the Tatmadaw in September 2017.

operations" that entailed a number of crimes under international law. For these reasons, the Mission has reasonable grounds to conclude that a criminal investigation should be undertaken to determine if donors who made donations made at the Tatmadaw's funding ceremonies incur international criminal liability. Annex IV of this report provides a list of companies and other actors known to have made donations at those ceremonies.[341]

B. MEHL and MEC joint ventures and commercial partnerships with foreign companies and foreign State-owned enterprises

141. Partnerships with foreign companies and foreign State-owned enterprises facilitate the Tatmadaw's reach in diverse industries across Myanmar. The Mission identified 14 foreign companies that it concluded on reasonable grounds have maintained or entered into joint ventures with MEHL, MEC or one of their subsidiaries.[342] These foreign companies are involved in manufacturing, construction and real estate development, tobacco, arts, entertainment and recreation, mining and quarrying, and in the information and communication sectors.[343] The Mission identified another 44 foreign companies that it concluded on reasonable grounds have had other types of relationships with MEHL, MEC, and their subsidiaries either through contractual or other commercial ties.[344]

142. The nature of the relationships is illustrated by MEHL's partnership with Wanbao Mining Ltd., a wholly owned subsidiary of China North Industries Corporation (NORINCO), a Chinese State-owned enterprise, in Myanmar's two largest two copper mines in Sagaing State. Wanbao Mining Ltd. operates the Monywa Letpadaung copper mine through its wholly owned subsidiary Myanmar Wanboa Mining Copper Ltd. According to the terms of the mining concession, Myanmar's State-owned Mining Enterprise 1 (ME1) is entitled to 51 per cent of the profits from Letpadaung, Myanmar Wanbao Mining Copper Ltd. is entitled to 30 per cent of the profits, and MEHL is entitled to 29 per cent of the profits.[345] Wanbao Mining Ltd. also operates the Sabai Mountain and Kyay Sin Mountain (S&K) Mine through its wholly owned subsidiary Myanmar Yang Tse Copper Ltd, with MEHL entitled to 51 per cent of profits and Myanmar Yang Tse Copper Ltd. entitled to 49 per cent of profits.[346]

143. The Mission was able to identify 14 foreign companies that have joint ventures with Tatmadaw conglomerates. In some joint ventures, foreign companies invest in MEHL or MEC companies, in exchange for equity. In others, foreign companies and MEHL or MEC companies jointly form new business enterprises. In the extractive sector, MEHL or MEC provide a license or permit and take a share in the joint venture. The joint venture partners have provided investment capital and have been responsible for running the business.[347] Some joint ventures between foreign companies and Tatmadaw conglomerates are transparent, such as the 70 per cent stake of Posco Steel Co., Ltd., a South Korean steel company, in Myanmar Posco Steel Company Ltd., a MEHL company.[348] Other business partnerships are traceable through corporate structures and leadership. For example, the Mission has documented a commercial parternship between Thilawa Cement and Building Materials Ltd. and Sinminn

[341] See Annex IV. List of donors and details of donations solicited by the Tatmadaw in September 2017.
[342] See Annex II. Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC).
[343] See Figure 2: Foreign company joint ventures with MEHL and MEC by Industry
[344] See Annex II. Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC).
[345] Amnesty International, "Open for Business? Corporate Crimes and Abuses at Myanmar Copper Mine" (2015); Myanmar Extractive Industries Transparency Initiative (MEITI): The Fourth Myanmar EITI Report For the Period 1 April 2016 to 31 March 2017 (FY 2016-2017), Oil and Gas, Gems and Jade, Other Minerals and Pearl, 30 March 2019 (https://myanmareiti.org/sites/myanmareiti.org/files/publication_docs/4th_meiti_report_30_march_2019_1.pdf), pg. 72; Reference No. 5/3/Ah Kha Ya/Pai (2124/2018), "Submitting MEHL's information and data for EITI process," 25 June 2018 (https://myanmareiti.org/files/uploads/mehl_information_data_for_eiti.pdf).
[346] See Annex V. Foreign companies in commercial partnerships with MEHL and MEC.
[347] Digital record 2005.
[348] See Annex V. Foreign companies in commercial partnerships with MEHL and MEC.

Cement, a MEHL subsidiary.[349] Thilawa Cement and Building Materials Ltd., according to corporate filings, is listed as being owned by Lafarge,[350] which since 2015 merged into LafargeHolcim, a French-Swiss company and the world's largest cement manufacturer.[351] According to corporate records, Thilawa Cement and Building Materials Ltd., and SinMinn Cement, the MEHL subsidiary, share board leadership.[352]

144. Other foreign companies are engaged with MEHL, MEC and their subsidiaries more directly, paying Tatmadaw conglomerates for the use of their property. A stark example is that of Adani Group, of India, which is leasing land in Yangon from MEC for 50 years for USD 290 million for the construction of Ahlone International Port Terminal 2.[353] The Mission has been unable to establish the origin of MEC's ownership of this land. Other examples[354] raise serious concerns that foreign companies are leasing MEHL, MEC or Tatmadaw-owned property for significant sums, without facing due scrutiny as to how their payments are benefitting the Tatmadaw.

1. Legal and policy findings

145. The Mission finds that any foreign business activity involving the Tatmadaw and its conglomerates MEHL and MEC poses a high risk of contributing to, or being linked to, violations of human rights law and international humanitarian law. At a minimum, these foreign companies are contributing to supporting the Tatmadaw's financial capacity.

146. Given this situation, the absence of security sector reform and the persistent lack of accountability documented in its 2018 report, the Mission concludes on reasonable grounds that the activities of these foreign companies and foreign SOEs dealing with the Tatmadaw and its conglomerates have a reasonably foreseeable adverse impact on the situation of human rights in relation to Myanmar. States hosting these foreign companies and SOEs therefore have a heightened duty to take appropriate legislative and other measures to ensure that the companies' and SOEs' activities are consistent with the State's human rights obligations and responsibilities. The Mission similarly concludes that foreign companies and SOEs involved with the Tatmadaw and its conglomerates MEHL and MEC should sever their relationships with these enterprises in light of the information presented in this report and should ensure that they are fulfilling their corporate responsibility to respect human rights. Those in commercial relationships with MEHL or MEC may find themselves complicit, in law, fact or the eyes of the broader public, in contributing to the resources available to the Tatmadaw to continue its involvement in gross violations of international human rights law and serious violations of international humanitarian law. This report puts companies on further and effective notice of the human rights implications that arise from maintaining business connections with the Tatmadaw.

[349] SinMinn Cement Limited filing with the Government of Myanmar's official corporate registry, DICA. On file with the Mission.

[350] Digital record 1922.

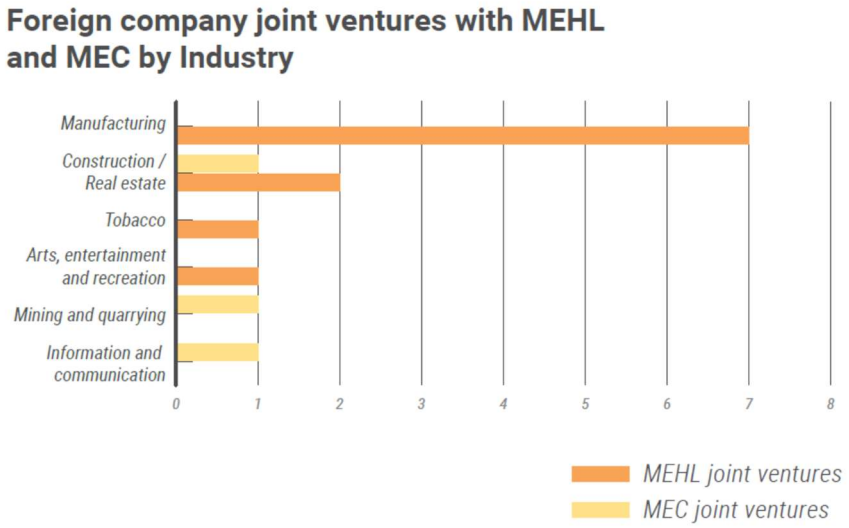
[351] Lafarge Holcim (https://www.lafargeholcim.com/).

[352] OpenCorporates database entry: Company number: 2198-2014-2015, Sinminn Cement Industry Company Limited (https://opencorporates.com/companies/mm/2198-2014-2015).

[353] Digital record 2008; "Local reports put the investment committed by Adani at $290 million," PTI New Delhi, 14 May 2019 (https://www.thehindubusinessline.com/economy/logistics/adani-group-to-develop-container-terminal-port-in-myanmar/article27124926.ece).

[354] See paragraph 67 for more information on MEHL, MEC and Tatmadaw real estate ownership.

Figure 2: Foreign company joint ventures with MEHL and MEC by Industry



C. Arms and military equipment suppliers

147. As a result of the Mission's findings that there are reasonable grounds to conclude that the Tatmadaw has been directly involved in gross violations of human rights law and serious violations of international humanitarian law, as well as acts of genocide, crimes against humanity and war crimes, the Mission recommended that States should not authorize the transfer of arms to Myanmar, considering States' knowledge that they would be used to commit such crimes, or, at a minimum, the overriding risk that the arms would undermine peace and security or be used to commit or facilitate the commission of further serious crimes under international law.[355]

148. A considerable number of States – including the United States,[356] the 28 member countries of the European Union,[357] Canada[358] and Australia[359] – have long-standing arms embargoes in place against Myanmar. Some have taken steps in the aftermath of the "clearance operations" that began in August 2017 to widen the scope of their restrictive measures. For instance, in February 2018, the European Union Council, expanded its arms embargo on Myanmar, which already covered arms, munitions and military equipment, to prohibit also the export of dual-use goods for military and Border Guard Police use, and restrict the export of equipment for monitoring communications, as well as military training and cooperation.[360]

149. The Mission reaffirms its recommendation against the transfer of arms to Myanmar. The Tatmadaw has orchestrated and promoted the perpetration of violations of international law in various parts of Myanmar over many years and has done so in a climate of near total impunity. The Tatmadaw's strong and unified military command structure, over which its most senior generals preside, is largely responsible for these violations. Given these circumstances, and the Tatmadaw's use of weapons, military vehicles, navy vessels and

355 A/HRC/39/CRP.2, paragraph 1709.

356 United States, Code of Federal Regulations, Title 22 §126.1 - Prohibited exports, imports, and sales to or from certain countries.

357 Stockholm International Peace Research Institute, "EU arms embargo on Myanmar (Burma)," (https://www.sipri.org/databases/embargoes/eu_arms_embargoes/myanmar).

358 Government of Canada, "Canadian Sanctions Related to Myanmar," (https://international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/myanmar.aspx?lang=eng).

359 Australian Government, "Sanctions Regimes: Myanmar," (https://dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/Pages/myanmar.aspx),

360 Stockholm International Peace Research Institute, "EU arms embargo on Myanmar (Burma)," (https://www.sipri.org/databases/embargoes/eu_arms_embargoes/myanmar)

aircraft in the commission of these violations, the Mission has examined the sources of the Tatmadaw's arms and other equipment.

150. In analysing the sale of arms and related equipment to the Tatmadaw, the Mission focused its investigation on information concerning deliveries and orders since 2016.[361] During this period, especially after November 2016, States and foreign companies, including foreign SOEs, knew or ought to have known that Myanmar security forces, including the Tatmadaw, were responsible for gross violations of human rights law in northern Rakhine State. In confirmation of this, in at least one domestic jurisdiction, a petition was filed in early 2017 that successfully blocked the delivery of military equipment to the Tatmadaw on the basis of the events in October 2016 in northern Rakhine.[362]

151. As the situation deteriorated from October 2016, it became a matter of the public record that United Nations humanitarian agencies were blocked from delivering aid.[363] Myanmar's security forces were accused of undertaking a "scorched earth" policy.[364] In March 2017, the UN Human Rights Council adopted resolution 34/22, noting the seriousness of the allegations contained in a "flash report" released by the Office of the United Nations High Commissioner for Human Rights.[365] In November 2017, the Security Council issued a presidential statement calling on Myanmar to end excessive military force and intercommunal violence in Rakhine State.[366] The widespread public condemnation of the conduct of Myanmar's security forces, the response in international fora and the extent of international media coverage of highly traumatized civilians cannot have escaped the attention of States. They must have had knowledge and notice that the Tatmadaw was engaging in serious violations of international human rights law and, where applicable, international humanitarian law.

152. Since August 2017, the Tatmadaw's "clearance operations" and allegations of serious human rights violations were contemporaneously reported, almost in real-time, by the international press and known throughout the world.[367] The Mission's September 2018 report also received widespread international and domestic attention. The Mission reported to the General Assembly in October 2018. It was also invited to brief the UN Security Council in October 2018, where some of those States, including the Russian Federation and China, made statements indicating their awareness of the situation in northern Rakhine State.[368]

153. Additionally, public reports documenting the human rights crisis in Myanmar contain credible information about the types of weapons and related equipment that the Tatmadaw and other security forces had used in their commission of violations of international law. Myanmar security forces used helicopters, rifles, grenades, and RPGs against the Rohingya

[361] See Figure 3: Arms and Military Equipment Suppliers to the Tatmadaw.

[362] Digital records 1990, 1991, 1997.

[363] "UN: Food aid for 80,000 Rohingya blocked by Myanmar," Al Jazeera, 19 October 2016 (https://www.aljazeera.com/news/2016/10/food-aid-80000-rohingya-blocked-myanmar-161019135600701.html)

[364] Amnesty International, "Myanmar: Security Forces Target Rohingya During Vicious Rakhine Scorched-Earth Campaign," 19 December 2016 (https://www.amnesty.org/en/press-releases/2016/12/myanmar-security-forces-target-rohingya-viscious-scorched-earth-campaign/)

[365] A/HRC/RES/34/22, paragraph 9.

[366] SC/13055, "Security Council Presidential Statement Calls on Myanmar to End Excessive Military Force, Intercommunal Violence in Rakhine State," 6 November 2017 (https://www.un.org/press/en/2017/sc13055.doc.htm)

[367] A/HRC/RES/34/22, paragraph 1538.

[368] E.g., On 24 October 2018, Meeting Coverage, Head of Human Rights Fact-Finding Mission on Myanmar Urges Security Council to Ensure Accountability for Serious Violations against Rohingya: Myanmar's Representative Calls Mission Flawed, Biased, Defends Counter-Terrorist Actions by Security Forces in Rakhine State, SC/13552, 24 October 2018 (https://www.un.org/press/en/2018/sc13552.doc.htm).

during the attacks that began in October 2016.[369] As reported in the Mission's 2018 report, witnesses in Dar Gyi Zar saw the arrival of two or three helicopters on 12 November 2016 from which soldiers opened fire using automatic weapons.[370] Shooting from the helicopters continued for up to two hours. At least one woman was shot and killed inside her house and witnesses saw up to 15 other bodies of people killed by gunfire from the helicopters.[371] The Mission collected information reporting that on or around 14 December 2016, Nam Ha village in Muse Township, Shan State, was attacked, both by mortar shelling and airstrikes by four jet fighter planes. The village was composed of nearly a hundred households and had a population of over 500 villagers, with the Mission receiving information that no members of EAOs were present during the attacks and with no other military assets in the village.[372] The military units involved in the clearance operations that began on 25 August 2017 in northern Rakhine State resulting in gross violations of international human rights law and serious violations of international humanitarian law were armed with 60 tanks and armoured personnel carriers.[373] Victims who spoke to the Mission described attackers using a hand-held or shoulder-mounted weapon. Some also described weapons fixed to the ground using some sort of support. Victims were most likely describing a portable anti-armour weapon such as an RPG-7 (rocket propelled grenade launcher) or the M-3 Carl Gustav recoilless rifle, both of which are used by the Tatmadaw and match the description in terms of both use and results.[374] Eight MI-17 helicopters were also relocated to Rakhine State, and may have been among the helicopters identified as those used in the clearance operations.[375] At least one navy vessel fired upon a Rohingya village from the Bay of Bengal.[376] The Mission also reported aerial bombings and artillery fire in Tanai, Kachin State, between November 2017 and April 2018 that appeared inconsistent with the rules of international humanitarian law.[377]

154. The Mission has identified several companies supplying similar equipment and support, including fighter planes, maintenance and upgrades to helicopters, surface-to-surface ballistic missile systems, armoured personnel carriers and artillery systems, small arms and materiel, to the Tatmadaw. Of 14 companies identified as having supplied military equipment to the Tatmadaw since 2016, 12 are foreign SOEs. The Mission identified SOEs of China, Democratic People's Republic of Korea, India, Russia, and Ukraine involved in major arms or arms-related deals with Myanmar. Israel also exported arms to Myanmar before an order of its Supreme Court prohibited further sales.[378]

155. Since 2016, the Myanmar Air Force has received 12 Yakovlev Yak-130 jet trainers from the Russian Federation State-owned Irkutsk Corporation, a subsidiary of the United Aircraft Corporation.[379] In October 2017, four of the Myanmar Air Force's Mil Mi-24P

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369 BBC News, "Myanmar army fires on Rohingya villages in Rakhine region," 13 November 2016 (https://www.bbc.com/news/world-asia-37968090); OHCHR, *Report of OHCHR mission to Bangladesh – Interviews with Rohingyas fleeing from Myanmar since 9 October 2016 – Flash Report* (3 February 2017).

