

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

Ref.: AL OTH 159/2024
(Please use this reference in your reply)

16 January 2025

Dear Mr. Meyer,

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.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 60 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to your attention 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

DHL Group

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 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 provide information on the human rights due diligence policies and processes put in place by DHL to identify, prevent, mitigate, and remedy the adverse human rights impacts of your activities and, in particular, with respect to the transportation of products that might contribute to serious human rights abuses, in line with the UN Guiding Principles on Business and Human Rights.
3. Please provide information as to the steps your company has taken, or is considering, to ensure that your activities are in line with United Nations Guiding Principles on Business and Human Rights as well as controls on arms sales to Myanmar put in place by the Government of Germany. In particular, please indicate whether your company conducted heightened human rights due diligence processes, considering the current conflict

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".

affected situation in Myanmar and sanctions put in place.

4. Please clarify the status of DHL's relationship with DHL Myanmar and Myanmar Posts and Telecommunications.
5. Please clarify DHL's stance towards engaging in business dealings with, or providing business services to, entities under EU sanctions.
6. Please indicate how your company has engaged with the Government of Germany to mitigate any impacts to the greatest extent possible.
7. Please indicate specific remedial measures that your company has taken or is considering taking to address human rights abuses and humanitarian law violations.
8. Please provide information on steps taken by your company to establish, or participate in effective operational-level grievance mechanisms, in line with the UN Guiding Principles on Business and Human Rights, to address adverse human rights impacts associated with your company throughout your operations globally.

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.

Please be informed that a letter on this subject matter has also been addressed to the Government of the Federal Republic of Germany.

Please accept, Mr. Meyer, 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 and standards

In connection with above alleged facts and concerns, we would like to draw your attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

We would like to highlight 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 consultation with governments, civil society and the business community. The Guiding Principles have been established as the authoritative global standard for all States and businesses to prevent and address business-related adverse human rights impacts. These Guiding Principles are based on the recognition of:

- 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 corporations performing specialised functions, which must comply with all applicable laws and respect human rights;
- c) the need for rights and obligations to be matched by appropriate and effective remedies when they are violated".

The guiding principles also make clear that companies have an independent responsibility to respect human rights. Principles 11-24 and 29-31 provide guidance to companies on how to meet their responsibility to respect human rights and to provide remedies where they have caused or contributed to adverse impacts. The guiding principles have identified two main components of the corporate responsibility to respect human rights, which require "business enterprises to:

- a) Prevent their own activities from causing or contributing to adverse human rights impacts and address those impacts when they occur;
- b) seek to prevent or mitigate adverse human rights impacts directly related to operations, products or services provided through their business relationships, even where they have not contributed to those impacts" (guiding principle 13).

The commentary to guiding principle 13 notes that companies can be affected by adverse human rights impacts, either through their own activities or as a result of their business relationships with other parties (...) The 'activities' of business enterprises are understood to include both actions and omissions; and their 'business relationships' include relationships with business partners, entities in their value chain and any other non-State or State entities directly linked to their business operations, products or services.

To meet their responsibility to respect human rights, companies should have in place policies and procedures appropriate to their size and circumstances:

- a) A political commitment to uphold their responsibility to respect human rights;
- b) a human rights due diligence process to identify, prevent, mitigate and account for how they address their human rights impact;
- c) processes to redress any adverse human rights impacts they have caused or contributed to (guiding principle 15).

According to guiding principles 16-21, human rights due diligence involves:

- a) Identifying and assessing actual or potential adverse human rights impacts that the enterprise has caused or contributed to through its activities, or that are directly related to the operations, products or services provided by its business relationships;
- b) integrate the results of impact assessments into relevant business functions and processes, and take appropriate action in accordance with their involvement in the impact;
- c) monitor the effectiveness of the measures and processes adopted to address these adverse human rights impacts in order to know whether they are working;
- d) communicate how adverse effects are addressed and demonstrate to stakeholders - particularly those affected - that appropriate policies and processes are in place to implement respect for human rights in practice.

This process of identifying and assessing actual or potential adverse human rights impacts should include substantive consultation with potentially affected groups and other stakeholders (guiding principle 18).

Where an enterprise, such as DHL may cause or is likely to cause an adverse human rights impact, it should take the necessary steps to end or prevent that impact. “The establishment of operational-level grievance mechanisms for those potentially affected by corporate activities can be an effective means of redress provided they meet certain requirements listed in principle 31 (guiding principle 22).

Furthermore, business enterprises should remedy any actual adverse impact that they cause or to which they contribute. Remedies can take a variety of forms and may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy should be impartial, protected from corruption and free from political and other attempts to influence the outcome (commentary to guiding principle 25).