

Mandates of the Special Rapporteur on the situation of human rights in Myanmar and the Working Group on the issue of human rights and transnational corporations and other business enterprises

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(Please use this reference in your reply)

16 January 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in Myanmar and Working Group on the issue of human rights and transnational corporations and other business enterprises, pursuant to Human Rights Council resolutions 55/20 and 53/3.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the relationship between DHL and entities within Myanmar under the control of the Myanmar military junta. Specifically, we have received information regarding **DHL shipments of weapons materials and related military supplies to Myanmar's military following the February 2021 military coup that overthrew the democratically elected government as well as a joint-venture called "Myanmar DHL" between DHL and Myanmar Posts and Telecommunications, a military-controlled entity.**

The Special Rapporteur on the situation of human rights in Myanmar's mandate requires him to "monitor the situation of human rights in Myanmar" and to "make recommendations on additional steps necessary to address the ongoing crisis" in Myanmar. Among these recommendations is for UN Member States and private entities to prevent the transfer of weapons and weapons materials that are being used to commit gross human rights violations. This recommendation is consistent with United Nations General Assembly resolution 75/287, which called upon Member States to "prevent the flow of arms into Myanmar" as well as the European Union's arms embargo on Myanmar.

In June, the Special Rapporteur on the situation of human rights in Myanmar released a report titled "Banking on the Death Trade: How Banks and Governments Enable the Military Junta in Myanmar." In that report he identified USD 630 million in shipments of weapons and related military supplies to Myanmar's military junta, the country of registration of the companies that sold these supplies, and the banks that facilitated these sales. He is now looking into the ways that these weapons and related materials were transported to the junta.

According to the information received:

Between May 2023 and June 2024, DHL and DHL Express delivered a total of 376 packages that reportedly included over 3,300 items for which the Myanmar military was the end-user. These deliveries include weapons materials and dual-use technologies that the military junta has used in its ongoing attacks against the people of Myanmar.

Items delivered include electrical parts, machine accessories, navigation equipment, aircraft and drone parts, periscopes, machine tooling parts, and other military-related supplies.

There were 137 items delivered in 11 packages in May 2023, two items delivered in two packages in June 2023, 195 items delivered in 11 packages in September 2023, 69 items delivered in six packages in October 2023 and 459 items delivered in 69 packages in December 2023. There were also 1,122 items delivered in 93 packages in January 2024, 210 items delivered in 38 packages in February 2024, 163 items delivered in 26 packages in March 2024, 820 items delivered in 87 packages in April 2024, and 186 items delivered in 33 packages in June 2024.

We have also received information that DHL maintains a joint venture, “Myanmar DHL”, that is 51% owned by Myanmar Posts and Telecommunications, a state-owned enterprise under the direct control of the EU-sanctioned State Administration Council. In line with this joint venture, revenues and tax payments likely flow to the Myanmar military junta.

Without wishing to prejudge the accuracy of these allegations, we wish to express deep concern that DHL appears to have been transporting equipment and supplies to Myanmar’s military junta even as it has engaged in a massive campaign of violence targeting civilians. This includes the extensive use of military aircraft that make use of the parts transported by DHL to the military junta. The Special Rapporteur on the situation of human rights in Myanmar has previously reported on the strong evidence that the Myanmar armed forces have committed war crimes and crimes against humanity, including acts of murder, persecution, imprisonment, sexual violence, enforced disappearance, deportation and forcible transfer, and torture since the military coup in 2021.¹

On 8 November 2022, the European Union placed sanctions on the State Administration Council (SAC), the Myanmar military junta’s ruling entity. EU sanctions regulations state that any entity under the direct control of a sanctioned entity is itself considered sanctioned.² The SAC exercises direct control over the Ministry of Transport and Communications, of which Myanmar Posts and Telecommunications (MPT) is a part. Given this relationship, under existing EU law these entities are themselves under EU sanctions.

Given the military regime’s illegal coup and involvement in probable crimes against humanity and war crimes, international businesses, including DHL, have an obligation to conduct business responsibly and avoid engaging in activities that legitimize the junta or contribute to its human rights abuses, in accordance with the UN

¹ See, e.g., Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews, UN Doc. A/HRC/55/65, 14 March 2024, <https://www.ohchr.org/en/documents/thematic-reports/ahrc5565-situation-human-rights-myanmar-report-special-rapporteur> <https://www.ohchr.org/en/documents/thematic-reports/ahrc5565-situation-human-rights-myanmar-report-special-rapporteur>.