370 LI-123.

371 A/HRC/39/CRP.2, paragraph 1084; CI-139, LI-123, LI-125, LI-135, QI-101, XI-009.

372 A/HRC/39/CRP.2, paragraph 127.

373 A/HRC/39/CRP.2, paragraph 1248.

374 A/HRC/39/CRP.2, paragraph 961.

375 A/HRC/39/CRP.2, paragraphs 762, 770, 1084 and 1152.

376 A/HRC/39/CRP.2, paragraph 1156.

377 A/HRC/39/CRP.2, paragraphs 307-315.

378 Noa Landau, "Israel Denies Arming Myanmar. But Its Officials Are Still Visiting a Tel Aviv Arms Expo," 4 June 2019, Haaretz (https://www.haaretz.com/israel-news/.premium-israel-denies-selling-weapons-to-myanmar-but-reps-are-still-at-tel-aviv-arms-expo-1.7332146). The Mission notes that in July 2019, Israel has taken steps to ensure that Tatmadaw officials do not attend Israeli arms expositions, see, Noa Landau, "Israel to Bar Myanmar Officials From Arms Expos," 17 July 2019, Haaretz (https://www.haaretz.com/israel-news/.premium-israel-to-bar-myanmar-officials-from-arms-expos-1.7532506).

379 Andrew Selth, "Myanmar: pariah status no bar to defence modernisation," The Lowy Institute (https://www.lowyinstitute.org/the-interpreter/myanmar-pariah-status-no-bar-defence-modernisation); See https://asian-defence-news.blogspot.com/2019/01/myanmar-has-received-six-more-yak-130.html, which it cited in https://www.irrawaddy.com/news/burma/russia-building-six-advanced-fighter-jets-myanmar-military.html.

helicopter gunships were serviced by the Russian Federation State-owned defence company Rostec, and four Mil Mi-35 helicopters were upgraded with new technology.[380] In January 2018, Myanmar and Russia agreed on the sale of six Sukhoi SU-30 multi-role fighter jets in a contract reportedly worth about USD 204 million.[381] The fighter planes are also produced by the State-owned Irkutsk Corporation. In January 2018, the Tatmadaw carried out airstrikes in Tanai, Kachin State, in which civilians were killed and property was destroyed, causing displacement and destruction of livelihoods.[382] The Mission received credible reports that the Tatmadaw used Mil Mi-35 helicopter gunships in the attack.[383]

156. Media reports of statements from government officials provided the Mission with general and specific confirmation of several of these transfers. They also made it clear that the equipment had been or would be used in contexts—namely counter-insurgency and counterterrorism operations—in which the Tatmadaw was notorious for committing violations of international human rights law and international humanitarian law. In early 2018, Russian Federation Deputy Defence Minister Alexander Fomin was publicly quoted as saying the fighter planes would "become the main fighter aircraft of Myanmar's air force to protect the country's territorial integrity and repel any terror threats."[384] At a press conference following the 8th Moscow Conference on International Security in April 2019, Commander-in-Chief Senior General Min Aung Hlaing said that Russia's military hardware was "very useful" for his military in key locations in Myanmar.[385] The State-owned newspaper Global New Light of Myanmar also reported that a military delegation led by Commander-in-Chief Senior General Min Aung Hlaing visited the Irkutsk Aviation Plant on 23 April 2019.[386]

157. In addition to the credible reports and high profile attention at the United Nations given to the Myanmar human rights crisis described in paragraph 152 above, Russia also knew or ought to have known from the acts of other States about the adverse international human rights law and international humanitarian law consequences its arms transfers would have. This includes the arms embargoes imposed by numerous other governments, many of which were maintained or widened in reaction to widespread violence and human rights violations by the military and other security forces against minority groups in Rakhine, Kachin and Shan States.[387]

158. The Mission's investigation also found arms transfers arriving from China. In May 2017, it was reported that the Tatmadaw was acquiring SY-400 short-range precision surface-to-surface ballistic missile systems, manufactured by the China State-owned China

[380] "Russian Helicopters repairs Mi-24P helicopter for Myanmar Air Force," TASS, 13 October 2017 (https://tass.com/defense/970640); "Myanmar Air Force Received the First Modernized Mi-35P Helicopter", Defense Studies, 7 October 2017.

[381] Andrew Selth, "Myanmar: pariah status no bar to defence modernisation," The Lowy Institute (https://www.lowyinstitute.org/the-interpreter/myanmar-pariah-status-no-bar-defence-modernisation).

[382] GI-011, GI-026, A/HRC/39/CRP.2, paragraphs 310, 311.

[383] PM-008.

[384] Oliver Slow, "Amid Continued Criticism, Myanmar Still Spending Big on Military," VOA News, 1 February 2018 (https://www.voanews.com/a/myanmar-military-spending/4234303.html).

[385] Moe Myint, "Russia Building Six Advanced Fighter Jets for Myanmar Military," 25 April 2019 (https://www.irrawaddy.com/news/burma/russia-building-six-advanced-fighter-jets-myanmar-military.html).

[386] The Global New Light of Myanmar, "Senior General visits Irkutsk Aviation Plant, Irkutsk town," 23 April 2019 (http://www.globalnewlightofmyanmar.com/senior-general-visits-irkutsk-aviation-plant-irkutsk-town/).

[387] See paragraph 148. For example, in February 2018, the EU Council condemned widespread, systematic grave human rights violations committed by the Myanmar military and other security forces. It confirmed the relevance of the existing embargo and on 26 April 2018 it expanded the restrictive measures on Myanmar with a prohibition on the export of dual-use goods for military and Border Guard Police end users, restrictions on the export of equipment for monitoring communications that might be used for internal repression, and on military training and military cooperation. See: Council Regulation (EU) 2018/647 of 26 April 2018 amending Regulation (EU) No 401/2013 concerning restrictive measures in respect of Myanmar/Burma.

Aerospace Science and Industry Corporation.[388] In November 2018, the Tatmadaw Air Force received its first six JF-17M "Thunder" combat aircraft out of a total of 16 aircraft ordered in 2015 on a USD 560 million contract with the Chinese State-owned Aviation Industry Corporation of China (AVIC).[389] Senior General Min Aung Hlaing confirmed Chinese weapon transfers to Myanmar in the past and indicated that the relationship continued in 2019. During a visit to Beijing on 10 April 2019, he was reported in the media as saying that the "Myanmar army is unavoidably relying on the People's Liberation Army… for weapons procurement," and thanking China for "its correct stance and standing against the international community over the Rakhine State issue."[390]

159. In February 2018, the UN Panel of Experts established pursuant to resolution 1874 (2009) in relation to sanctions on the Democratic People's Republic of Korea reported that a Member State had notified the Panel "of evidence of the receipt by Myanmar of ballistic missile systems from the Democratic People's Republic of Korea in addition to a range of conventional weapons, including multiple rocket launchers and surface-to-air missiles" and that "personnel of the Democratic People's Republic of Korea had been dispatched to Directorate for Defence Industries-operated facilities in Myanmar".[391] This appears to have been done through Korea Mining Development Trading Corporation (KOMID).[392] In the context of reporting that Myanmar maintains a sophisticated global procurement network through its Directorate for Defence Industries, the Panel also noted that a Member State reported that the Directorate's director, Tun Hlaing, "had reportedly been involved in overseas procurements and was associated with at least two Singapore-based firms, Excellence Metal Casting and STE Global Trading Pte Ltd."[393] The Panel did not provide specifics on the types of items Myanmar may have procured from these companies.

160. The Mission also found that Ukraine is supporting the Tatmadaw's military infrastructure and production capabilities. In March 2019, it was reported that Ukraine State-owned Ukrspetsexport and Ukroboronprom had begun implementing an arms manufacturing deal to build a plant in Myanmar to manufacture armoured personnel carriers and self-propelled howitzers, notably the BTR-4U wheeled 8×8 armoured personnel carrier and the 2S1U self-propelled howitzer.[394] Ukrspetsexport was reported to have confirmed an initial delivery of equipment and machinery for the plant, which is scheduled to begin production by 2020.[395]

161. India's State-owned defence manufacturers have also supplied the Tatmadaw. Hindustan Aeronautics Limited (HAL) delivered second-hand trainer aircraft in 2018 as

388 "Myanmar looks to buy Chinese SY-400 ballistic missile systems," 5 May 2017 (https://defence-blog.com/news/myanmar-looks-to-buy-chinese-sy-400-ballistic-missile-systems.html)

389 "Le JF-17 «Thunder» entre en service au Myanmar," 3 November 2018 (http://psk.blog.24heures.ch/archive/2018/11/03/le-jf-17-thunder-entre-en-service-au-myanmar-866464.html)

390 Nan Lwin, "Myanmar Military Chief Thanks Beijing for Support on Rakhine Crisis," The Irrawaddy, 10 April 2019 (https://www.irrawaddy.com/news/burma/myanmar-military-chief-thanks-beijing-support-rakhine-crisis.html)

391 S/2018/171, Report of the Panel of Experts established pursuant to resolution 1874 (2009), para. 101.

392 S/2018/171, Report of the Panel of Experts established pursuant to resolution 1874 (2009), para. 101.

393 S/2018/171, Report of the Panel of Experts established pursuant to resolution 1874 (2009), para. 102. The Panel also noted that a Member State had "further indicated that Tun Hlaing may have previously been associated with Myanmar's Excellence Mineral Manufacturing Co. Ltd, previously designated by a Member State for working with officials of the Democratic People's Republic of Korea, to import materiel for military weapons programmes."

394 Moe Myint, "Ukrainian Firm will Reportedly Help Tatmadaw Build Plant for Military Equipment," The Irrawaddy, 7 March 2019 (https://www.irrawaddy.com/news/burma/ukrainian-firm-will-reportedly-help-tatmadaw-build-plant-military-equipment.html)

395 "Ukraine to build armoured vehicle assembly plant in Myanmar," Ukrainian Military Pages, 6 March 2019 (https://en.ukrmilitary.com/2019/03/ukraine-to-build-plant-in-myanmar.html); "Ukraine to build armoured vehicle assembly plant in Myanmar," Defense Blog, 6 March 2019 (https://defence-blog.com/army/ukraine-to-build-armoured-vehicle-assembly-plant-in-myanmar.html)

aid,[396] and Bharat Dynamics Limited provided anti-submarine torpedoes to the Myanmar Navy following an agreement reached in March 2017, reportedly worth USD 38 million.[397] This agreement followed a visit by the Chief of Naval Staff of the Indian Navy to Myanmar in November 2016.[398] The official press release announcing the visit stated that India was providing assistance to the Myanmar Navy through military hardware and equipment, with the objective of bolstering its capacity.[399]

162. In April 2017, Israel Aerospace Industries, an Israeli State-owned enterprise, delivered two attack frigates to the Tatmadaw Navy.[400] This delivery followed the filing of a petition before the Israeli Supreme Court in early 2017 seeking a prohibition on implementation of a defence cooperation agreement signed between Israel and Myanmar on the basis of the conduct of the Tatmadaw in northern Rakhine in October 2016. As a result of a subsequent decision by the Israeli Supreme Court, military export licenses were revoked and there has been no further defence cooperation.[401]

163. Privately-owned arms manufacturing companies have also sold arms and provided military training to the Tatmadaw. In October 2016, an Israeli military and police equipment and training company TAR Ideal Concepts, posted photographs on its website of its personnel training the Tatmadaw Special Operations Taskforce.[402] In November 2018, a media statement by an official from the Philippine-based company, Armscor International, announced that it had sold competition handguns to the Tatmadaw Shooting Team, and was exploring how to further penetrate the Myanmar defence market, noting that "there are a number of security agencies in Myanmar that are interested in new defence products."[403]

164. In addition to military equipment and other support supplied by these identified sources, the Tatmadaw purchases arms and equipment through third parties that masks their origins. According to the SIPRI Arms Transfers Database, in 2016, the Tatmadaw purchased second-hand light helicopters from unknown sources.[404] According to an eyewitness, in the weeks prior to the clearance operations that began on 25 August 2017, light helicopters identified as Bell 206 or 212 helicopters (capacity of 8 to 10 persons) frequently flew into northern Rakhine, many to No. 1 BGP Headquarters in Kyee Kan Pyin, Maungdaw.[405] Bell 206 or 212 helicopters are light aircraft, which are often used to transport troops.

165. In addition to procuring arms, military equipment and arms manufacturing capacity, the Tatmadaw procured or sought to procure information and communications technology

396 "To counter Chinese clout, India to gift 6 HAL Kiran jet trainers to Myanmar," Times Now News, 1 December 2018 (https://www.timesnownews.com/india/article/china-hal-kiran-myanmar-indian-air-force-southeast-asia-kaladan-multimodal-project-act-east-policy-narendra-modi-national-socialist-council-of/324243); SIPRI Database extract of transfers of major weapons: deals with deliveries or orders made for 2016 to 2018, SIPRI Arms Transfers Database, Stockholm International Peace Research Institute.

397 Rajat Pandit, "India steps up supply of military equipment to Myanmar to counter China," Times of India, 24 March 2017 (https://timesofindia.indiatimes.com/india/india-steps-up-supply-of-military-equipment-to-myanmar-to-counter-china/articleshow/57815200.cms); SIPRI Database extract of transfers of major weapons: deals with deliveries or orders made for 2016 to 2018, SIPRI Arms Transfers Database, Stockholm International Peace Research Institute.

398 Official website of Indian Navy, "Admiral Sunil Lanba, PVSM, AVSM, ADC, Chief of the Naval Staff visits Myanmar," 1 November 2016 (https://www.indiannavy.nic.in/content/admiral-sunil-lanba-pvsm-avsm-adc-chief-naval-staff-visits-myanmar)

399 Official website of Indian Navy, "Admiral Sunil Lanba, PVSM, AVSM, ADC, Chief of the Naval Staff visits Myanmar," 1 November 2016 (https://www.indiannavy.nic.in/content/admiral-sunil-lanba-pvsm-avsm-adc-chief-naval-staff-visits-myanmar)

400 Andrew Selth, "Myanmar: pariah status no bar to defence modernisation," The Lowy Institute (https://www.lowyinstitute.org/the-interpreter/myanmar-pariah-status-no-bar-defence-modernisation)

401 MM-002

402 MM-002, Digital records 1990, 1991 and 1997.

403 "Filipino handguns triggering into Myanmar", South Asian Monitor, 9 November 2018 (http://southasianmonitor.com/2018/11/09/filipino-handguns-triggering-into-myanmar/)

404 SIPRI Database extract of transfers of major weapons: deals with deliveries or orders made for 2016 to 2018, SIPRI Arms Transfers Database, Stockholm International Peace Research Institute.

405 QM-001

from at least seven foreign companies since 2016, under the official Ministry of Defence budget.[406] These have included unmanned aerial vehicles, military air-traffic control systems, internet and cloud-based platforms and connectivity services, telecommunications technology, cameras, radio transceivers for ground-to-air communications, and precision navigation systems.[407] These dual-use technologies, when exported from inside the European Union, would be subject to the EU controls on the exports of military technology and equipment,[408] as the recipient and end-user of the goods would be the Tatmadaw, the armed forces of the recipient country.[409] These goods and technologies may also be subject to other export controls, as prescribed by the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies.[410] According to the Myanmar defence budget, the Tatmadaw procured or sought to procure these goods and technology from companies in several Wassenaar Arrangement countries, including Austria, Canada, Japan, Norway, South Africa, and the United Kingdom.

1. Legal findings

166. International law provides various legal frameworks that regulate weapons and other equipment transfers from State to State, aiming to prevent the types of violations the Mission has documented in Myanmar. Under international human rights law, State parties to the ICCPR must take appropriate legislative and other measures to ensure that all activities taking place in whole or in part within their territory or under their jurisdiction, but having a direct and reasonably foreseeable impact on the right to life of individuals outside their territory, are consistent with the right to life and with the right of victims to obtain an effective remedy.[411]

167. The Mission finds reasonable grounds to conclude that China, Democratic People's Republic of Korea, India, Israel, Philippines, Russia, and Ukraine allowed the arms and arms-related transfers and assistance to Myanmar. Based on the types of items and assistance provided, China, Democratic People's Republic of Korea, Israel, Russia, and Ukraine knew or ought to have known that doing so would have a direct and reasonably foreseeable adverse impact on the human rights of people in Myanmar. This is contrary to the ICCPR, to which the Democratic People's Republic of Korea, Israel, Russia, and Ukraine are all State parties. China is a signatory. By implication, these countries also failed to effectively apply human rights due diligence to the transfers. Given the totality of the circumstances, the Mission is also of the view that India and the Philippines should not have permitted the transfer of arms and related items to the Tatmadaw. Further investigation is required with respect to the nature of arms or related items that Myanmar may have procured from two businesses based in Singapore, which is not a party or a signatory to the ICCPR.

168. The Mission similarly concludes that China, Democratic People's Republic of Korea, Israel, Russia, and Ukraine failed to refrain from transferring weapons although they expected or ought to have expected, based on the facts or their knowledge of past patterns of the Tatmadaw, that the weapons would be used in acts that violate international human rights law and international humanitarian law.[412]

169. For this reason, these States provided arms and other related equipment in breach of their Common Article 1 obligations as a matter either of treaty law or of customary international humanitarian law. The Mission also reached the conclusion under the general rules of State responsibility that prohibit aiding or assisting another State in the commission of an internationally wrongful act, that these States knew, or were virtually certain, that the assistance would be used for unlawful purposes. Although the Mission did not have enough

[406] See Annex VI. Arms and military equipment suppliers to the Tatmadaw.
[407] Digital records 2165, 2166, 2167, 2168, 2169, 2170 and 2171.
[408] European Union Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.
[409] Article 6, European Union Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.
[410] See Wassenaar Arrangement, "List of dual-use goods and technologies and munitions list", December 2018.
[411] See paragraph 27.
[412] See paragraph 29.

information to conclude that an unlawful act did actually occur, the gravity of this finding is aggravated by the fact that the Tatmadaw has engaged in "serious breaches", which prohibits States from rendering aid or assistance in *maintaining* the situation (even if the breach has ceased) that arose from those breaches. As noted above, given the totality of the circumstances, the Mission is also of the view that India and the Philippines should not have permitted the transfer of arms and related items to the Tatmadaw. Further investigation is required with respect to the application of these rules to Singapore.

