



January 18, 2022

To: Investors holding shares in ENEOS Corporation, Sumitomo Corporation, Marubeni Corporation, and/or Mitsubishi Corporation

**Call for Investor Engagement to Urge Companies Continuing Business
in Myanmar to
Completely Cut Off Sources of Funding to Its Military Forces**

Dear Investors,

We are civil society organizations from Japan and Myanmar that make policy proposals urging Japanese companies to give appropriate consideration to the environment, society, and human rights in their overseas business operations. We are sending this call for engagement to you as one of a total of 125 major corporate investors holding shares in Japanese companies that continue to finance the four projects in Myanmar listed in the table below. The companies involved in these four projects are: ENEOS Corporation, Sumitomo Corporation, Marubeni Corporation, and Mitsubishi Corporation.

Since the coup d'état by Myanmar's military in February last year, we have pointed out to Japanese companies financing these projects that, by benefiting the military through their business activities, they may be complicit in human rights violations perpetrated by the military. Through written requests and meetings, we have also urged the companies to act in the light of their own human rights policies and international standards. We have done this because of grave concerns that ongoing projects provide financial resources for the military and financially support the Myanmar military's international crimes and grave violations of human rights, including murder, wrongful arrest and arbitrary detainment, sexual violence, forced disappearances, and torture.

Table: Possible flow of funds to Myanmar’s military via each project and steps requested of each company

Project name and financers (percentage of total funding)	Possible flow of funds to military	Steps requested of each company
<p>Thilawa Special Economic Zone (SEZ) Development Project¹</p> <p>-Japanese private companies (39%)</p> <ul style="list-style-type: none"> • Sumitomo Corporation (32.2%) • Marubeni Corporation (32.2%) • Mitsubishi Corporation (32.2%) • Mizuho Bank (1.13%) • Sumitomo Mitsui Banking Corporation (1.13%) • MUFG Bank (1.13%) <p>• Japan International Cooperation Agency (JICA) (10%)</p> <p>• Myanmar Thilawa SEZ Holdings (41%)</p> <p>• Thilawa SEZ Management Committee (10%)</p>	<ul style="list-style-type: none"> • Possibility of partial flow of dividends to the military, due to 10% joint funding by the Thilawa SEZ Management Committee (Myanmar government) • The military has already taken control of Thilawa SEZ Management Committee personnel (the chairman was arrested and detained after the coup d’état, and a new chairman was subsequently appointed by the military), and military involvement in the entire project may increase 	<ul style="list-style-type: none"> • Suspension of dividend payments • Elimination of influence from the military on decision-making about SEZ operations • Withdrawal from project if benefiting the military cannot be avoided
<p>Yetagun Gas Project²</p> <ul style="list-style-type: none"> • Petronas Carigali (40.9%) • Myanma Oil and Gas Enterprise (MOGE) (20.5%) • PTT Exploration and Production (PTTEP) (19.3%) • Nippon Oil Exploration (19.3%) <ul style="list-style-type: none"> • JX Nippon Oil & Gas Exploration Corporation (which is 100% subsidiary of ENEOS) (40%) • Mitsubishi Corporation (10%) • Minister of Economy, Trade and Industry, Japan (50%) 	<ul style="list-style-type: none"> • The military is already in effective control of relevant government ministries, Central Bank, and the Myanma Oil and Gas Enterprise (MOGE), and it is not possible to reliably prevent revenue payments, including profits from MOGE’s investment in natural gas fields and transmission pipelines, from being used by the Myanmar military • It is not possible to reliably prevent payments levied on natural gas production and transmission based on production sharing agreements, etc. from flowing to the military 	<ul style="list-style-type: none"> • Suspend all payments to military-controlled entities, holding them in a protected account until democracy is established. • Withdrawal from project if benefiting the military cannot be avoided
<p>Landmark Project (Yoma Central Project)³</p> <p>• Special Purpose Company formed by Japanese participants</p> <ul style="list-style-type: none"> • Mitsubishi Corporation • Mitsubishi Estate • Japan Overseas Infrastructure Investment Corporation for Transport & Urban Development (JOIN) <p>• Serge Pun & Associates’ SPA Group</p> <p>• Asia Development Bank (ADB)</p> <p>• International Finance Corporation (IFC)</p>	<ul style="list-style-type: none"> • Because the military is already in effective control of relevant government ministries, and land for the project is sub-leased from Myanma Railways under the Ministry of Rail Transportation⁴, it is not possible to reliably prevent these land lease payments from flowing to the military 	<ul style="list-style-type: none"> • Investigation of whether land lease payments and other project returns benefit the military, and withdrawal if benefiting the military cannot be avoided
<p>Thilawa Area Port Terminal Operation Project⁵</p> <p>• Special Purpose Company formed by Japanese participants (35%)</p> <ul style="list-style-type: none"> • Sumitomo Corporation (36%) • Toyota Tsusho Corporation (34%) • Japan Overseas Infrastructure Investment Corporation for Transport & Urban Development (JOIN) (30%) <p>• Kamigumi (51%)</p> <p>• EFR Group (14%)</p>	<ul style="list-style-type: none"> • Because the military is already in effective control of relevant government ministries, it is not possible to reliably prevent payments under the concession contract with the Myanma Port Authority (MPA) such as usage fees from flowing to the military 	<ul style="list-style-type: none"> • Suspend all payments to military-controlled entities, holding them in a protected account until democracy is established., since the military has placed MPA under effective control by the regime • Withdrawal from project if benefiting the military cannot be avoided

