

TIME FOR TARGETED SANCTIONS AGAINST MILITARY BUSINESSES

The ongoing refusal to halt atrocity crimes and other human rights violations targeting civilians, including Rohingya, Kachin and Shan communities, which has worsened because of intensified conflict between the Arakan Army and the Tatmadaw in Arakan/Rakhine State, highlights the need for greater accountability in Burma/Myanmar.

In September 2018, the UN Fact-Finding Mission on Burma (FFM) found that the Tatmadaw was the key perpetrator of atrocity crimes in Arakan, Shan, and Kachin states – including rape, torture, murder, and in the case of Rohingya Muslims, genocide.¹ However, as the FFM and others have reported, the Tatmadaw benefits from a “culture of impunity” that shields it from investigations.² The government’s outright denial of security forces brutally raping Rohingya women and girls, calling them “wild claims” in a report to the UN Committee on the Elimination of Discrimination against Women earlier this month, was further evidence of this.³

In light of the debates on what the international community can do to address these abuses, it is time that targeted sanctions are applied to the military’s main sources of off-budget funding – the Union of Myanmar Economic Holdings Ltd (UMEHL) and the Myanmar Economic Corporation (MEC). UMEHL and MEC are two of the largest and most profitable business conglomerates in Burma. Both companies were previously designated under United States sanctions due to their relationship with the military and their investments have been linked to controversial projects across the country.

Sanctions against UMEHL and MEC align with the FFM’s recommendation for actions that are “carefully targeted to avoid any benefit to the Tatmadaw generally.”⁴

UMEHL & MEC: A BLACK HOLE FOR ACCOUNTABILITY

Protected by the military’s power, the full extent of UMEHL and MEC’s business activities are shrouded in secrecy.¹ Examples of this lack of transparency include:

- **Limited or no online presence.** MEC’s website is restricted to basic information on its projects and subsidiaries. UMEHL does not have a website.
- **No public oversight.** Neither company publicly discloses its annual financial or operational reports.
- **No disclosure of relevant policies.** Neither company publishes its policies on corporate governance, sustainability, or stakeholder engagement.
- **No public grievance mechanisms.**

¹ For more information, including a comparison to other local companies, please consult Myanmar Centre for Responsible Business (26 Mar 2018) 2018 Pwint Thit Sa Report

¹ UN Independent International Fact-Finding Mission on Myanmar (17 Sep 18) Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar. UN Doc. A/HRC/39/CRP.2

² See: ALTSEAN-Burma, FIDH, and Progressive Voice (18 Oct 18) Burma/Myanmar’s ongoing refusal to pursue accountability: Time for an ICC Referral; ALTSEAN-Burma, FIDH, and Progressive Voice (18 Oct 18) Burma/Myanmar: Ongoing attacks against civilians and faltering peace process

³ Committee on the Elimination of Discrimination against Women (06 Feb 19) Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Myanmar. UN Doc. CEDAW/C/MMR/4-5/Add.1

⁴ UN Independent International Fact-Finding Mission on Myanmar (17 Sep 18) Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar, paragraph 1668. UN Doc. A/HRC/39/CRP.2

Businesses Under Military Control

The Tatmadaw established UMEHL and MEC in the 1990s to consolidate control of businesses in key industries and provide off-budget financial support to active and retired military officers.⁵

UMEHL was established in 1990 under the 1950 Special Company Act with a focus on light industry and trade.⁶ The Tatmadaw directly benefitted from UMEHL's operations through a 40% ownership stake in the company until 2016, when UMEHL registered as a public company. In March 2016, UMEHL transferred all the "A Shares" owned by the Ministry of Defense to "B Shares" owned by military "welfare organizations" and active and retired military personnel. Military officials still sit on the UMEHL management board and civilians are not allowed to own any shares at this time.⁷ This ensures that UMEHL's business activities still benefit high ranking military officers despite no longer directly funding the military itself.