170. The Mission also draws legal findings from international arms trade law. Since October 2016, Israel, the Philippines, and Ukraine, all signatories to the ATT, have allowed the transfer or enabled the assembly of conventional arms and other items covered by the Arms Trade Treaty, namely armoured combat vehicles and battle tanks,[413] small arms and light weapons[414], and warships[415]. As signatories, they are obliged to refrain from acts contrary to the object and purpose of the treaty, which include establishing the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms for the purpose of reducing human suffering. This is principally manifested in the ATT's core obligations found in Articles 6 and 7, which aim to ensure that arms do not end up in the hands of those who would use them to commit serious violations of international human rights law or international humanitarian law.[416] Despite this, Israel in particular allowed the transfer of arms covered by the ATT at a time when it had knowledge, or ought to have had knowledge, that they would be used in the commission of serious crimes under international law. Further investigation is required with respect to the transfer and any prospective sales of small arms or other items from the Philippines as well as the nature of arms or related items that Myanmar may have procured from two businesses based in Singapore, which is a signatory to the ATT.

171. Ukraine as a signatory to the ATT must also not engage in acts or omissions that defeat the treaty's object and purpose. The ATT covers "parts and components where the export is in a form that provides the capability to assemble the conventional arms".[417] Despite this, the Ukraine state-owned Ukrspetsexport and Ukroboronprom factory agreed to provide the capacity to assemble conventional arms, in this case armoured personnel carriers and self-propelled howitzers, in a manner that would place those arms into the hands of the Myanmar government at a time when Ukraine had knowledge, or ought to have had knowledge, that they would be used in the commission of serious violations of international law. While the ATT does not specifically cover the building of arms factories in another State, a good faith interpretation of the treaty should preclude activities that circumvent the treaty's Article 6 prohibition by building an arms factory in a State to which Ukraine would otherwise be prohibited from transferring arms.[418] The building of an arms factory in Myanmar would provide a sustainable source of conventional arms that the treaty otherwise regulates. For these reasons, the Mission concludes on reasonable grounds and through a good faith interpretation of the ATT that the Ukrspetsexport and Ukroboronprom arms factory in Myanmar defeats the object and purpose of the ATT.

172. Article 7, which covers due diligence and mitigation efforts, applies to the export of conventional arms and related items that are not prohibited under Article 6. Under Article 7, signatories (due to their obligation not to defeat the object and purpose of the treaty) and States Parties (due to their binding obligations under the treaty) must assess the potential for

[413] Assembly factory to build BTR-4U wheeled 8×8 armored personnel carrier, and 2S1U self-propelled howitzer based on the MT-LBu multi-purpose chassis, provided by Ukraine state-owned Ukrspecexport.

[414] Competition handguns sold to the Tatmadaw by Philippines-based private arms manufacturer, Armscor International.

[415] Two attack frigates, delivered to the Tatmadaw Navy by Israel Aerospace Industries, a State-owned enterprise.

[416] See paragraphs 31-32.

[417] The Arms Trade Treaty (https://thearmstradetreaty.org/treaty-status.html?templateId=209883#), Article 4.

[418] See, Geneva Academy of International Humanitarian Law and Human Rights, The Arms Trade Treaty (2013) June 2013, p. 21 (https://www.geneva-academy.ch/joomlatools-files/docman-files/Publications/Academy%20Briefings/ATT%20Briefing%203%20web.pdf).

exports to contribute to, *inter alia*, undermining peace and security or be used to commit or facilitate a serious violation of international human rights law or international humanitarian law. The exporting signatory or State Party must also consider whether there are measures that could be undertaken to mitigate those risks and it must not authorize the export if there is an overriding risk of any of those negative consequences occurring. The exporting State's assessment must also take into account the risk of the covered export being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children, all of which have occurred in the Myanmar context.

173. Having found that Israel and Ukraine should not have transferred or enabled the assembly of conventional arms, the Mission need not evaluate whether Israel and Ukraine undertook an effective assessment equivalent to Article 7. Nonetheless, the Mission is of the view that an overriding risk existed and, for that additional reason, the items should not have been exported.

174. In addition to the obligations on States to regulate arms transfers, the Mission has reasonable grounds to conclude that, due to widespread knowledge of the Tatmadaw's abhorrent human rights record, arms transferring businesses in China, Democratic People's Republic of Korea, Israel, Russia, and Ukraine should not have permitted the transfers. The Mission reminds these businesses that they should effectively apply relevant international human rights principles in line with their corporate responsibility to respect human rights. Businesses involved in the sale of arms and dual-use goods (see paras. 175-176 below) should also carry out effective human rights due diligence to determine whether they can put in place preventive or mitigation measures (such as restrictions on where and how the equipment could be used) and, if not, should decline making the sale. Given the totality of the circumstances, the Mission is also of the view that India and Philippines-based businesses should not have permitted the transfer of arms and related items to the Tatmadaw. Further investigation is needed into the nature of arms or related items that Myanmar may have procured from two businesses based in Singapore.

175. The Mission also takes note of at least seven companies from which, since 2016, the Tatmadaw procured or sought to procure information and communications technology. Moreover, as the EU control of exports of military technology and equipment[419] makes clear, dual-use goods and technology, for which there are serious grounds for believing that their end-user will be the armed forces or internal security forces or similar entities in the recipient country, are considered, for the purposes of export control, as military technology or equipment.[420] The inclusion of information and communications technology from identified companies on the Myanmar Ministry of Defence military budget makes clear that the recipient and end-user of the goods and technology would be the Tatmadaw. Austria and the United Kingdom, which are listed as confirmed or potential sources of such goods and technologies in the Tatmadaw's budget, are subject to EU export control rules.

176. In addition, the Wassenaar Arrangement on Export Controls list of dual-use goods and technologies includes information security technology; target acquisition, designation, range-finding, surveillance or tracking systems; cameras; and software, all of which the Tatmadaw procured or sought to procure since 2016 under the official Ministry of Defence budget.[421] Wassenaar Arrangement participating States are expected to apply export controls to all items on its list of dual-use goods and technologies.[422] Austria, Canada, Japan, Norway, South Africa, and the United Kingdom, are all participating States in the Wassenaar Arrangement.

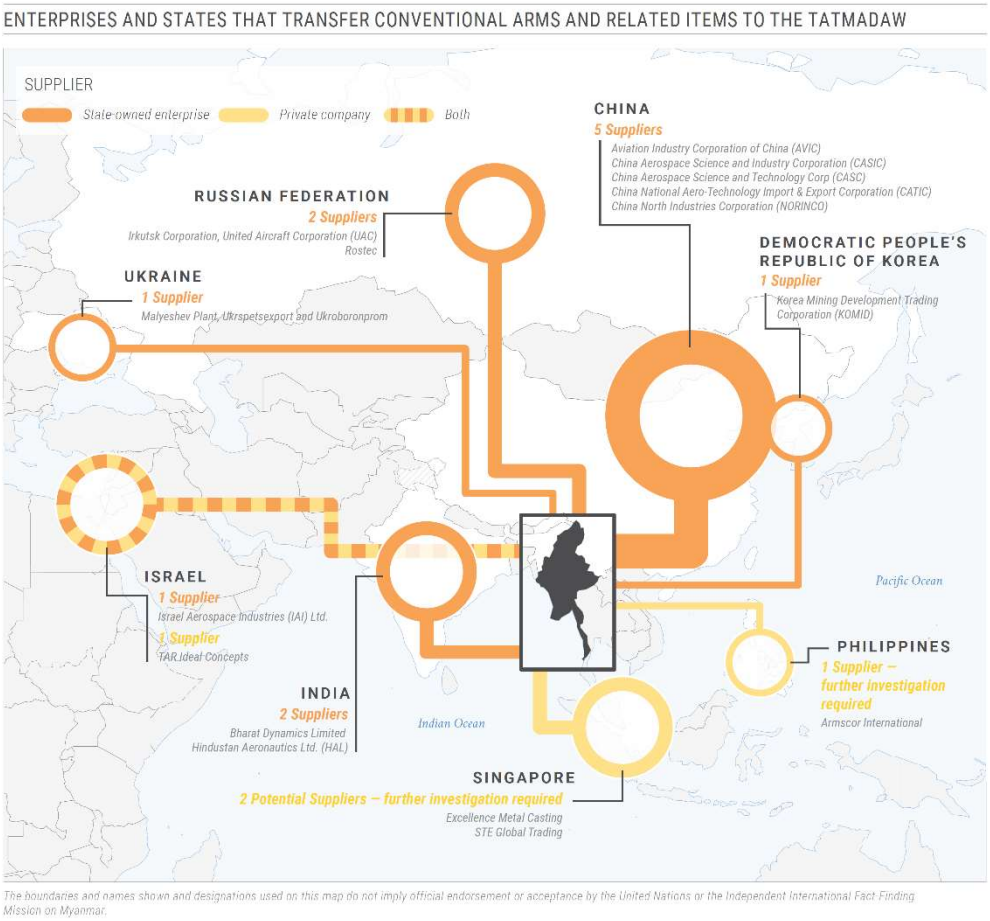
[419] European Union Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.

[420] Article 6, European Union Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.

[421] Wassenaar Arrangement, "List of dual-use goods and technologies and munitions list", December 2018.

[422] See Wassenaar Arrangement, "List of dual-use goods and technologies and munitions list".

Figure 3: Arms and Military Equipment Suppliers to the Tatmadaw



VI. Conclusions and recommendations

177. **In its September 2018 report, the Mission found that the Tatmadaw and forces under its control were responsible for the majority of violations and crimes committed in Kachin, Shan and Rakhine State, as documented by the Mission.**[423] **The Mission recommended that a political, constitutional and legislative reform process transform the place, role and power of the Tatmadaw and other security forces, including through removing military prerogatives in politics and the economy.**[424]

178. **This report, on the economic interests of the Tatmadaw, further substantiates that recommendation, illustrating how the Tatmadaw uses its web of commercial interests, established through military-linked companies and subsidiaries, relationships with State-owned enterprises and private crony companies, to secure financial resources to support its activities and personnel. In doing so, the Tatmadaw insulates itself from accountability and oversight. Through controlling its own business empire, the Tatmadaw can evade the accountability and oversight that normally arise from civilian oversight of military budgets.**

179. **In addition, this report has begun to illuminate the role that other corporate actors play in contributing to or benefiting from the human rights and international humanitarian law violations of the Tatmadaw. Foreign companies with joint ventures and other commercial relationships with the Tatmadaw, Myanmar business donors to the Tatmadaw's operations, and arms suppliers are in some cases legally implicated in the conduct of the Tatmadaw, and in all cases complicit through their tacit acceptance**

423 A/HRC/39/CRP.2, paragraph 1554.
424 A/HRC/39/CRP.2, paragraph 1631.

and approval of the Tatmadaw's actions. This conclusion is most notable in northern Rakhine, where private businesses are assisting the implementation of the inhumane and discriminatory policies of the Tatmadaw specifically and the government as a whole under the guise of economic development and reconstruction.

180. **In this report, the Mission has concluded on reasonable grounds that:**

a. **Two Tatmadaw conglomerates, Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC), are owned and influenced by senior Tatmadaw leaders, including the Commander-in-Chief Senior General Min Aung Hlaing and the Deputy Commander-in-Chief Vice Senior General Soe Win, responsible for gross violations of international human rights law and serious violations of international humanitarian law. The Mission identified 106 MEHL and MEC owned businesses across diverse sectors of the economy – from construction and gem extraction to manufacturing, insurance, tourism and banking, and a further 27 businesses that are closely affiliated with the MEHL and MEC through corporate structures. The revenue that these military businesses generate strengthens the Tatmadaw's autonomy from elected civilian oversight and provides financial support for the Tatmadaw's operations with their wide array of international human rights and humanitarian law violations.**

   There are strong and persistent business and familial links between the Tatmadaw, its conglomerates MEHL and MEC, and a number of private Myanmar companies and conglomerates, colloquially known as "crony companies".

b. **Human rights and international humanitarian law violations, including forced labour and sexual violence, have been perpetrated by the Tatmadaw in mining areas, particularly in Kachin State, in connection with their business activities. MEHL and MEC and 23 of their identified subsidiaries have numerous licenses for jade and ruby mining in Kachin and Shan States.**

c. **At least 45 companies and organizations provided the Tatmadaw with USD 6.15 million in financial donations that were solicited in September 2017 by senior Tatmadaw leadership in support of the "clearance operations" that began in August 2017 against the Rohingya in northern Rakhine. The Mission also found that private companies with enduring links to the Tatmadaw are financing development projects in northern Rakhine in furtherance of the Tatmadaw's objective of re-engineering the region in a way that erases evidence of Rohingya belonging in Myanmar, and preventing their return to access their homeland and communities. These projects, carried out under the Union Enterprise for Humanitarian Assistance, Resettlement and Development in Rakhine (UEHRD) consolidate the consequences of war crimes, crimes against humanity and acts of genocide.[425] On the basis of these findings, the Mission has identified private companies with officials who may have made a substantial and direct contribution to the commission of crimes under international law, including the crime against humanity of "other inhumane acts" and persecution, warranting their criminal investigation.**

d. **14 foreign companies have joint ventures and at least 44 foreign companies have other forms of commercial ties with Tatmadaw businesses. Through such joint venture and commercial relationships, the Mission finds that any foreign business activity involving the Tatmadaw and its conglomerates MEHL and MEC poses a high risk of contributing to, or being linked to, violations of international human rights law and international humanitarian**

[425] Jennifer Balint, Kristian Lasslett and Kate Macdonald, ""Post-Conflict" Reconstruction, the Crimes of the Powerful and Transitional Justice," State Crime Journal, Vol. 6, No. 1, "Post-Conflict" Reconstruction, the Crimes of the Powerful and Transitional Justice (Spring 2017), pp. 4-12. See also; Loewenstein, A. (2017) Disaster Capitalism: Making a Killing Out of Catastrophe. New York: Verso.

law. At a minimum, these foreign companies are contributing to supporting the Tatmadaw's financial capacity.

e. **At least 14 foreign companies from seven States have provided arms and related equipment to the Tatmadaw since 2016, after the Tatmadaw's dismal human rights record was widely and publicly known. Moreover, the public record made it clear that the Tatmadaw used many of the types of arms and related equipment that these entities were providing to commit gross violations of human rights and serious violations of international humanitarian law. Many of these companies and States therefore knew, or ought to have known, that their arms transfers could have a direct and reasonably foreseeable impact on the human rights situation in Myanmar. Among the arms suppliers identified by the Mission, 12 companies are State-owned enterprises.**

The Mission also received credible information regarding seven foreign private companies from which the Tatmadaw procured or sought to procure dual-use goods and technology since 2016. The technology has included telecommunications services, tracking and precision systems, unmanned aerial vehicles, and internet and data transmission technology.[426]

181. **The States and companies mentioned above are listed in the annexes to this report.**

182. **Removing the Tatmadaw from Myanmar's economy will entail two parallel approaches. The first is negative, and requires the economic isolation of and disengagement from Tatmadaw associated companies. This includes the above-mentioned economic interests, as outlined in the Mission's findings. The second approach is positive, and centres on the promotion of economic ties and engagement with non-Tatmadaw companies and businesses in Myanmar as a means of building and strengthening the non-Tatmadaw sector of the economy.**

183. **Implementing these two parallel approaches will erode the economic base of the Tatmadaw. This will undercut its ability to obstruct the reform process. It will also impair the Tatmadaw's ability to carry out its operations and thereby contribute to a reduction in violations of human rights and international humanitarian law. Finally, it will serve as a form of accountability in the short-term, ensuring that the Tatmadaw suffer the consequences – at least economically – of its actions.**

184. **At the same time, pursuing these two approaches in parallel will contribute to fostering the continued liberalization of Myanmar's economy, including its natural resource sector, albeit in an accountable way, contributing to equity and transparency, as well as greater economic growth for Myanmar's population.**

185. **To this end, the following recommendations set out a road map for the government of Myanmar, United Nations Security Council, Member States, relevant regional and international inter-governmental organizations, investors and businesses, international financial institutions, and the United Nations, its funds, programmes and agencies.**

186. **To the Government of Myanmar:**

a. **Place the Tatmadaw fully under civilian control and oversight through the adoption of necessary laws and policies, including through the amendment of the Constitution;**

b. **Following a full restructuring of the Tatmadaw, as well as an amended Constitution that ensures civilian control over the military, require parliamentary approval of all funding for the Tatmadaw and prohibit any income for the Tatmadaw that is not under parliamentary control. Consequently, remove the Tatmadaw from Myanmar's economic life, prohibiting it by law from engaging in any form of economic activity and**

[426] See Annex VI. Arms and military equipment suppliers to the Tatmadaw.

prohibiting serving Tatmadaw officers from having a controlling interest in any economic ventures or sitting on the boards of economic enterprises;

c. **In the interim, implement measures ensuring that MEHL and MEC comply with all tax, accounting and financial rules, and fully disclose all information on their financial activities and operations, and those of their subsidiaries;**

d. **Develop a robust policy and legislative framework that requires companies involved in natural resource extraction, including MEHL, MEC and their subsidiaries, to comply with financial reporting requirements and disclose details of beneficial ownership, in line with the government's commitments under the Extractive Industries Transparency Initiative;**

e. **Ensure no person or entity who has cooperated with the Mission is subject to reprisals, intimidation or any other form of harassment. Take all appropriate steps to prevent, investigate, punish and redress human rights violations through effective policies, legislation, regulations and adjudication of business related activities and require businesses to respect human rights, and periodically assess the adequacy of such laws and address any gaps; perform due diligence and provide effective guidance to businesses on how to respect human rights throughout their operations; and encourage and, where appropriate, require businesses to communicate how they address their human rights impacts of their operations.**