Each of the above four companies, ENEOS Corporation, Sumitomo Corporation, Marubeni Corporation, and Mitsubishi Corporation, has its own human rights policy, and has declared that it supports, and is implementing, international-level human rights policies such as the United Nations Global Compact and Guiding Principles on Business and Human Rights. However, although the above companies have responded to written requests from NGOs such as ours by expressing concerns over violence and human rights violations perpetrated by Myanmar's military, they have not officially declared specific plans to avoid the risk of their own business activities in Myanmar abetting grave human rights violations by the military, or plans to alter the course of their own business activities.

Accordingly, we request all holders of shares in the Japanese financiers of the above projects to promptly engage with the companies concerned and urge them to take measures listed under the "Steps requested of each company" in the table above. If the companies do not take measures even after your engagement, we would like you to consider divestment. Please refer to the Background on the Situation in Myanmar attached for further information on grave human rights violations by Myanmar's military that amount to international crimes.

We would highly appreciate it if you could spare time to reply to the contact address listed below by February 28 to share your course of action for addressing this request and any other views you may have on the matter. We look forward to receiving your feedback.

Sincerely,

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Executive Director, Friends of the Earth Japan

Yadanar Maung
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Attachments:

- Background on the Situation in Myanmar

Notes:

1. "Presentation of Myanmar Japan Thilawa Development Ltd.(MJTD)," Sumitomo Corporation, March 14, 2018, https://www.sumitomocorp.com/-/media/Files/hq/ir/explain/business/en/20180314MJTD_ENG.pdf?la=en
2. Overview of the Yetagun project by JX Nippon Oil & Gas Exploration, https://www.nex.jx-group.co.jp/english/project/southeast_asia/myanmar.html (last accessed November 27, 2021)
3. "Mitsubishi Corporation and Mitsubishi Estate Agree to Commence the Landmark Project, a Large Mixed-Use Redevelopment Project in Downtown Yangon, Myanmar," press release by Mitsubishi Corporation and Mitsubishi Estate Co., Ltd., July 12, 2016, <https://www.mitsubishicorp.com/jp/en/pr/archive/2016/html/0000030584.html>
4. "Initial Environmental Examination, MYA: Yangon Urban Renewal and District Cooling Project," Asian Development Bank, February 2014, p.22, <https://www.adb.org/sites/default/files/project-document/80805/47913-014-iee-01.pdf>
5. "Stake Acquired in Port Terminal Operating Company in Myanmar," news release by Sumitomo Corporation and Toyota Tsusho Corporation, January 30, 2019, <https://www.sumitomocorp.com/en/jp/news/release/2019/group/11310>

Background on the Situation in Myanmar

In Myanmar, the military (also known as the Tatmadaw) has committed gross human rights violations over the past several decades¹. Some of the violations committed against civilians in ethnic minority regions are deemed to amount to international crimes².