² See: “EU best practices for the effective implementation of restrictive measures”, Council of the European Union, 4 May 2018, paragraph 34, <https://data.consilium.europa.eu/doc/document/ST8519-2018-INIT/en/pdf> The EU definition of “control” includes “having the right to exercise a dominant influence over a legal person or entity” and “having the right or exercising the power to appoint or remove a majority of the members of the administrative, management, or supervisory body of such legal person or entity”.

Guiding Principles on Business and Human Rights.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, and in order to ensure the accuracy of future reporting, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations, including any additional information or context you think is relevant to our inquiry.
2. Please also provide information on concrete progress made by your Excellency's Government in requiring or encouraging companies domiciled in your territory and/or jurisdiction to implement human rights due diligence processes, that would be complemented by a conflict-sensitive approach when heightened human rights due diligence is needed. Please clarify the Government of Germany's policy concerning the transport of weapons and related materials to Myanmar's military and whether DHL Group would have violated such policies.
3. Please provide information on any steps taken by Your Excellency's Government to set out clearly the expectation that all business enterprises respect human rights throughout their activities, including in relation to enforcement of the Supply Chain Due Diligence Act. Also, please confirm whether your Government has had any communication with DHL Group regarding its joint venture with a Myanmar military-controlled entity.
4. Please provide information on the steps the Government of Germany is taking or considering taking to ensure that individuals affected by the activities of business enterprises domiciled in your jurisdiction have access to remedy in your country, through judicial or extrajudicial State mechanisms.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please be informed that a letter on this subject matter has also been addressed to DHL Group.

Please accept, Excellency, the assurances of our highest consideration.

Thomas Andrews
Special Rapporteur on the situation of human rights in Myanmar

Fernanda Hopenhaym
Chair-Rapporteur of the Working Group on the issue of human rights and
transnational corporations and other business enterprises

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your Excellency's Government's attention to the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed in 2011 by the Human Rights Council in its resolution (A/HRC/RES/17/31) after years of consultations with governments, civil society and the business community. The Guiding Principles were established as the authoritative global standard for all states and companies to prevent and address the negative impacts of business on human rights. The Guidelines are based on the recognition that:

- a) “The existing obligations of States to respect, protect and fulfil human rights and fundamental freedoms;
- b) the role of business enterprises as specialised bodies or companies performing specialised functions, which must comply with all applicable laws and respect human rights;
- c) the need for appropriate and effective remedies for rights and obligations when they are violated”.

The guiding principle 1 reiterates the State's duty to "protect against human rights abuses by business enterprises on its territory and/or under its jurisdiction". The guiding principle 2 provides that States should make clear that all companies domiciled on their territory and/or under their jurisdiction are expected to respect human rights in all their activities. In addition, the guiding principle 3 reiterates that States must take appropriate measures to "prevent, investigate, punish and remedy such abuses through effective policies, laws, regulations and adjudication". In addition, it requires, among other things, that a State "provide effective guidance to business enterprises on how to respect human rights throughout their operations".

The UN Human Rights Council has stressed the importance of applying the Guiding Principles in Myanmar prior to the coup. In resolution 40/29 (2019), the Council encouraged “all business enterprises, including transnational corporations and domestic enterprises, to respect human rights in accordance with the UN Guiding Principles on Business and Human Rights.”

The need for companies to adhere to the UN Guiding Principles has only grown more urgent in the wake of the coup as the Myanmar military junta has made extensive use of aircraft to commit well-documented atrocity crimes against Myanmar civilians. Any companies engaged in the sale of aircraft parts to the Myanmar military are at extremely high risk of violating these UN Guiding Principles. In addition, the UN Working Group on Business and Human Rights, in its report “A/75/212” on “business, human rights and conflict-affected regions: towards heightened action” urges home and host States to use their key policy tools and levers to ensure that businesses engage in conflict-sensitive heightened due diligence when operating in conflict-affected areas.

The Guidelines also state that business enterprises have an independent responsibility to respect human rights. Principles 11 to 24 and 29 to 31 provide guidance to companies on how to fulfil their responsibility to respect human rights, including through human rights due diligence processes.

Two of the UN Guiding Principles have particular relevance for business entities providing arms and associated materials to the Myanmar military:³

1. UN guiding principle 13 requires that business enterprises: “Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;” and “seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.”
2. UN guiding principle 17 states that in order to identify, prevent, mitigate and account for how the business addresses their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.

³ Guiding Principles on Business and Human Rights, U.N. Doc. A/HRC/17/31, 21 March 2011