187. **To the Security Council:**

a. **Impose targeted financial sanctions against senior officials of the Tatmadaw responsible for violations of international human rights law and violations of international humanitarian law;**

b. **Impose targeted financial sanctions against all Tatmadaw-owned companies, especially MEHL, MEC and their subsidiaries, while respecting human rights and significantly mitigating any adverse socio-economic impact of sanctions;**

c. **Impose a comprehensive arms embargo on Myanmar and establish a mechanism to monitor and enforce it.**

188. **To Member States, and relevant regional and international intergovernmental organisations:**

a. **Implement targeted individual sanctions, including travel bans and asset freezes, against individuals publicly identified as perpetrators of violations of international human rights law and international humanitarian law by the Mission, as well as family members and associates of identified individuals, where they may act as surrogate business owners or be used as proxies by identified individuals to evade sanctions, while respecting human rights;**

b. **Implement targeted individual sanctions and asset freezes against the owners of Tatmadaw conglomerates, and their subsidiary companies, while respecting human rights and significantly mitigating any adverse socio-economic impact of sanctions;**

c. **Implement targeted sanctions against legal persons, entities or bodies contributing economically to or benefitting economically from the Tatmadaw and its operations as well as family members and associates of identified individuals, where they may act as surrogate business owners or be used as proxies by identified individuals to evade sanctions, while respecting human rights;**

d. **Implement arms transfer sanctions, as an integral part of a coordinated multilateral approach to accountability, justice and ending the human rights crisis in Myanmar;**

e. **Bring this report to the attention of any companies domiciled in their territory doing business in Myanmar;**

f. **Take appropriate legislative and other measures to ensure that all business activities taking place in whole or in part within their territory or under their jurisdiction, and having a direct and reasonably foreseeable impact on the human rights of individuals in the context of the Myanmar human rights crisis, are consistent with their human rights obligations, including the right of victims to obtain an effective remedy;**

g. **Support any individuals subjected to reprisals, or who would face the risk of reprisals, as a result of having cooperated with the Mission, especially where the State has a diplomatic presence in Myanmar or neighbouring countries;**

h. **Exercise jurisdiction to extradite or investigate and, if there is sufficient evidence, prosecute officials of corporations where there are reasonable grounds to believe they participated in the commission of crimes under international law committed in relation to Myanmar's human rights crisis;**

i. **Assist consumers to avoid dealing with MEHL, MEC and their subsidiaries and any other company owned or influenced by the Tatmadaw, including by identifying whether goods exported from Myanmar are produced, sold or exported without any association, directly or indirectly, with the Tatmadaw.**

189. **To investors and businesses:**

a. **No business enterprise active in Myanmar or trading with or investing in businesses in Myanmar should enter into or remain in a business relationship of any kind with the security forces of Myanmar, in particular the Tatmadaw, or any enterprise owned or controlled by them (including subsidiaries) or their individual members, until and unless they are re-structured and transformed as recommended by the Mission. These enterprises include in particular MEHL and MEC and all of their subsidiaries and business relationships. Relevant business relationships include granting loans to these companies or investing capital into their operations and procuring services from Tatmadaw related companies (including real estate rental). With respect to companies owned or controlled by family members of Tatmadaw leaders, business enterprises should exercise extreme caution and only enter into such relationships if they have assured themselves after heightened due diligence, that it is a legitimate business not linked to or supporting the Tatmadaw. Businesses active in Myanmar or trading with or investing in businesses in Myanmar or considering doing so should use credible information, including this report, its list of companies in the Annexes (and any updated information as it becomes available), and the Mission's 2018 report when carrying out their due diligence assessments;**

b. **Prohibit all contributions and donations to, and other funding of the Tatmadaw directly or through business relationships with Myanmar companies;**

c. **Conduct all investment, including foreign investment, in conflict-affected areas, especially in Kachin, Shan, and Rakhine States, in line with the UN Guiding Principles for Business and Human Rights and subject all investments that are not already precluded from the recommendations above to heightened due diligence, given the Mission's findings;**

d. **Any business enterprise purchasing natural resources from Myanmar highlighted in this report, and in particular, jade and rubies, and timber from Kachin and Shan States, should conduct heightened due diligence to ensure that the resources were not produced or sold by enterprises owned or influenced by the Tatmadaw (including subsidiaries and joint ventures) or individual members of the Tatmadaw. If so, they should not purchase or use, directly or indirectly, the resources. The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas provides useful guidance in this regard;**

e. **Businesses buying goods from Myanmar should apply rigorous standards of due diligence to their supply chains, to ensure that none of their products are coming from Tatmadaw-related businesses. Businesses should also make the origins of their products clear, to allow consumers to make informed choices.**

190. **To consumers:**

a. **Those considering travelling to Myanmar should avoid dealing with MEHL, MEC and their subsidiaries and any other company owned or influenced by the Tatmadaw, using the list of companies in the Annexes to this report (and any updated information as it becomes available) to inform their consumer choices, given the Tatmadaw companies' involvement in the hotel and tourism industry;**

b. **Refrain from purchasing jade or rubies produced, sold or exported by MEHL, MEC and their subsidiaries and any other company owned or influenced by the Tatmadaw or whose origin is unclear, given the high likelihood of them having originated in Kachin and Shan States in Myanmar, the involvement of Tatmadaw businesses in the jade and ruby mining, and the close association that the mining industry has with Myanmar's human rights crisis;**

c. **Scrutinize goods originating from Myanmar, using the list of companies in the Annexes to this report (and any updated information as it becomes available) to inform consumer choices, and support non-Tatmadaw businesses in Myanmar by purchasing goods from businesses without links to the Tatmadaw.**

191. **To international financial institutions:**

a. **Support and encourage investment only in the non-Tatmadaw linked private sector to support the growth of alternative economic actors to the Tatmadaw and associated businesses;**

b. **Implement and deliver development projects in keeping with the human rights-based approach to programming, including participation, empowerment, local ownership, and sustainability;**

c. **Support and deliver development, investment, and reconstruction in a fair, equitable, non-discriminatory, sustainable and non-politicized manner; for this reason, not undertake any economic or development activity, other than emergency humanitarian assistance, in Rakhine State until and unless all restrictions on the remaining Rohingya populations are lifted;**

d. **Follow a human rights, community and protection approach when planning and implementing development projects, especially with regard to where and how development projects and programming are carried out or assistance provided. Projects or assistance must not provide economic or other benefit to parties where there is reason to suspect they were unlawfully involved in acts that constituted crimes under international law, including war crimes, crimes against humanity, or genocide;**

e. **In development projects in Kachin, Shan and Rakhine States, do not support or engage in activities that destroy or contaminate crime sites or other evidence for the purposes of accountability;**

f. **Ensure that any direct budget support to the Myanmar Government contributes to the fulfilment of the Sustainable Development Goals and the economic and social rights of the entire population in Myanmar in a non-discriminatory manner, to ensure that no one is left behind.**

192. **To the United Nations, including its funds, programmes and agencies:**

a. **Do not provide assistance and programming that may prejudice the goals of accountability for international human rights law and international humanitarian law violations in relation to Myanmar;**

b. **Place the specific needs of women and children at the forefront of UN humanitarian, development and reconstruction planning and implementation;**

c. **Undertake further investigations into the following areas:**

i. **Companies owned by the Tatmadaw directly, as well as MEHL, MEC, their subsidiaries, and Myanmar Northern Star Company;**

ii. **MEHL, MEC and other Tatmadaw companies' past and present leadership;**

iii. **Tatmadaw-owned real estate projects;**

iv. **Companies owned by Tatmadaw leadership and the immediate family members of high-ranking officials, including Tatmadaw officers linked to crimes under international law in Rakhine, Kachin and Shan States;**

v. **Assets of identified perpetrators;**

vi. **Loans to and capital invested in Tatmadaw-owned companies and banks;**

vii. **Companies and States facilitating the sale and transfer of arms and related items to the Tatmadaw;**

viii. **commercial and/or financial links between the Tatmadaw and Buddhist nationalist organizations, including the Ma Ba Tha (Patriotic Association of Myanmar), in connection with Ma Ba Tha calls to action and mobilization around the "clearance operations" that began in August 2017 in northern Rakhine, incitement to, and other involvement in, anti-Rohingya violence, endorsement of Tatmadaw crimes; and**

ix. **The role of ethnic armed organizations and their business interests in Myanmar in relation to the contribution they made and continue to make to Myanmar's human rights crisis.**

Annexes

I. Map of Myanmar

II. Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC)

A. Governance structure of MEHL and MEC

	Rank (if known) and name	*If known, active military position or (if retired) in other parts of government*	*Comments*	*Position on MEHL Patron Group*[427]	*Position in MEHL, Ltd.*	*Position in MEC Ltd.*
1	Senior General Min Aung Hlaing	Commander-in-Chief	Named by the Mission. Sanctioned by the U.S.	Chairman		
2	Vice Senior General Soe Win	Deputy Commander-in-Chief and Commander in Chief of Army	Named by the Mission. Sanctioned by the U.S.	Vice Chairman		
3	Lt. General Hsan Oo	Adjutant-General		Secretary	Chairman – representative of Military Personnel in service	
4	Lt. General Mya Tun Oo	Joint Chief of Staff (Army, Navy, Airforce)		Member		
5	Admiral Tin Aung San	Commander-in-Chief of Navy		Member		
6	General Maung Maung Kyaw	Commander-in-Chief of Air Force		Member		
7	Lt. General Nyo Saw	Quartermaster General		Member		Director
8	Major General Khin Maung Than	Director for Military Procurement			Managing Director – representative of Defence Services Branches	
9	Major Gen. Moe Myint Htun (Tun)	Army Chief of Staff			Director - representative of Defence Services Branches	Director
10	Rear Admiral Moe Aung	Navy Chief of Staff			Director	Director

[427] Digital record 2179.

	Rank (if known) and name	*If known, active military position or (if retired) in other parts of government*	*Comments*	*Position on MEHL Patron Group*[427]	*Position in MEHL, Ltd.*	*Position in MEC Ltd.*
11	Lt. General (Tun) Htun Aung	Air Force Chief of Staff			Director - representative of Defence Services Branches	Director
12	Lt. General Min Naung	Inspector General			Director - representative of Military Personnel in service	
13	Lt. General Aung Lin Dwe	Judge Advocate General and Former Western Commander (2015)			Director - representative of Military Personnel in service	
14	Brig. General Kyaw Tin (Ret) /Kyaw Htin	Director General of Customs Department			Director - War Veterans' Organization representative	
15	Major Ni Aung (Ret)	Managing Director of Myanmar Port Authority			Director - War Veterans' Organization representative	
16	Brig. General Kyaw Myo Win (Ret)	N/A			Director - War Veterans' Organization representative	
17	Major Ming Khine (Ret)	N/A			Director - War Veterans' Organization representative	
18	Colonel Myint Swe	Chief of Myanmar War Veterans' Organization's Headquarters			Director - War Veterans' Organization representative	
19	Brig. General Aung Kyaw Hoe	Defence Permanent Secretary				Director
20	Aung Lin Htun	N/A				Director
21	Major General Aung Zay Ya	Director of Military Electrical and Mechanical Engineers				Director
22	Khin Maung Soe					Director

	Rank (if known) and name	*If known, active military position or (if retired) in other parts of government*	*Comments*	*Position on MEHL Patron Group*[427]	*Position in MEHL, Ltd.*	*Position in MEC Ltd.*
23	Maj. Gen. Maung Maung Myint	Director of Military Engineers				Director
24	Brig. Gen. Thaik Soe	Vice Quartermaster				Director
25	Thant Swe	N/A				Managing Director
26	Thant Zin	N/A				Director
27	Major General Thaw Lwin	Director of Signals Intelligence				Director
28	Thein Toe	N/A				Director
29	Major General Zaw Lwin Oo	Director of Supply and Transport				Director
30	Zin Min Htet	N/A				Director

B. Alleged subsidiaries and affiliate companies

(i) Alleged subsidiaries of MEHL[428]

No.	*Name of company*	*Sector (if known)*	*Source*
1	Adipati Agricultural Produce Trading Ltd*	Trade	DICA 109896691
2	ASHOK (Gems and Jewellery) Co., Ltd. (alternate spelling: Thawka)	Mining and quarrying - gems	MEHL[429], DICA 113100125
3	Aung Thitsa Oo Insurance*	Finance and insurance	DICA 188668933
4	Aung Thitsa Oo Life Insurance*	Finance and insurance	DICA 119880386
5	Bandoola Transportation Company Inc*	Transportation and storage	DICA 110156200
6	Berger Paints Manufacturing Limited*	Manufacturing	DICA 111266581
7	Bo Aung Kyaw Terminal	Trade	Lann Pyi Marine[430]; JICA[431]
8	Cancri (Gems and Jewellery) Co., Ltd. (alternate spelling: Phu Sha Star)	Mining and quarrying - gems	MEHL, DICA 113099127
9	Da Na Theiddi Kyal (Jewellery) Co., Ltd. (alternate spelling: Da Na Theiddihi Star and Danatheidi Star (Gems and Jewellery) Co., Ltd)	Mining and quarrying - gems	MEHL, DICA 113627115
10	Du Won Kyal (Jewellery) Co., Ltd. (alternate spelling: Du Won Star and Du Won Star (Gems & Jewellery) Co., Ltd.)	Mining and quarrying - gems	MEHL, DICA 113626577
11	Hawk Star (Gems and Jewellery) Co., Ltd. (alternate spellings: Thine Ngat Kyal (Jewellery) Co., Ltd. and Thein Nget Star)	Mining and quarrying - gems	MEHL, DICA 114001368
12	Hlaing Inland Terminal and Logistics Co., Ltd.*	Trade	DICA 108334258
13	Inndagaw Industrial Complex	Manufacturing	Confidential[432]

[428] MEHL, DICA No. 156387282. Subsidiaries for which the Mission was able to confirm MEHL officers sitting on their boards and/or which were owned outright by MEHL are marked with asterisks (*).

[429] Reference No. 5/3/Ah Kha Ya/Pai (2124/2018), "Submitting MEHL's information and data for EITI process," 25 June 2018 (https://myanmareiti.org/files/uploads/mehl_information_data_for_eiti.pdf), pg. 3 and Mia Newman, "Multifaceted: Governance and Conflict Risks in Myanmar's Ruby Industry," Natural Resource Governance Institute, March 2018, p. 10 (https://resourcegovernance.org/sites/default/files/documents/multifaceted-goverance-and-conflict-risks-in-myanmar-ruby-industry.pdf).

[430] "Bo Aung Kyaw Terminal", official website of Lann Pyi Marine (http://lpm-myanmar.com/Home/BusinessUnit/2). The Mission notes that Bo Aung Kyaw Terminal was recently renamed TMT Ports. A Myanmar company, KT Services, manages the port. The Mission notes allegations that KT Services has hired Portia Management Services, a UK company to operate the port.

[431] Japan International Cooperation Agency, "The Preparatory Survey for the Project for Expansion of Yangon Port in Thilawa Area," June 2014, pg. 35 (http://open_jicareport.jica.go.jp/pdf/12244893.pdf).

[432] MI-001; Digital records 2172, 2173, and 2174.

No.	*Name of company*	*Sector (if known)*	*Source*
14	Kanpauk Oil Palm Estate and Palm Oil Mill Project (KOPP)	Agriculture, forestry and fishing	SPRGID[433]
15	Kayah State Mineral Production Company Ltd.*	Mining and quarrying	DICA 111611327
16	Kone Yar Thi Star (alternate spelling: Aquarii (Gems & Jewellery) Co., Ltd.*)	Mining and quarrying - gems	MEITI[434], DICA 113094192
17	Lann Pyi Marine Company Ltd.*	Trade	DICA 110156286
18	Larbathakedi Micro Finance Service Association Inc.*	Finance and insurance	DICA 114902586
19	Lyrae (Gems and Jewellery) Co., Ltd. (alternate spelling: Saung Tar Yar Star)	Mining and quarrying - gems	MEHL, DICA 113097094
20	Mon Hsu Jewellery Co., Ltd. (alternate spelling: Mine Shu)	Mining and quarrying - gems	MEHL
21	Myanmar Imperial Jade (Gems & Jewellery) Co., Ltd.*	Mining and quarrying - gems	DICA 176227869
22	Myanmar Land and Development Ltd*	Real estate	DICA 103701147
23	Myanmar Rubber Wood Co., Ltd.*	Agriculture, forestry and fishing	DICA 107684808
24	Myanmar Ruby Enterprise (Gems & Jewellery) Co., Ltd.*	Mining and quarrying - gems	DICA 100941821
25	Myanmar Tharkaung Finance Co., Ltd.*	Finance and insurance	DICA 115049232
26	Myawaddy Agricultural Services Col, Ltd.*	Agriculture, forestry and fishing	DICA 108938412
27	Myawaddy Bank Ltd.*	Finance and insurance	DICA 158378140
28	Myawaddy Clean Drinking Water Service	Manufacturing	U.S. Embassy in Yangon[435]
29	Myawaddy Trading Ltd*	Trade	DICA 146774083
30	Myawaddy Travels and Tours Co., Ltd.*	Administrative and support services	DICA 110679106
31	Myawady Football Club*	Arts, entertainment and recreation	DICA 105493053
32	Nawadae Hotel and Tourism Ltd.*	Accommodation and food services	DICA 160918926
33	Ngwe Pin Lei Livestock Breedings and Fisheries Co., Ltd.*	Agriculture, forestry and fishing	DICA 162391577

[433] Lara M. Lundsgaard-Hansen and Nwe Nwe Tun, Voices of Land from Southern Myanmar, Kanpauk Oil Palm Estate and Palm Oil Mill Project of Myanmar Economic Holdings Limited, March 2018.

[434] Myanmar Extractive Industries Transparency Initiative (MEITI): The Fourth Myanmar EITI Report For the Period 1 April 2016 to 31 March 2017 (FY 2016-2017), Oil and Gas, Gems and Jade, Other Minerals and Pearl, 30 March 2019 (https://myanmareiti.org/sites/myanmareiti.org/files/publication_docs/4th_meiti_report_30_march_2019_1.pdf), pg. 73.