Since the coup d'etat on February 1, 2021, many citizens have expressed opposition to the resumption of military rule. However, the military has responded with violence, and 1,393 people have been killed and 11,296 detained as of January 1, 2022³. In July 2021, the Independent Investigative Mechanism on Myanmar (IIMM) set up by the UN Human Rights Council found that security forces including the military have “committed serious international crimes” since the coup, such as murders, persecution, arbitrary detentions, sexual assaults, forced disappearances, and torture⁴. According to the IIMM, these crimes may amount to crimes against humanity.

Even before the coup, armed conflict had continued for decades in ethnic minority regions, and many civilians have become victims of forced labor, forced relocation, sexual violence, extrajudicial killing committed by the military as part of its clearance operations against ethnic armed organizations⁵. At times such operations are carried out to pursue development projects⁶. During construction of a pipeline from the Yadana natural gas field to Thailand, the military set up outposts along the pipeline route and subjected local ethnic communities to forced relocation, forced labor, looting, rape, and summary executions⁷. Several years later, a pipeline from the Yetagun field was laid along the same route.

In 2017, the military attacked villages of Rohingya Muslims in Rakhine State and committed killings, rapes, arbitrary arrests, and mass arson of civilian homes. The independent international fact-finding mission on Myanmar (IIFMM) established by the UN Human Rights Council found that during this operation the military committed crimes against humanity as well as violations of international humanitarian law amounting to war crimes⁸. Further, Gambia filed a case at the International Court of Justice against Myanmar for alleged genocide committed during these attacks, and the case is ongoing. After the coup, armed conflict in ethnic minority regions have continued, intensified, or reignited⁹. According to the UN High Commissioner for Refugees, as of December 2021, there are an estimated 296,000 internally displaced people in Myanmar due to conflict and unrest since the coup¹⁰.

¹ See, e.g., Written updates of the Office of the United Nations High Commissioner for Human Rights (UNHCHR) on the situation of human rights in Myanmar, September 16, 2021, p.2.

² *Ibid.*

³ Assistance Association for Political Prisoners, Daily Briefing in Relation to the Military Coup, January 1, 2022.

⁴ Report of the Independent Investigative Mechanism for Myanmar, July 5, 2021, p.9.

⁵ See, e.g., The Shan Human Rights Foundation & The Shan Women's Action Network, License to Rape: The Burmese military regime's use of sexual violence in the ongoing war in Shan State, May 2002); Shan Human Rights Foundation, Dispossessed: Forced Relocation and Extrajudicial Killings in Shan State, April 1998.

⁶ See, e.g., EarthRights International, Total Denial Continues: Earth Rights Abuses Along the Yadana and Yetagun Pipelines in Burma (2000); Karenni Development Research Group, Dammed by Burma's Generals: The Karenni Experience with Hydropower Development From Lawpita to the Salween, 2006.

⁷ EarthRights International, *supra* note 7.

⁸ Report of the independent international fact-finding mission on Myanmar, September 17, 2018, pp. 374, 376.

⁹ UNHCHR, *supra* note <1> pp. 9, 11.

¹⁰ UNHCR, Myanmar Emergency Update as of 17 December 2021.

The military has built its own network of companies to finance its activities. In its 2019 report¹¹, the IIFFMM detailed how the military utilized its business relationships with its holding companies and foreign corporations to support its operations against ethnic minorities. Further, because “the revenues the military earns from domestic and foreign business deals substantially enhances its ability to carry out gross violations of human rights,” the IIFFMM recommended that “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”¹². Some of the more than 400 Japanese companies conducting business in Myanmar may well be contributing to human rights violations through the military’s network of businesses.

¹¹ Independent International Fact-Finding Mission on Myanmar, *Economic interests of the Myanmar military*, August 5, 2019.

¹² *Ibid.*, p.66.