[435] U.S. Embassy in Yangon, "Burma: State-owned enterprise demonstrates military's hold on economy," 6 February 2009 (https://wikileaks.org/plusd/cables/09RANGOON83_a.html).

No.	*Name of company*	*Sector (if known)*	*Source*
34	Ngwe Pin Lei Premium Marine Products Co., Ltd.*	Agriculture, forestry and fishing	DICA 191315936
35	Ngwe Pinlae Industrial Zone	Manufacturing	Ngwe Pinlae[436]
36	Pone Nyet (Gems and Jewellery) Co., Ltd. (alternate spelling: Pone Nyat and One Nyat (Jewellery) Co., Ltd.)	Mining and quarrying - gems	MEHL, DICA 113632054
37	Pyinmabin Industrial Zone	Manufacturing	DICA[437]
38	Sabai (Jewellery) Co., Ltd. (alternate spellings: Sabae (Gems and Jewellery) Co., Ltd., and Jasmine)	Mining and quarrying - gems	MEHL
39	Seik Ta Ya Kyal (Jewellery) Co., Ltd. (alternate spellings: Si Tra Star, Seik Tra Star and Seiktra Star (Gems and Jewellery) Co., Ltd.)	Mining and quarrying - gems	MEHL, DICA 113629584
40	Shwe Gandamar International Trading Ltd.*	Trade	DICA 170137140
41	Shwe Innwa Gems*	Mining and quarrying - gems	DICA 114309206
42	Shwe Innwa Rubber Agri Production Limited*	Agriculture, forestry and fishing	DICA 106003165
43	Silver Sea Paper Carton Box Production Co., Ltd.*	Transportation and storage	DICA 100209535
44	Sinminn Cement Industry Co., Ltd.*	Manufacturing	DICA 156387282
45	Thit Sar Pan (alternate spelling: Thit Sar Pann (Jewellery) Co., Ltd.)	Mining and quarrying - gems	MEHL, DICA 144989878

(ii) Alleged affiliates of MEHL[438]

No.	*Name of company*	*Sector (if known)*	*Source*
1	Aung Myin Thu Finance Co, Ltd	Finance and insurance	DICA 111520135
2	Aung Myin Thu Group Import and Export	Trade	DICA 114063487
3	Great Shwe Myanmar Housing Development Public Co., Ltd.	Real estate	DICA 115316958
4	Haw Nang Thar Co., Ltd.		DICA 106870195
5	Mani Bawga Co., Ltd.		DICA 116179881
6	Ngwe Mar Lar Microfinance Co., Ltd.	Finance and insurance	DICA 109085251

[436] The Mission has received information that Ngwe Pinlae Industrial Zone is administered by MEHL, which is responsible for the industrial zone's maintenance, waste management and security, and that tenants of the zone pay annual fees to MEHL. The land on which Ngwe Pinlae Industrial Zone is located is owned by the Ministry of Construction Department of Urban Housing and Development.

[437] "Cost of doing business in Myanmar," Survey Report 2018, DICA, pg. 148 (https://www.dica.gov.mm/sites/dica.gov.mm/files/news-files/cost_of_doing_business_in_myanmar_survey_report2018.pdf).

[438] Companies alleged to be MEHL affiliates in are those which have one or more board members who serve on the boards of identified MEHL subsidiaries of the companies. Jade and rubies mining subsidiaries of MEHL's Myanmar Imperial Jade (Gems & Jewellery) Co., Ltd. or Myanmar Ruby (Gems & Jewellery) Enterprise Co., Ltd., are listed in Annex III. MEHL jade and ruby mining companies.

No.	*Name of company*	*Sector (if known)*	*Source*
7	Onelink Golden Myanmar Co., Ltd.		DICA 112995099
8	Pro Builders Group Co., Ltd.	Construction	DICA 115288598
9	Rammar Automobile Manufacturing & Trading Co., Ltd.	Manufacturing	DICA 112620397
10	Style Beverage	Manufacturing	DICA 118479785
11	Toe Tat Thayaphyu International Co., Ltd.		DICA 106909164
12	Zar Ti Bwar Co., Ltd.	Construction	DICA 114120901

(iii) Alleged subsidiaries of MEC or MEC Ltd.[439]

No.	*Name (or description) of company*	*Sector (if known)*	*Source*
1	Ahlone International Port Terminal 1	Trade	MEC[440]
2	Amber International Company Ltd.*	Construction	DICA 111099774
3	Anhydrous Ethanol Plant (Taungzinaye)	Manufacturing	MEC[441]
4	Aung Myint Moh Min Insurance Company Ltd.	Finance and insurance	MEC[442]
5	Bagwa Gone Company Ltd.*		DICA 116474182
6	Bagwa Gone Gems Company Ltd.*	Mining and quarrying - gems	DICA 119637155
7	Cannery	Manufacturing	MEC[443]
8	Cement plant (Myaingglay)	Manufacturing	MEC[444]
9	Coal Mine (Maw Taung)	Mining and quarrying	MEC[445]
10	Coal Mine and Power Plant (Mai Khot)	Mining and quarrying	MEC[446]
11	Container Transport and Port Clearance Yard (Ywama)	Transportation and storage	MEC[447]
12	Cotton Ginning Factory (Myitthar)	Manufacturing	MEC[448]
14	Dagon Beverages Company Ltd.*	Manufacturing	DICA 114989207

[439] DICA 105444192. Subsidiaries for which the Mission was able to confirm MEC or MEC Ltd. officers sitting on their boards and/or which were owned outright by MEC or MEC Ltd. are marked with asterisks (*). For those subsidiaries for whom ownership by the MEC is indicated by the fact that these companies are named in the MEC Brochure or official MEC website as MEC subsidiary companies.

[440] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/aung-myint-moh-min-insurance-company-limited/).

[441] Digital record 2175.

[442] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/ahlone-international-port-terminal-1/).

[443] Digital record 2175.

[444] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/no-2-4000-tpd-process-cement-plant-myaingglay/).

[445] Digital record 2175.

[446] Digital record 2175.

[447] Digital record 2175.

[448] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/cotton-ginning-factory-myittar/).

No.	*Name (or description) of company*	*Sector (if known)*	*Source*
13	Dagon Dairy Farm, Dairy Factory and Cannery (Pyinmabin)	Manufacturing	MEC[449]
15	Dagon FC Company Ltd.*	Manufacturing	DICA 119665698
16	Dagon Rum Factory (Shwe Pyi Thar)	Manufacturing	MEC[450]
17	Disposable Syringe Factory (Hwambi)	Manufacturing	MEC[451]
18	Galvanized Iron Sheet Factory (Than Hlyin)	Manufacturing	MEC[452]
19	Gas plant (Botahthaung)	Mining and quarrying	MEC[453]
20	Gas plant (Mandalay)	Mining and quarrying	MEC[454]
21	Gems Extraction Mine (Mine Shu – Loi Saung Htauk)	Mining and quarrying - gems	MEC[455]
22	Glass Factory (Than Hlyin)	Manufacturing	MEC[456]
23	Granite Mine and Processing Plant (Balin)	Mining and quarrying	MEC[457]
24	GSM Mobil Phone (438,000) Allocation (Ayeyarwadi Division)	Mobile communications	MEC[458]
25	Gypsum Mine and Transportation Plant (Htone Bo)	Mining and quarrying	MEC[459]
26	High Tension Steel Bolts, Nuts and Washers Manufacturing Plant (Ywama)	Manufacturing	MEC[460]
27	Hteedan Port (Kyeemyindine)	Trade	MEC[461]
28	Indoor Skydiving	Arts, entertainment and recreation	MEC[462]
29	Innwa Bank Ltd*	Finance and insurance	DICA 132742952
30	Jade Extraction Mine (Lone Khin – Hpakan)	Mining and quarrying - gems	MEC[463]

[449] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/dagon-dairy-plant-pyinmabin-sweetened-condensed-milk-factory/).
[450] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/dagon-rum-factory-shwe-pyi-thar/); Digital record 2175.
[451] Digital record 2175.
[452] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/galvanized-iron-sheet-factory-than-hlyin-2/).
[453] Digital record 2175.
[454] Digital record 2175.
[455] Digital record 2175.
[456] "The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/glass-factory-than-hlyin-2/).
[457] Digital record 2175.
[458] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/gsm-mobile-phone-438000-allocation-ayeyarwadi-division/).
[459] Digital record 2175.
[460] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/high-tension-steel-bolts-nuts-and-washers-manufacturing-plant-ywama-2/).
[461] Digital record 2175.
[462] Digital record 2175.
[463] Digital record 2175.

No.	*Name (or description) of company*	*Sector (if known)*	*Source*
31	Kan Thar Yar International Specialist Hospital	Human health and social work	MEC[464]
32	Marble mine and processing plant (Mandalay)	Mining and quarrying	MEC[465]
33	Myanmar Economic Corporation Telecommunication (MECTel)	Information and communication	MEC[466]
34	Myanmar Mobile Money Services Company Ltd.*	Finance and insurance	MEC[467]
35	Myanmar Sigma Cable Wire Factory (Hlaing Thar Yar)	Manufacturing	MEC[468]
26	Mytel Wallet International Myanmar Company*	Finance and insurance	DICA 103584345
37	Nan Myaing Coffee (Pyin Oo Lwin)	Manufacturing	MEC[469]
38	Nay Pyi Taw Ye Pyar Drinking Water Plant (Naypyitaw)	Manufacturing	MEC[470]
39	No. 1 Steel Rolling Mill in Kyauk Swae Kyowe on site of Pinpet Iron Ore Mine	Manufacturing	MEC[471]
40	No. 2 Steel Mill and Fabrication Shop (Myaungdagar)	Manufacturing	MEC[472]
41	No. 3 Steel Mill 3 (Ywama)	Manufacturing	MEC[473]
42	Okkala Golf Resort	Arts, entertainment and recreation	MEC[474]
43	Oxygen Plant (Mindama)	Manufacturing	EU[475]; Maung[476]

[464] Digital record 2175.
[465] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/marble-mine-and-processing-plant-mandalay-3/).
[466] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/myanmar-economic-corporation-telecommunication-800mhz-cdma-mobile-phone-project/).
[467] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/myanmar-mobile-money-2/).
[468] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/myanmar-sigma-wire-and-cable-factory-hlaing-thar-yar-2/).
[469] Digital record 2175.
[470] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/nay-pyi-taw-ye-pyar-drinking-water-plant-naypyitaw/).
[471] Digital record 2175.
[472] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/no-2-steel-mill-and-fabrication-shop-myaungdagar/).
[473] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/no-3-steel-mill-ywama/).
[474] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/okkala-golf-resort/).
[475] "COUNCIL COMMON POSITION 2006/318/CFSP of 27 April 2006 renewing restrictive measures against Burma/Myanmar" excerpted from https://://eur-lex.europa.eu/legal-content/EN/TXT/?uri=httpsCELEX:32006E0318.
[476] Maung Aung Myoe. "Building the Tatmadaw: Myanmar Armed Forces Since 1948," Singapore] ISEAS, 2009.

No.	*Name (or description) of company*	*Sector (if known)*	*Source*
44	Paper Factory (Myainggalay)	Manufacturing	MEC[477]
45	Printing Factory (Yangon)	Manufacturing	MEC[478]
46	Refractory Plant (Aung Lan)	Manufacturing	MEC[479]
47	Remote sensing ground station	Information and communication	MEC[480]
48	Rice Mills and Rice Storage (Hteedan Port)	Manufacturing	MEC[481]
49	Sandaku Myint Mo Co., Ltd.*		DICA 119637961
50	Ship Breaking Yard (Thilawa)	Transportation and storage	MEC[482]
51	Star High Co., Ltd.*	Information and communication	DICA 111218706
52	Star High Group Company Ltd*	Trade	DICA 111218897;
53	Sugar Mill (Du Yin Gabo)	Manufacturing	MEC[483]
54	Sugar mill (Kanbalu)	Manufacturing	MEC[484]
55	Sugar Mill (Kanhla)	Manufacturing	MEC[485]
56	Tea factory (Kan Yeik Thar)	Manufacturing	MEC[486]
57	Tea powder and tea mix factory (Pyinmabin)	Manufacturing	MEC[487]
58	Tristar Tyre Manufacturing Company Ltd.*	Manufacturing	MEC[488]
59	Tyre Retreading Plant (Ywama)	Manufacturing	MEC[489]
60	Virgin Coconut Oil Factory (Pathein)	Agriculture, forestry and fishing	MEC[490]
61	Wolfram Mine (Dawei)	Mining and quarrying	MEC[491]

[477] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/no-2-4000-tpd-process-cement-plant-myaingglay/)
[478] Digital record 2175.
[479] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/refractory-plant-aung-lan-2/).
[480] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/remote-sensing-ground-station/).
[481] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/360-tpd-rice-milland-rice-storage-hteedan-port/).
[482] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/ship-breaking-yard/).
[483] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/sugar-mill-du-yin-gabo/).
[484] The Republic of the Union of Myanmar, "Myanmar Economic Corporation" (https://www.mecwebsite.com/sugar-mill-kanbalu/).
[485] The Republic of the Union of Myanmar, "Myanmar Economic Corporation (https://www.mecwebsite.com/sugar-mill-kanhla-2/).
[486] Digital record 2175.
[487] The Republic of the Union of Myanmar, "Myanmar Economic Corporation (https://www.mecwebsite.com/tea-powder-and-tea-mix-factory-pyinmabin/).
[488] The Republic of the Union of Myanmar, "Myanmar Economic Corporation (https://www.mecwebsite.com/tri-star-tyre-factory-ywama/).
[489] The Republic of the Union of Myanmar, "Myanmar Economic Corporation (https://www.mecwebsite.com/tyre-retreading-plant-ywama/).
[490] Digital record 2175.
[491] Digital record 2175.

(iv) Alleged affiliates of MEC[492]

No.	*Name (or description) of company*	*Sector (if known)*	*Source*
1	Agro Pack Co., Ltd.	Manufacturing	DICA 110908636
2	Aung Myint Mo Min Securities	Finance and insurance	DICA 115650033
3	Aung Zayya Oo Co., Ltd.		DICA 101796205
4	Beautybynaychi	Manufacturing	DICA 108896116
5	Golden Majestic Mobile Company Limited	Information and communication	DICA 111732523
6	Great Lakes Trading Company Limited	Trade	DICA 110911696
7	Jewells of Angel	Mining and quarrying - gems	DICA 104223648
8	Kaung Htet Myanmar Energy Co., Ltd.	Electricity and gas supply	DICA 104413358
9	Kaung Htet Myanmar Power Co., Ltd.	Electricity and gas supply	DICA 107128778
10	Missisipi Trading Co., Ltd.	Trade	DICA 110912854
11	Myanmar Golden Majestic Star Mobile Public Co., Ltd.	Information and communication	DICA 111732523
12	Phyusin Thuka Co., Ltd.		DICA 114944068
13	Sane Lett Tin Company	Arts, entertainment and recreation	DICA 109681016
14	United Agro	Agriculture, forestry and fishing	DICA 110911491
15	X Shop 1 Myanmar Company Limited	Manufacturing	DICA 109077399

III. MEHL jade and ruby mining companies

A. Jade mining: licenses awarded to MEHL subsidiaries[493]

No.	*Name of MEHL subsidiary*	*Number of permits awarded*
1	Kone Yar Thi Star (alternate spelling: Aquarii (Gems & Jewellery) Co., Ltd.)	37
2	Myanmar Imperial Jade (Gems & Jewellery) Co., Ltd.	427
3	Cancri (Gems and Jewellery) Co., Ltd. (alternate spelling: Phu Sha Star)	50
4	Lyrae (Gems and Jewellery) Co., Ltd. (alternate spelling: Saung Tar Yar Star)	50
5	ASHOK (Gems and Jewellery) Co., Ltd. (alternate spelling: Thawka)	50
Total		614

[492] Companies alleged to be MEC affiliates in are those which have one or more board members who serve on the boards of identified MEC subsidiaries of the companies.

[493] Myanmar Extractive Industries Transparency Initiative (MEITI): The Fourth Myanmar EITI Report For the Period 1 April 2016 to 31 March 2017 (FY 2016-2017), Oil and Gas, Gems and Jade, Other Minerals and Pearl, 30 March 2019, pg. 73 (https://myanmareiti.org/sites/myanmareiti.org/files/publication_docs/4th_meiti_report_30_march_2019_1.pdf).

B. Ruby mining

(i) Licenses awarded to MEHL's Myanmar Ruby Enterprises as well as to some of its subsidiaries[494]

No.	*Name of Myanmar Ruby Enterprise (MRE) subsidiary*	*Number of permits awarded*
1	Da Na Theiddi Kyal (Jewellery) Co., Ltd. (alternate spelling: Da Na Theiddihi Star and Danatheidi Star (Gems and Jewellery) Co., Ltd)	43
2	Du Won Kyal (Jewellery) Co., Ltd. (alternate spelling: Du Won Star and Du Won Star (Gems & Jewellery) Co., Ltd.)	50
3	Sabai (Jewellery) Co., Ltd. (alternate spellings: Sabae (Gems and Jewellery) Co., Ltd., and Jasmine)	50
4	Myanmar Ruby Enterprise (Gems & Jewellery) Co., Ltd.	176
5	Pone Nyet (Gems and Jewellery) Co., Ltd. (alternate spelling: Pone Nyat and One Nyat (Jewellery) Co., Ltd.)	49
6	Seik Ta Ya Kyal (Jewellery) Co., Ltd. (alternate spellings: Si Tra Star, Seik Tra Star and Seiktra Star (Gems and Jewellery) Co., Ltd.)	49
7	Hawk Star (Gems and Jewellery) Co., Ltd. (alternate spellings: Thine Ngat Kyal (Jewellery) Co., Ltd. and Thein Nget Star)	9
8	Thit Sar Pan (alternate spelling: Thit Sar Pann (Jewellery) Co., Ltd.)	50
Total		476

(ii) Other identified subsidiaries of MEHL's Myanmar Ruby Enterprise[495]

No.	*Names of subsidiaries (and any reported joint venture partners or partners in "collaboration")*
1	Du Won Kyal (Jewellery) Co., Ltd. (alternate spelling: Du Won Star and Du Won Star (Gems & Jewellery) Co., Ltd.)
2	Seik Ta Ya Kyal (Jewellery) Co., Ltd. (alternate spellings: Si Tra Star, Seik Tra Star and Seiktra Star (Gems and Jewellery) Co., Ltd.)
3	Hawk Star (Gems and Jewellery) Co., Ltd. (alternate spellings: Thine Ngat Kyal (Jewellery) Co., Ltd. and Thein Nget Star)
4	Da Na Theiddi Kyal (Jewellery) Co., Ltd. (alternate spelling: Da Na Theiddihi Star and Danatheidi Star (Gems and Jewellery) Co., Ltd), which "collaborates" with: Game Gemstone Co., Ltd.; Royal Ayeyar Co., Ltd.; Yadanar Bhumi Co., Ltd.

[494] Reference No. 5/3/Ah Kha Ya/Pai (2124/2018), "Submitting MEHL's information and data for EITI process," 25 June 2018 (https://myanmareiti.org/files/uploads/mehl_information_data_for_eiti.pdf), pg. 3 and Mia Newman, "Multifaceted: Governance and Conflict Risks in Myanmar's Ruby Industry," Natural Resource Governance Institute, March 2018, p. 10 (https://resourcegovernance.org/sites/default/files/documents/multifaceted-goverance-and-conflict-risks-in-myanmar-ruby-industry.pdf).

[495] Reference No. 5/3/Ah Kha Ya/Pai (2124/2018), "Submitting MEHL's information and data for EITI process," 25 June 2018 (https://myanmareiti.org/files/uploads/mehl_information_data_for_eiti.pdf), pg. 2 and Mia Newman, "Multifaceted: Governance and Conflict Risks in Myanmar's Ruby Industry," Natural Resource Governance Institute, March 2018, p. 10 (https://resourcegovernance.org/sites/default/files/documents/multifaceted-goverance-and-conflict-risks-in-myanmar-ruby-industry.pdf).

No.	*Names of subsidiaries (and any reported joint venture partners or partners in "collaboration")*
5	Thit Sar Pan (alternate spelling: Thit Sar Pann (Jewellery) Co., Ltd.)
6	Sabai (Jewellery) Co., Ltd. (alternate spellings: Sabae (Gems and Jewellery) Co., Ltd., and Jasmine)
7	ASHOK (Gems and Jewellery) Co., Ltd. (alternate spelling: Thawka)
8	Lyrae (Gems and Jewellery) Co., Ltd. (alternate spelling: Saung Tar Yar Star)
0	Cancri (Gems and Jewellery) Co., Ltd. (alternate spelling: Phu Sha Star)
10	Mon Hsu Jewellery Co., Ltd. (alternate spelling: Mine Shu) is in a joint venture for the production of rubies with the KBZ Group's Nilar Yoma Company.

IV. List of donors and details of donations solicited by the Tatmadaw in September 2017

No.	*Corporate donor entity*	*Owned by*	*Brief description of entity*	*Donations in Ks*	*Total donation in Ks*	*Total in USD (USD 1 = Ks 1400)*
1	Asia World Group	Steven Law (also known as Htun Myint Naing)	Conglomerate with businesses in construction, infrastructure, finance, manufacturing and energy.	10 million on 10 September 2017[496]	10,000,000	7,142.86
2	Aung Myin Thu Group of companies	Main owners are Saw Nyein, Hla Myo and Min Thant. Min Aung Hlaing's daughter-in-law is the Director and shareholder of an Aung Myin Thu subsidiary.[497]	A conglomerate with businesses in wholesale and distribution, logistics, import/export, finance, hotels, construction, agriculture, cement and ICT/data management. They also have a registered company in Singapore.[498]	30 million on 1 September 2017[499] and 30 million on 21 September 2017[500]	60,000,000	42,857.14

[496] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

[497] Digital record 2003; "A Power Co., Ltd. is a subsidiary of AMT Group", Corporate Social Responsibility (https://www.asean.or.jp/ja/wp-content/uploads/sites/2/2017/11/4_AMT_GOC_ALL_16NOV_JAPAN_TRIP.pdf).

[498] AMT Group Global Pte. Ltd. (Singapore), listed on the AMT Group LinkedIn page: https://fr.linkedin.com/company/aung-myin-thu-group-of-companies.

[499] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

[500] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

No.	*Corporate donor entity*	*Owned by*	*Brief description of entity*	*Donations in Ks*	*Total donation in Ks*	*Total in USD (USD 1 = Ks 1400)*
3	Authentic Group of Companies	Ni Ni Tin Tun and Aung Myo Hein.	Working in construction, wastewater, trade and production. Company of the family of Major General Tin Tun. Wife Khin Myint Wai is a former board member. Ni Ni Tun Tun is his daughter.	30 million on 21 September 2017[501], 2017 and 30 million on 1 September 2017[502]	60,000,000	42,857.14
4	CB Bank	N/A	CB is a major Myanmar bank.	50 million on 1 September 2017	50,000,000	35,714.29
5	Eden Group	Private shareholders, including Chit Khine	Conglomerate working in agriculture, banking, finance, energy, trade, construction, tourism.	30 million on 1 September 2017[503]	30,000,000	21,428.57
6	International Gateways Group of Company Limited	Dr Naing Htut Aung and Dr Wai Wai Yin	Includes SEA BREEZE MYANMAR HOTEL & RESORTS, Myanmar Consultancy Company and Pacific Dragon, and a subsidiary in Hong Kong.[504]	633.8 million on 10 September 2017[505]	633,800,000	452,714.28
7	Hnalonhla Myittashinmyar Foundation	N/A	N/A	5 million on 10 September 2017[506]	5,000,000	3,571.43

[501] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

[502] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

[503] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

[504] The Mission notes that International Gateways Group of Company Ltd., is identified as a MEHL "partner" company on the official website of Senior General Commander-in-Chief Min Aung Hlaing, and as donating to the Tatmadaw on 27 March 2019 for Armed Forces Day. On file with the Mission.

[505] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

[506] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-

No.	*Corporate donor entity*	*Owned by*	*Brief description of entity*	*Donations in Ks*	*Total donation in Ks*	*Total in USD (USD 1 = Ks 1400)*
8	Htoo Group of Companies	Tay Za	Conglomerate working in banking, trade, mining, agriculture, forestry, construction, tourism, manufacturing, and aviation.	50 million on 21 September 2017[507]	50,000,000	35,714.29
9	IGE Group	Founder and Chairman Ne Aung, and other private shareholders.	Conglomerate, working in multiple sectors including forestry, agriculture, construction and energy. Partner in Mytel. Ne Aung is the brother of Rear Admiral Moe Aung, Chief-of-staff of the Myanmar Navy and a Board Member of MEC and MEHL, as well as some of their subsidiaries.	50 million on 1 September 2017[508]	50,000,000	35,714.29
10	International Language & Business Centre	Private shareholders	ILBC is a private education provider. ILBC rents land from MEHL.	50 million on 21 September 2017[509]	50,000,000	35,714.29
11	Kaythar Co Ltd	N/A	N/A	100 million on 10 September 2017[510]	100,000,000	71,428.57

to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

507 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

508 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

509 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

510 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

No.	*Corporate donor entity*	*Owned by*	*Brief description of entity*	*Donations in Ks*	*Total donation in Ks*	*Total in USD (USD 1 = Ks 1400)*
12	KBZ Group	Private shareholders including Aung Ko Win, a prominent businessman with strong links to the Tatmadaw	The Kanbawza (KBZ) Group of Companies comprises of industry leaders in mining, banking, finance, aviation, insurance, manufacturing, agriculture, real estate, trading, healthcare, tourism and hospitality.	KBZ Group's Brighter Future Foundation donated 300 million on 1 September 2017[511] and 3.47 billion on 10 September 2017[512].	3,469,000,000	2,477,857.14
13	Khun Ko Yar Foundation	N/A	N/A	500 million on 1 September 2017[513] and 300 million on 21 September 2017[514]	800,000,000	571,428.57
14	Kirin Holdings Company Limited (and other Myanmar Brewery partners)	Kirin is a publicly listed company in Japan.	Kirin Holdings is a major producer of beverages.	17.9 million on 1 September 2017[515]. Kirin has confirmed donating at least USD $6000.	17,900,000	12,785.71

[511] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

[512] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

[513] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

[514] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

[515] "Japan: Investigate brewer Kirin over payment to Myanmar military amid ethnic cleansing of Rohingya," Amnesty International, 14 June 2018 (https://www.amnesty.org/en/latest/news/2018/06/japan-investigate-brewer-kirin-over-payments-to-myanmar-military-amid-ethnic-cleansing-of-rohingya/).

No.	*Corporate donor entity*	*Owned by*	*Brief description of entity*	*Donations in Ks*	*Total donation in Ks*	*Total in USD (USD 1 = Ks 1400)*
15	KT Development Co. Ltd	KT Group of Companies	KT is a conglomerate working in mining, logistics, manufacturing and other areas.	30 million on 1 September 2017[516] and 30 million on 21 September 2017[517]	60,000,000	42,857.14
16	Lucky Man Co. Ltd	The director is Daw Khin Khin Maw (wife of Major General Htin Aung Kyaw, Quartermaster General, former chairman of MEC)[518]	Unknown	30 million on 1 September 2017[519] and 30 million on 21 September 2017[520].	60,000,000	42,857.14

[516] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

[517] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

[518] "G. SENIOR MILITARY OFFICERS, G5a," Council Common Position 2009/351/CFSP of 27 April 2009 renewing restrictive measures against Burma/Myanmar, OJ L 108, 29.4.2009.

[519] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

[520] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

No.	*Corporate donor entity*	*Owned by*	*Brief description of entity*	*Donations in Ks*	*Total donation in Ks*	*Total in USD (USD 1 = Ks 1400)*
17	Max Myanmar Group of Companies	Private shareholders including chairperson Zaw Zaw	Conglomerate with businesses in civil construction, mechanical engineering, transportation, hotel and tourism, rubber plantations and banking industry.	Max Myanmar Group Ayeyarwady Foundation donated 100 million on 1 September 2017[521] 2017 and 1.27 billion on 21 September 2017[522].	1,367,600,000	976,857.14
18	MEC (and partners)	See MEC list	See Annex II. Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC)	18.2 million on 10 September 2017[523]	18,200,000	13,000.00

[521] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

[522] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

[523] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

No.	*Corporate donor entity*	*Owned by*	*Brief description of entity*	*Donations in Ks*	*Total donation in Ks*	*Total in USD (USD 1 = Ks 1400)*
19	MEHL (and partners)	See MEHL list	See Annex II. Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC)	77.5 million on 1 September, 20 million on 10 September, 60.2 million on 1 September 2017 from MEHL Myawaddy trading[524], 32.15 million from the MEHL head office and partners on 1 September 2017[525] , 20 million on 10 September 2017,[526] 6.3 million on 10 September 2017.[527] Myawaddy Bank donated 5 million on 10 September 2017.[528]	265,150,000	189,392.86

[524] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

[525] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

[526] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

[527] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-

No.	*Corporate donor entity*	*Owned by*	*Brief description of entity*	*Donations in Ks*	*Total donation in Ks*	*Total in USD (USD 1 = Ks 1400)*
20	MEHL joint venture partners	Undisclosed	Undisclosed	16 million on 1 September 2017[529]	16,000,000	11,428.57
21	Miya Win International Ltd[530]	Private shareholders	Undisclosed	50 million on 1 September 2017[531] and 50 million on 10 September 2017[532]	100,000,000	71,428.57
22	Myanmar Combiz Group	Aung Soe Tha, Son of Soe Tha (Member of Parliament)	Conglomerate working in agriculture, trade and distribution, construction, real estate and industrial supplies, as well as other sectors.	30 million on 1 September 2017[533]	30,000,000	21,428.57
23	Myanmar Yang Tse Copper Ltd., owned by	NORINCO	Myanmar Yang Tse is a major copper mine, owned by Wanbao Mining Ltd., which is beneficially owned by	5 million on 10 September 2017[534]	5,000,000	3,571.43

to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

528 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

529 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

530 Miya Win International Ltd. is identified as a MEHL "partner" company on the official website of the Senior General Commander-in-Chief Min Aung Hlaing, and as having recently donated to the Tatmadaw on 27 March 2019 for Armed Forces Day. On file with the Mission.

531 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

532 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

533 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

534 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-

No.	*Corporate donor entity*	*Owned by*	*Brief description of entity*	*Donations in Ks*	*Total donation in Ks*	*Total in USD (USD 1 = Ks 1400)*
	Wanbao Mining Ltd.		NORINCO, a Chinese state-owned arms manufacturer. They operate in a profit sharing agreement with MEHL.			
24	Myint Tet Co.	N/A	N/A	10 million on 1 September 2017[535]	10,000,000	7,142.86
25	Telecom International Myanmar Public Co. Ltd. (Mytel)	MEC, Viettel and a consortium of Myanmar companies.	Mytel is a national telecommunications operator.	10 million on 10 September 2017[536]	10,000,000	7,142.86
26	NAWNGTUNG Group of companies	Sai Tip Aung and his family.	Conglomerate working in construction, energy, tourism and other sectors and has close ties to the military.	Nawngtung donated Ks 20,000,000 on September 1 2017. Sai Tip Aung also made a personal donation.[537]	20,000,000	14,285.71
27	Ngwe Pinlae Livestock Breeding and Fisheries partner companies	MEHL	A livestock and fisheries company.	7.1 million on 1 September 2017[538]	7,100,000	5,071.43

to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

[535] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

[536] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

[537] For further information, see: http://www.moi.gov.mm/npe:zg/?q=news/21/03/2014/id-8573 ; http://themyawadydaily.blogspot.com/2018/03/blog-post_813.html.

[538] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

No.	*Corporate donor entity*	*Owned by*	*Brief description of entity*	*Donations in Ks*	*Total donation in Ks*	*Total in USD (USD 1 = Ks 1400)*
28	Race and Religion Protection Buddha Dhamma Parahita Foundation (Central)	N/A	Part of Ma Ba Tha.	200 million on 21 September 2017[539]	200,000,000	142,857.14
29	Shwe Than Lwin group of companies	Private shareholders (family of Kyaw Win)	Conglomerate working in broadcasting, construction, mining, forestry, agriculture and other sectors.	100 million on 21 September 2017[540]	100,000,000	71,428.57
30	Sky One Construction Company Limited	Private shareholders (including Aung Pyae Sone, son of Min Aung Hlaing)	Undisclosed	30 million on 1 September 2017[541] and 30 million on 21 September 2017[542]	60,000,000	42,857.14
31	Star Sapphire Group of Companies (Kyei Nilar)	Private shareholders, including Dr Tun Min Latt, the son of retired Lt Col Khin Maung Latt; and Htet Aung, son of former Brig Gen Zin Yaw,	A group of companies involved in mining, manufacturing, tourism, plantations and and trade.	50 million on 1 September and 50 million on 21 September 2017[543]	100,000,000	71,428.57

[539] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

[540] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

[541] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

[542] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

[543] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

No.	*Corporate donor entity*	*Owned by*	*Brief description of entity*	*Donations in Ks*	*Total donation in Ks*	*Total in USD (USD 1 = Ks 1400)*
		former Director of MEHL.				
32	Toyo Thai Power Myanmar Co	TTCL, which is a Joint Venture between Toyo Engineering (a publicly-listed company in Japan) and Italian-Thai Development (a publicly-listed company in Thailand).	The company is developing major coal-fired power projects and other energy infrastructure in Myanmar.	2.2 million on 21 September 2017[544]	2,200,000	1,571.43
33	U Sai Tip Aung	N/A	Owner of Nawngtung Group and Kyaing Tung Energy.	10 million on 21 September 2017[545]	10,000,000	7,142.86
No.	**Other donor entity**	**Owned by**	**Brief description of entity**	**Donations in Ks**	**Total Donation in Ks**	**Total in USD (USD 1 = Ks 1400)**
34	Rakhine State Disaster Rescue Committee (Yangon)	N/A	N/A	15 million on 10 September 2017[546]	15,000,000	10,714.29

[544] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

[545] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

[546] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

No.	*Corporate donor entity*	*Owned by*	*Brief description of entity*	*Donations in Ks*	*Total donation in Ks*	*Total in USD (USD 1 = Ks 1400)*
35	Anonymous donations	N/A	N/A	66 million on 21 September 2017[547] and 58 million on 10 September 2017[548]	124,000,000	88,571.43
36	DSA 20	N/A	N/A	5 million on 10 September 2017[549]	5,000,000	3,571.43
37	DSA 46 officers	N/A	N/A	5.8 million on 21 September 2017[550]	5,800,000	4,142.86
38	Mandalay Rakhine Social Group	N/A	N/A	70 million on 10 September 2017[551]	70,000,000	50,000.00
39	Min Aung Hlaing and family	N/A	N/A	5 million on 1 September 2017[552]	5,000,000	3,571.43

[547] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

[548] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

[549] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

[550] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

[551] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

[552] Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2

No.	*Corporate donor entity*	*Owned by*	*Brief description of entity*	*Donations in Ks*	*Total donation in Ks*	*Total in USD (USD 1 = Ks 1400)*
40	Office of the Commander-in-Chief (Army) and family	N/A	N/A	24 million on 1 September 2017[553]	24,000,000	17,142.86
41	Other families of defence services personnel	N/A	N/A	295.89 million on 1 September 2017[554]	346,090,000	247,207.14
42	Rakhine Social Group of Phakant Region	N/A	N/A	150 million on 10 September 2017[555]	150,000,000	107,142.86
43	Rakhine State Disaster Relief Committee	N/A	N/A	15 million on 21 September 2017[556]	15,000,000	10,714.29
44	Vice President U Myint Swe and wife Daw Khin Thet Htay	N/A	N/A	2.5 million on 21 September 2017[557]	2,500,000	1,785.71
45	Yangon Tipitaka Yanbye	N/A	N/A	30 million on 10 September 2017[558]	30,000,000	21,428.57

September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

553 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

554 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Entire government institutions and people must defend the country with strong patriotism," 2 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/).

555 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

556 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

557 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Cash donations will be used in the areas where help is really in need according to the wish of the donors," 22 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/1410/sep-22-cash-donations-will-be-used-in-the-areas-where-help-is-really-in-need-according-to-the-wish-of-the-donors/).

558 Official website of Senior General Min Aung Hlaing Commander-in-Chief of Defence Services, "Lack of country-loving spirits may lead to disunity and all citizens should have country-loving

No.	*Corporate donor entity*	*Owned by*	*Brief description of entity*	*Donations in Ks*	*Total donation in Ks*	*Total in USD (USD 1 = Ks 1400)*
	Sayadaw and party					
				Total donated by corporate and other donors	8,619,340,000	6,156,671.42

spirits, patriotic spirits and Myanmar spirits," 11 September 2017 (https://www.seniorgeneralminaunghlaing.com.mm/en/486/lack-of-country-loving-spirits-may-lead-to-disunity-and-all-citizens-should-have-country-loving-spirits-patriotic-spirits-and-myanmar-spirits/).

V. Foreign companies in commercial partnerships with MEHL or MEC

A. Joint venture partners

No.	*Name of Myanmar company (if known)*	*MEHL or MEC*	*Foreign company joint venture partner*[559] *and % held (if known)*	*Domicile country of joint venture partner*	*Sector (if known)*	*Source(s) of information*
1	Coal Mine and Power Plant (Mai Khot)	MEC	Saraburi Coal Company Ltd.	Hong Kong, SAR	Mining and quarrying	MEC[560]
2	Gold Cement Co, Ltd. with MEHL involvement through Gold's Directors and those of MEHL's Sinminn Cement	MEHL	Gold Cement Co, Ltd is 26.4% owned by GC Holdings.	Seychelles	Manufacturing	DICA 111433240
3	Hanthawaddy Golf & Country Club Ltd.	MEHL	37% by Inno Co Ltd.	Republic of Korea	Arts, entertainment and recreation	DICA 117809668
4	JPMD Ltd.	MEC	49% by Japan Myanmar Development Institution Inc. and 51 % by the MEC's Amber International Ltd.	Japan	Construction	DICA 117819884
5	Mandalay Brewery Ltd	MEHL	51% owned by Kirin Holdings Singapore Pte Ltd, which is in turn owned by Kirin Holdings.	Japan	Manufacturing	DICA 107119337
6	Moe Gyo Sulphuric Acid	MEHL	Unknown percentage held by NORINCO.	China	Manufacturing	Ministry of Defense[561]

[559] Where the Mission was able to verify that MEHL or MEC officers sit on the boards of Myanmar companies named column, or the partial ownership of those companies by MEHL or MEC, the entries have been marked with asterisks (*).

[560] Digital record 2175.

[561] On 17 August 2017, it was reported that "The Ministry of Defense has rejected a parliamentarian's request to relocate a sulfuric acid factory in Sagaing Region's Salingyi Township during the Lower House session on Wednesday. Lawmaker U Win Thein Zaw of Salingyi Township raised a question about the military-owned factory operated under Myanma Economic Holdings Ltd (MEHL) near the village of Kan Kone in his constituency, citing locals' concerns over their health and the environmental impact of the factory. But Deputy Defense Minister Maj-Gen Myint Nwe defended the factory, saying that it does not harm locals, and that it serves the interests of the country. The factory provides sulfuric acid used in refining copper to the China-backed Letpadaung copper mines. The sulfuric acid factory is a joint venture between MEHL and China North Industries Corporation commonly known as Norinco, which is involved in a wide range of businesses including automobiles,

No.	*Name of Myanmar company (if known)*	*MEHL or MEC*	*Foreign company joint venture partner*[559] *and % held (if known)*	*Domicile country of joint venture partner*	*Sector (if known)*	*Source(s) of information*
7	Myanmar Brewery Ltd[562]	MEHL	51% owned by Kirin Holdings Singapore Pte Ltd, which is in turn owned by Kirin Holdings.	Japan	Manufacturing	DICA 148764948
8	Myanmar Inno International Ltd.	MEHL	44% held by Inno Co Ltd.	Republic of Korea	Real estate	DICA 113981253
9	Myanmar Inno Line Company Ltd	MEHL	18% by Inno Co Ltd.	Republic of Korea	Real estate	DICA 114411612
10	Myanmar Posco C&C Company Ltd	MEHL	70% by Posco Coated and Color Steel Co, Ltd.	Republic of Korea	Manufacturing	DICA 108231777
11	Myanmar Posco Steel Company Ltd	MEHL	70% by Posco Steel Co. Ltd.	Republic of Korea	Manufacturing	DICA 154251022
12	Myanmar Wise-Pacific Apparel Yangon Company Ltd	MEHL	55% owned by Pan-Pacific Co Ltd	Republic of Korea	Manufacturing	DICA 144782119
13	Telecom International Myanmar Company Limited (aka Mytel)	MEC	49% by Viettel	Viet Nam	Information and communication	DICA 121660253
14	Virginia Tobacco Company Ltd	MEHL	60% by Distinction Investment Holdings Pte.[563]	Singapore	Tobacco	DICA 170936647

machinery, optical-electronic products, oil field equipment, chemicals, light industrial products, explosives and blast materials, civil and military firearms and ammunition and hi-tech defense products. The two partners signed the contract on July 25, 2005 and constructed the factory on May 15, 2006. The US$5 million factory came into operation on April 20, 2007." (http://www.sulphuric-acid.com/sulphuric-acid-on-the-web/Acid%20Plants/Myanmar-Economic-Holding.htm).

562 The Mission notes that this joint venture is among MEHL's most profitable (See, Su Phyo Win, "Military conglomerate hoping for more JVs", 18 November 2016, https://www.mmtimes.com/business/23774-military-conglomerate-hoping-for-more-jvs.html)

563 Than Sein, "Update on Tobacco Use, Tobacco Industry, and Tobacco Taxation in Myanmar, 2018", People's Health Foundation, pg. 13 (https://phfmyanmar.org/wp-content/uploads/2019/04/Acrobat-Document-3-1.pdf). The Mission was able to confirm that Distinction Holdings Pte. Ltd. in Singapore was dissolved on 1 July 2017. The Mission was not able to confirm to whom Distinction Holdings Pte. Ltd. sold its stake in Virginia Tobacco Company Ltd., but notes that MEHL has previously noted that this joint venture is among its most profitable (See, Su Phyo Win, "Military conglomerate hoping for more JVs", 18 November 2016, https://www.mmtimes.com/business/23774-military-conglomerate-hoping-for-more-jvs.html)

B. Foreign companies with contractual or commercial ties to MEHL and MEC[564]

No.	*Name of company*	*Domicile country*	*Nature of economic relationship*	*MEHL or MEC*	*Sector (if known)*	*Source*
1	Above and Beyond Co Ltd	China	Operates in Ngwe Pinlae Industrial Zone[565] which is owned by MEHL[566]	MEHL	Manufacturing	DICA 111953287
2	Adani Yangon International Terminal Company owned by Adani Ports & Special Economic Zone Ltd	India	Leasing Ahlone International Port Terminal 2 for 50 years	MEC	Trade	DICA 118856724
3	Asia-Africa-Europe-1 is a cable system connecting SE Asia to Europe via Egypt. It is owned by 19 communications companies.		Leases cables for internet bandwidth to Mytel, a mobile network partly-owned by the MEC	MEC	Information and communication	Burma Campaign UK[567]
4	Brothers (Myanmar) Clothing Co Ltd	China	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 104404448
5	China Shipping (Myanmar) Co Ltd, owned by New Golden Sea Shipping Pte Ltd, which is a subsidiary of COSCO, a China State Owned Enterprise[568]	China	Rents space in the Myawaddy Bank Luxury Complex[569]	MEHL	Trade	Bloomberg[570]

[564] Foreign companies with economic relations with MEC or MEHL that appear to have been concluded, and are not ongoing, are not included in this list.

[565] Address is given as 2nd Street, Myay Taing Quarter No. 24, Ngwe Pin Lae Plot No.17, Hlaing Thar Yar Township, Yangon, Myanmar 11401.

[566] Ngwe Pinlae Livestock Breedings and Fisheries Company Limited (http://www.ngwepinlae.com).

[567] Burma Campaign UK for Human Rights, Democracy and Development in Burma, "Dirty List" (https://burmacampaign.org.uk/take-action/dirty-list/).

[568] China Cosco Shipping Corporation Limited (http://en.coscocs.com/).

[569] Address is given as Unit B-1001/1002, 10th Floor, Myawaddy Bank Luxury Complex, No. 151, Corner of Bo Gyoke Aung San Road and Warr Dan Street, Lanmadaw Township, Yangon, 11131 Myanmar.

[570] "Company Overview of China Shipping (Myanmar) Co., Ltd.," Bloomberg (https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapid=402482573); "Company Overview of New Golden Sea Shipping Pte. Ltd.," Bloomberg (https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapid=35671571).

No.	*Name of company*	*Domicile country*	*Nature of economic relationship*	*MEHL or MEC*	*Sector (if known)*	*Source*
6	Fastgo Myanmar Co, Ltd is partly owned by Fastgo Pte Ltd[571]	Viet Nam	Cooperation agreement with Mytel, a mobile network in Myanmar partly-owned by the MEC	MEC	Transportation and storage	DICA 108192429
7	Fulcrum Media Agency Co Ltd (registered as a foreign company)		Rents space in the Myawaddy Bank Luxury Complex[572]	MEHL	Information and communication	DICA 110648529
8	Global A&M Trading Co Ltd, subsidiary of Adoniss Ltd.	Hong Kong, SAR	Rents space in the Myawaddy Bank Luxury Complex[573]	MEHL	Wholesale and retail trade	DICA 106330247
9	Golden Tri-Light Myanmar Co Ltd owned by Tri-Light Enterprise Ltd[574]	Hong Kong, SAR	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 109504912
10	Guotai Guohua Garment Myanmar Ltd owned by Jiangsu Guotai Guohua Shiye Co Ltd[575]	China	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 111981353
11	Healy Consultants Group PLC	Singapore	Rents space in the Myawaddy Bank Luxury Complex[576]	MEHL	Professional, scientific and technical activities	No DICA number could be found
12	Hexacon Construction Ltd[577]	Singapore	Rents space in the Myawaddy Bank Luxury Complex[578]	MEHL	Construction	DICA 103151503

[571] FastGo (https://fastgo.mobi/mm?lang=en).

[572] Address is given as Unit 501 Tower B, Myawaddy Bank Building, Corner of Bogyoke Aung San Road and Warden Street, Lanmadaw Township, Yangon, Myanmar.

[573] Address is given as No.151, Corner of Bogyoke Aung San Street and Wardan Street, Room B702 - B704, Tower B, Myawaddy Bank Luxury Complex Lanmadaw Township, Yangon, Myanmar".

[574] Tri-Light Enterprise Limited (http://tri-lightenterprise.com).

[575] "Jiangsu Guotai Guohua Shiye Co Ltd.," Bloomberg (https://www.bloomberg.com/profile/company/JSGTIZ:CH).

[576] Healy Consultants Group Plc, "Myanmar Branch Invoice," (https://www.healyconsultants.com/wp-content/uploads/2016/01/draft-invoice-Myanmar-Branch-office.pdf) lists the office address as Myawaddy Bank Luxury Complex, 4th Floor, Apt. 401 Bo Gyoke Road, Corner of Wa Dan Street, Lanmadaw Township, Yangon, Myanmar.

[577] Hexacon (https://www.hexacon.com.sg/).

[578] Address is given as Corner of Bogyoke Aung San Road & Warden Street, Room No. BPH4, Myawaddy Bank Luxury Complex, Lanmadaw Township, Yangon, Myanmar 11131.

No.	*Name of company*	*Domicile country*	*Nature of economic relationship*	*MEHL or MEC*	*Sector (if known)*	*Source*
13	Infosys	India	Contactor to Myawaddy Bank	MEHL	Finance and insurance	Burma Campaign UK[579]
14	Inno Packaging Company Ltd. is owned by the Inno Group Ltd	Republic of Korea	Rents space in Pyinmabin Industrial Zone[580] which is owned by MEHL[581]	MEHL	Manufacturing	DICA 116912066
15	Irrawaddy Green Towers is owned by Irrawaddy Towers Asset Holding Pte. Ltd. (Singapore) which is owned by Alcazar Capital Limited, Alcazar Projects Ltd and the M1 Group. Majority control is held by the family of the late Maroun Semaan through Alcazar Capital Limited, registered in Dubai. The M1 Group is owned by Taha and Najib Mikati of Lebanon.[582]	Singapore and Lebanon	Rents cell phone towers to Mytel[583] which is owned by MEC.	MEC	Real estate	DICA 106413401
16	Japan Credit Bureau	Japan	Contractor to Myawaddy Bank	MEHL	Finance and insurance	Burma Campaign UK[584]
17	Jin Kaili (Myanmar) Lingerie Industrial Co Ltd	China	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 104908721

[579] Burma Campaign UK for Human Rights, Democracy and Development in Burma, "Dirty List" (https://burmacampaign.org.uk/take-action/dirty-list/).

[580] Address is given as No.1 Street, Pyinmabin Industrial Zone, Plot No. 19, Mingalardon Township, Yangon, Myanmar.

[581] "COST OF DOING BUSINESS IN MYANMAR – SURVEY REPORT 2018," Directorate of Investment and Company Administration (https://www.dica.gov.mm/en/news/cost-doing-business-myanmar-survey-report-2018).

[582] "Irrawaddy Towers," International Finance Corporation (https://disclosures.ifc.org/#/projectDetail/SII/35935).

[583] "IGT" and "MyTel" signs Master Lease Agreement for 677 sites Colocation," Irrawaddy Green Towers, 5 July 2017 (https://igt.com.mm/igt-and-mytel-signs-master-lease-agreement-for-677-sites-colocation/).

[584] Burma Campaign UK for Human Rights, Democracy and Development in Burma, "Dirty List" (https://burmacampaign.org.uk/take-action/dirty-list/).

No.	*Name of company*	*Domicile country*	*Nature of economic relationship*	*MEHL or MEC*	*Sector (if known)*	*Source*
18	Kaixi (Myanmar) Lingerie Industrial Co Ltd owned by Kaixi Lingerie Co Ltd	Hong Kong, SAR	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 101461890
19	Leader Steel (Myanmar) Co Ltd owned by Leader Steel Holdings Bhd[585]	Malaysia	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 105677510
20	Monywa Letpadaung Copper Mine is licensed to Myanmar Wanbao Mining Copper Limited (China) which in beneficially owned by NORINCO	China	Monywa Letpadaung Copper Mine pays 30 percent of profit to MEHL	MEHL	Mining and quarrying	MEITI[586]
21	Myanmar Century Liaoyuan Knitted Wear Co Ltd owned by Jiangsu Century Liaoyuan Knitted Wear Co Ltd[587]	China	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 107821422
22	Myanmar Global Services Ltd is owned by Global Airfreight International Pte Ltd[588]	Singapore	Rents space in the Myawaddy Bank Luxury Complex[589]	MEHL	Transportation and storage	DICA 114964743
23	Myanmar Wise-Pacific Apparel Bago Co Ltd is solely-owned	Republic of Korea	Operates in Inndagaw Industrial Zone[591] which is owned by MEHL[592]	MEHL	Manufacturing	DICA 113472928

[585] Leader Steel (http://leadersteel.my/).

[586] Myanmar Extractive Industries Transparency Initiative (MEITI): The Fourth Myanmar EITI Report For the Period 1 April 2016 to 31 March 2017 (FY 2016-2017), Oil and Gas, Gems and Jade, Other Minerals and Pearl, 30 March 2019 (https://myanmareiti.org/sites/myanmareiti.org/files/publication_docs/4th_meiti_report_30_march_2019_1.pdf).

[587] Jiangsu Century Liaoyuan Knitted Wear Co Ltd (http://en.chinaliaoyuan.cn/).

[588] Global Airfreight International Pte Ltd (https://www.globalair.com.sg).

[589] Address is given as Corner of Warden Street and Bogyoke Aung San Road, No. 151, Room No. 601 & 603, 6th Floor, Tower B, Myawaddy Bank Luxury Complex, Lanmadaw Township, Yangon, Myanmar.

[591] Address is given as Inndagaw Industrial Complex, Inndagaw Township, Bago Region, Myanmar 08016.

[592] MI-001.

No.	*Name of company*	*Domicile country*	*Nature of economic relationship*	*MEHL or MEC*	*Sector (if known)*	*Source*
	subsidiary of Pan-Pacific Ltd[590]					
24	Myanmar Youngin Co Ltd owned by Young In Engineering Co Ltd[593]	Republic of Korea	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 102477510
25	MYD International Co Ltd[594] is owned by Young In Engineering Co Ltd[595]	Republic of Korea	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 103942713
26	Newtec	Belgium	Supplier of equipment and technology to Mytel	MEC	Information and communication	Burma Campaign UK[596]
27	Nisshin (Myanmar) Co Ltd owned by Nisshin Transportation Co Ltd	Japan	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Professional, scientific and technical activities	DICA 111211582
28	Oberthur Technologies (France) owned by Idemia group	France	Licensed technology to Innwa Bank's Myanmar Mobile Money, through a contract with Mobilemate Telecommunications Pte Ltd., a Singapore-based company	MEC	Finance and insurance	Burma Campaign UK[597]
29	Olam	Singapore	Purchases and exports rice for the MEC	MEC	Trade	The Global New Light of Myanmar [598]

[590] "MYANMAR WISE-PACIFIC APPAREL BAGO CO., LTD," Pan-Pacific (http://www.panpacific.co.kr/en/ppc/myanmar.php).

[593] Young In Engineering Co., Ltd. (http://www.yesyoungin.com).

[594] MYD International (https://www.myd.com.mm/company-overview/).

[595] Young In Engineering Co., Ltd. (http://www.yesyoungin.com).

[596] Burma Campaign UK for Human Rights, Democracy and Development in Burma, "Dirty List" (https://burmacampaign.org.uk/take-action/dirty-list/). The Mission notes that on 12 August 2019, it was reported that Newtec would stop commercial ties with Mytel, on the basis of the recommendations in this report (See, https://www.voanews.com/east-asia-pacific/belgian-company-dirty-list-cuts-ties-myanmar-military)

[597] Burma Campaign UK for Human Rights, Democracy and Development in Burma, "Dirty List" (https://burmacampaign.org.uk/take-action/dirty-list/). See also Response from IDEMIA, 7 August 2019 (https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/EconomicInterestsMyanmarMilitary/IDEMIA_7_August_2019.pdf)

[598] "Rice destruction at Cote d'Ivore is not concerned with quality or exporters: MRF," Global New Light of Myanmar, 23 April 2019 (http://www.globalnewlightofmyanmar.com/rice-destruction-at-cote-divore-is-not-concerned-with-quality-or-exporters-mrf/).

No.	*Name of company*	*Domicile country*	*Nature of economic relationship*	*MEHL or MEC*	*Sector (if known)*	*Source*
30	Perfect Gains Garments Manufacturing Ltd. (Myanmar) owned by Evergain Trading Garments Ltd	Hong Kong, SAR	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 102662369
31	RunningTex Co Ltd	China	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 105717563
32	Sabai Mountain and Kyay Sin Mountain (S&K) Mine (Myanmar) is owned by Myanmar Yang Tse Copper Ltd, which in turn is beneficially owned by NORINCO	China	MEHL entitled to 51% of profit.	MEHL	Mining and quarrying	MEITI [599]
33	Sanhe Plastic Co Ltd	China	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 104371442
34	Saung Oo Shwe Nay (Golden Sunshine) Co Ltd	China	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 107212337
35	SCG Myanmar Concrete and Aggregate Co Ltd owned by Siam Cement Group	Thailand	Operates in Pyinmabin Industrial Zone[600] which is owned by MEHL [601]	MEHL	Manufacturing	DICA 188183735
36	SDI Manufacturing Co Ltd	China	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 105606990

[599] Myanmar Extractive Industries Transparency Initiative (MEITI): The Fourth Myanmar EITI Report For the Period 1 April 2016 to 31 March 2017 (FY 2016-2017), Oil and Gas, Gems and Jade, Other Minerals and Pearl, 30 March 2019 (https://myanmareiti.org/sites/myanmareiti.org/files/publication_docs/4th_meiti_report_30_march_2019_1.pdf).

[600] Address is given as: No. 55/64, Yangon Industrial Park, Mingalar Garden City, Mingalardon Township, Yangon, Myanmar.

[601] "COST OF DOING BUSINESS IN MYANMAR – SURVEY REPORT 2018," Directorate of Investment and Company Administration (https://www.dica.gov.mm/en/news/cost-doing-business-myanmar-survey-report-2018).

No.	*Name of company*	*Domicile country*	*Nature of economic relationship*	*MEHL or MEC*	*Sector (if known)*	*Source*
37	Sewell Garment Myanmar Industrial Co Ltd	Taiwan Province of China	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 106206333
38	Thilawa Cement and Building Materials Ltd. owned by LafargeHolcim	France and Switzerland	Company leadership links between Lafarge, now LafargeHolcim, with Sinminn Cement, a MEHL subsidiary company	MEHL	Manufacturing	DICA 109534838; Lafarge[602]
39	Tristate Myanmar Co Ltd is owned by Tristate Holdings[603]	Hong Kong, SAR	Located in the Pyinmabin Industrial Park[604] which is owned by MEHL[605]	MEHL	Manufacturing	DICA 105812655
40	UnionPay International is owned by the Chinese Banking Association	China	Myawaddy Bank issues UnionPay credit cards	MEHL	Finance and insurance	Myawaddy Bank[606]
41	Universal Apparel Co Ltd (Myanmar) owned by Duckyang Co Ltd[607]	Republic of Korea	Operates in Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 111749981
42	Wise Pearl Myanmar Ltd owned by Wise Pearl Ltd[608]	Hong Kong, SAR	Operates in of Ngwe Pinlae Industrial Zone which is owned by MEHL	MEHL	Manufacturing	DICA 109032786

602 Digital record 1922.
603 https://www.tristateww.com/.
604 Address is given as Pyin Ma Bin Industrial Park, Plot No. 42, Mingalardon Township, Yangon, Myanmar 11021.
605 "COST OF DOING BUSINESS IN MYANMAR – SURVEY REPORT 2018," Directorate of Investment and Company Administration (https://www.dica.gov.mm/en/news/cost-doing-business-myanmar-survey-report-2018).
606 "International Card Services," Myawaddy Bank (https://mwdbank.com/card-payment-en/international-cards.html).
607 Duck Yang Co., Ltd. (http://duckyang.com).
608 Wise Pearl Limited (www.wpl.com.hk).

No.	*Name of company*	*Domicile country*	*Nature of economic relationship*	*MEHL or MEC*	*Sector (if known)*	*Source*
43	Yoongwon International (Myanmar) Co Ltd is owned by Longyuan International Enterprise Co, Ltd[609]	Taiwan Province of China	Operates in Pyinmabin Industrial Zone[610] which is owned by MEHL[611]	MEHL	Manufacturing	DICA 101426785
44	Yutong[612]	China	Operates in Inndagaw Industrial Complex[613] which is owned by MEHL[614]	MEHL	Manufacturing	No DICA number is available

[609] "YOONGWON INTERNATIONAL (MYANMAR) CO., LTD," DOOSAN INFRACORE CO., LTD (http://www.yoongwon.com/).

[610] Address is given as No 3 Main Road, No 512/514, Pyin Ma Pin North Quarter, Mingalardon Township, Yangon, Myanmar 11021.

[611] "COST OF DOING BUSINESS IN MYANMAR – SURVEY REPORT 2018," Directorate of Investment and Company Administration (https://www.dica.gov.mm/en/news/cost-doing-business-myanmar-survey-report-2018).

[612] Yutong (https://en.yutong.com/).

[613] Inndagaw Industrial Complex (https://www.facebook.com/Inndagaw-Industrial-Complex-473426443007260/).

[614] MI-001.

VI. Arms and military equipment suppliers to the Tatmadaw[615]

A. Enterprises and States that transfer conventional arms and related items to the Tatmadaw

No.	*Name of company*	*State-owned or private*	*Country of export*	*Description of military goods supplied*
1	Aviation Industry Corporation of China (AVIC)	State-owned	China	In November 2018, the Tatmadaw Air Force received its first six JF-17M "Thunder" combat aircraft out of a total of 16 aircraft ordered in 2015 on a USD $560 million contract.[616]
2	China Aerospace Science and Industry Corporation (CASIC)	State-owned	China	In May 2017, it was reported that the Tatmadaw was acquiring SY-400 short-range precision surface-to-surface ballistic missile systems, manufactured by the China state-owned China Aerospace Science and Industry Corporation.[617]
3	China Aerospace Science and Technology Corp (CASC)	State-owned	China	A CASC in factory in Myanmar builds and sells the CH-4 drone, which fires AR-1 missiles that can hit a distant target with a margin of error of less than 1.5 metres.[618]
4	China National Aero-Technology Import & Export Corporation (CATIC)	State-owned	China	The Myanmar Air Defence Force will be the first foreign customer to purchase CATIC's Y-9E transport aircraft.[619]
5	China North Industries Corporation (NORINCO)	State-owned	China	A May 2019 report indicates that 76 NORINCO-manufactured Type-92 armoured vehicles were acquired by the Tatmadaw. A March, 2019 report indicates that some of these armoured vehicles are being combined with NORINCO-manufactured turrets and NORINCO-manufactured 100 mm high-pressure/low-recoil smooth-bore guns which fire tungsten-core armour-piercing fin-stabilised discarding-sabot (APFSDS) rounds.

[615] These lists are not intended to be either exhaustive or authoritative, and are based on open-source and official Government of Myanmar information.

[616] "Le JF-17 « Thunder » entre en service au Myanmar," Avia News, 11 November 2018 (http://psk.blog.24heures.ch/archive/2018/11/03/le-jf-17-thunder-entre-en-service-au-myanmar-866464.html)

[617] "Myanmar looks to buy Chinese SY-400 ballistic missile systems," Defense Blog Online Military Magazine, 5 May 2017 (https://defence-blog.com/news/myanmar-looks-to-buy-chinese-sy-400-ballistic-missile-systems.html)

[618] "Chinese drone factory in Saudi Arabia first in Middle East," South China Morning Post, 26 March 2017 (https://www.scmp.com/news/china/diplomacy-defence/article/2081869/chinese-drone-factory-saudi-arabia-first-middle-east).

[619] "Myanmar to buy new Chinese Y-9E transport aircraft," Defense Blog Online Military Magazine, 28 November 2016 (https://defence-blog.com/news/myanmar-to-buy-new-chinese-y-9e-transport-aircraft.html)

No.	*Name of company*	*State-owned or private*	*Country of export*	*Description of military goods supplied*
6	Korea Mining Development Trading Corporation (KOMID)	State-owned	Democratic People's Republic of Korea (DPRK)	Named by the UN Panel of Experts established pursuant to resolution 1874 (2009) in relation to sanctions on the Democratic People's Republic of Korea as being linked to importing materiel for the Myanmar Directorate for Defence Industries.
7	Bharat Dynamics Limited	State-owned	India	Tatmadaw Navy procured 10 advanced light torpedo "Shyena" anti-submarine torpedoes, in a deal reportedly worth USD 38 million reportedly signed in March 2017.[620]
8	Hindustan Aeronautics Limited	State-owned	India	Transferred second-hand HJT-16 Kiran-1 Trainer air craft to the Myanmar Air Force as aid in 2018.[621]
9	Israel Aerospace Industries (IAI) Ltd.	State-owned	Israel	IAI agreed to provide four Super-Dvora Mk III fast attack craft to the Myanmar Navy. Two were delivered in April 2017.[622]
10	TAR Ideal Concepts	Private	Israel	In October 2016, TAR Ideal Concepts, an Israeli military and police equipment and training company, posted photographs on its website of its personnel training the Tatmadaw Special Operations Taskforce.[623]
11	Armscor International	Private	Philippines	In November 2018, it was reported that the Philippine-based company, Armscor International, has sold competition handguns to the Tatmadaw Shooting Team, and was exploring how to further penetrate the Myanmar defence market, noting that "there are a number of security agencies in Myanmar that are interested in new defence products." [624] Further investigation is required.

[620] SIPRI Database extract of transfers of major weapons: deals with deliveries or orders made for 2016 to 2018, SIPRI Arms Transfers Database, Stockholm International Peace Research Institute.

[621] SIPRI Database extract of transfers of major weapons: deals with deliveries or orders made for 2016 to 2018, SIPRI Arms Transfers Database, Stockholm International Peace Research Institute.

[622] Andrew Selth, "Myanmar: pariah status no bar to defence modernisation," The Lowy Institute (https://www.lowyinstitute.org/the-interpreter/myanmar-pariah-status-no-bar-defence-modernisation).

[623] Digital record 2185.

[624] "Filipino handguns triggering into Myanmar," Southasian Monitor, 9 November 2018 (http://southasianmonitor.com/2018/11/09/filipino-handguns-triggering-into-myanmar/)

No.	*Name of company*	*State-owned or private*	*Country of export*	*Description of military goods supplied*
12	Irkutsk Corporation, United Aircraft Corporation (UAC)	State-owned	Russia	Since late 2016, the Myanmar Air Force has received 12 Yakovlev Yak-130 jet trainers from the Russian Federation state-owned Irkutsk Corporation, a subsidiary of the United Aircraft Corporation.[625] In January 2018, Myanmar and Russia agreed on the sale of six Sukhoi SU-30 multi-role fighter jets in a contract reportedly worth about $204 million USD.[626] The fighter planes are also produced by the state-owned Irkutsk Corporation. A military delegation led by Commander-in-Chief Senior General Min Aung Hlaing visited the Irkutsk Aviation Plant on 23 April 2019,[627] during which it was reported that the Sukhoi SU-30 multi-role fighter jets are notable for their suitability for the Tatmadaw's "counter-insurgency operations."[628] At a press conference following the 8th Moscow Conference on International Security in April 2019, Commander-in-Chief Senior General Min Aung Hlaing said that Russia's military hardware was "very useful" for his military in key locations in Myanmar.[629]
13	Rostec	State-owned	Russia	In October 2017, four of the Myanmar Air Force's Mil Mi-24P transport helicopters were serviced by the Russian Federation state-owned defence company Rostec.[630] Viktor Kladov, the director for international co-operation and regional policy of the Rostec State Corporation, told journalists, "We have delivered a few aircraft to the Myanmar Air Force (MAF), and they liked it so much they want to buy more".[631]

[625] Andrew Selth, "Myanmar: pariah status no bar to defence modernisation," The Lowy Institute (https://www.lowyinstitute.org/the-interpreter/myanmar-pariah-status-no-bar-defence-modernisation)

[626] Andrew Selth, "Myanmar: pariah status no bar to defence modernisation," The Lowy Institute (https://www.lowyinstitute.org/the-interpreter/myanmar-pariah-status-no-bar-defence-modernisation)

[627] "Senior General visits Irkutsk Aviation Plant, Irkutsk town," Global New Light of Myanmar, 23 April 2019 (http://www.globalnewlightofmyanmar.com/senior-general-visits-irkutsk-aviation-plant-irkutsk-town/)

[628] "Russia to sell six fighter jets to Myanmar," Myanmar Times, 23 January 2018 (https://www.mmtimes.com/news/russia-sell-six-fighter-jets-myanmar.html)

[629] Moe Myint, "Russia Building Six Advanced Fighter Jets for Myanmar Military," 25 April 2019 (https://www.irrawaddy.com/news/burma/russia-building-six-advanced-fighter-jets-myanmar-military.html)

[630] "Myanmar Interested In MI-17V5 Helicopters," Defense World, 8 July 2016 (https://www.defenseworld.net/news/16533/Myanmar_Interested_in_MI_17V5_Helicopters#.XO6OUcgzbIU)

[631] "LIMA 2017: Myanmar is the latest Yak-130 export customer," Rostec, 23 March 2017 (https://rostec.ru/en/news/4520081/)

No.	*Name of company*	*State-owned or private*	*Country of export*	*Description of military goods supplied*
14	Excellence Metal Casting	Private	Singapore	Named by the UN Panel of Experts established pursuant to resolution 1874 (2009) in relation to sanctions on the Democratic People's Republic of Korea as being linked to procurements by the Myanmar Directorate for Defence Industries. Further investigation is required.
15	STE Global Trading	Private	Singapore	Named by the UN Panel of Experts established pursuant to resolution 1874 (2009) in relation to sanctions on the Democratic People's Republic of Korea as being linked to procurements by the Myanmar Directorate for Defence Industries. Further investigation is required.
16	Malyeshev Plant, Ukrspetsexport and Ukroboronprom	State-owned	Ukraine	In March 2019, it was reported that the Ukraine state-owned Ukrspetsexport and Ukroboronprom had begun implementing an arms manufacturing deal to build a plant in Myanmar to manufacture armoured personnel carriers and self-propelled howitzers, in particular the BTR-4U wheeled 8×8 armored personnel carrier and the 2S1U self-propelled howitzer.[632] Ukrspetsexport was reported to have confirmed an initial delivery of equipment and machinery for the plant, which should be ready to begin production by 2020.[633]

[632] "Ukrainian Firm will Reportedly Help Tatmadaw Build Plant for Military Equipment," The Irrawaddy, 7 March 2019 (https://www.irrawaddy.com/news/burma/ukrainian-firm-will-reportedly-help-tatmadaw-build-plant-military-equipment.html)

[633] "Ukraine to build armoured vehicle assembly plant in Myanmar," Ukrainian Military Pages, 6 March 2019 (https://en.ukrmilitary.com/2019/03/ukraine-to-build-plant-in-myanmar.html)

B. Private companies from which the Tatmadaw procured or sought to procure dual-use goods and technology for military purposes[634]

No.	*Name of company*	*Country of export*	*Description of goods supplied*	*Cost in Ks*	*Cost in USD*
1	Dejero	Canada	Dejero Data Streaming over Cellular network	77,520,000	51,076.43
2	Icom Inc.	Japan	Ground-to-air radio transmitter IC-2300H VHF Transceivers	113,400,000	74,717.08
3	Jotron	Norway	RRC-7700 Remote Radio Controller for Audio and Frequency Control	68,000,000	44,877.96
4	Nikon Corporation	Japan	Nikon D7100 Cameras	26,096,000	17,195.27
5	REUTECH Communications	South Africa	Ground-to-air radio transmitter V/UHF Transceiver (Reutech/PAE 3060)	476,000,000	313,627.23
6	SCHIEBEL	Austria	Unmanned aerial vehicle, advertised as having military use: Camcopter S-100	27,074,132,000	17,868,114.90
7	VERIPOS	U.K.	Navigation and positioning system Veripos Ultra/Apex Signal	136,000,000	89,607.78

[634] 2018-19 FY Proposed Budget |Defence| Quarter Master General's Office.