SELECTED UMEHL AND MEC SUBSIDIARIES	
<i>Union of Myanmar Economic Holdings Ltd</i>	<i>Myanmar Economic Corporation</i>
Myawaddy Bank	Innwa Bank
Myawaddy Trading Ltd	Aung Myint Moh Min Insurance Co, Ltd
Adipati Agricultural Produce Trading Ltd	Myanmar Mobile Money Services
Myanmar Imperial Jade Co	Dagon Beverages Co, Ltd
Myanmar Ruby Enterprise	MECtel
Shwe Gandamar International Trading Ltd	Tri Star Tyre Factory
Aung Thitsar Oo Insurance Co, Ltd	Ahlong International Port Terminal
Bandoola Transportation Ltd	

MEC was set up in 1997 under the State-Owned Economic Enterprises Law to reduce the cost of producing basic supplies for the military, focused mainly on heavy industry such as cement, steel, and rubber manufacturing.⁸ MEC has expanded its business footprint since then to food and beverage manufacturing and financial services.⁹ Due to a lack of publicly available information, the exact nature of MEC's ownership structure is unknown. However, several think tanks, including the Singapore-based Institute of Southeast Asian Studies, agree that MEC remains fully within the control of the Ministry of Defense and primarily benefits military personnel.¹⁰

Opaque Business Practices

Little is known about the full extent of UMEHL and MEC's financial structure and revenues as neither enterprise publishes their annual reports.

The information that is available indicates that the economic influence of these companies is far-reaching. In 2016, UMEHL owned 55 subsidiaries across a range of sectors, including gemstone and agriculture trading, manufacturing, and financial services.¹¹ In 2017, MEC owned seven mining companies, 36 manufacturing facilities, and at least three trade and service companies.¹² Both businesses also participate in a range of joint ventures with foreign companies. One example is the new telecommunications company Mytel, a partnership between MEC and Vietnamese state-owned enterprise Viettel.

Until the Thein Sein government began enacting a broad range of financial reforms in 2011, UMEHL and MEC were both exempt from paying taxes. Since 2015, however, these companies and their

⁵ The Irrawaddy (03 May 17) Deputy Defense Minister: Perks Over for Military Businesses

⁶ ISEAS – Yusof Ishak Institute (05 Dec 18) Veterans' Affairs in Myanmar's Reform Process. Any company that is formed as a joint venture with a government department– in UMEHL's case, the Ministry of Defense – must register under the Special Company Act, though most of the same regulations as the 1914 Company Act/2017 Companies Law apply.

⁷ Myanmar Times (18 Nov 16) Military conglomerate hoping for more JVs

⁸ Min, Aung and Toshihiro Kudo (2014) Business Conglomerates in the Context of Myanmar's Economic Reforms

⁹ Myanmar Economic Corporation (05 Feb 19) www.mecwebsite.com

¹⁰ ISEAS – Yusof Ishak Institute (05 Dec 18) Veterans' Affairs in Myanmar's Reform Process

¹¹ Myanmar Times (18 Nov 16) Military conglomerate hoping for more JVs

¹² The European Times (27 Oct 17) Myanmar's Corporate Jewel is an Engine of the National Economy

subsidiaries have been at the top of the income and commercial tax payers lists released by the Internal Revenue Department every year. Their consistently high rankings indicate that they generate larger profits relative to other companies operating in Burma. For example in 2017-18, five military companies in the top 25 local tax payers list contributed up to K91.5billion (US\$67.8 million) to government revenue.¹³

The dominance of these military-backed companies has led to *de facto* monopolies in key industries, limiting competition and restricting the growth of small and medium-sized enterprises. Since these companies are linked to perpetrators of atrocity crimes through their business relationships, international companies that associate with them may encounter reputational and other risks.

Controversial Investments

Several MEC and UMEHL operations have been linked to human rights abuses and widespread land confiscation. Land seized by the previous military regime was eventually acquired by MEC and UMEHL for various business operations, demonstrating the link between the military and MEC/UMEHL's activities.

This relationship is clearly evident with the development of the Thilawa Special Economic Zone (SEZ) near Rangoon/Yangon. In May 2018, 33 farmers were found guilty of trespassing after MEC brought charges against the group in 2014. The farmers were attempting to defend their own lands, which had been previously confiscated by the military junta in the late 1990s for the Thilawa development.¹⁴ MEC and UMEHL are widely disliked by the Burmese population and are considered "synonymous with bad governance, unfair concessions, land-grabs and human rights abuses" due to these practices.¹⁵ Rampant land confiscation has left many farmers without adequate compensation for their lands or a sustainable livelihood and much of the confiscated land is never returned. In July 2013, then Defense Minister Lt Gen Wai Lwin said that the Tatmadaw would return only 18,300 (or 6.1%) of the 297,077 acres of land it confiscated across Burma during 1988 to 2010.¹⁶

"I worry because the court has ruled that we are trespassers, when we were not," he said. "MEC and [its joint venture] businesses may well grab our land based on this court decision."

– Kyaw Thu, owned 10 acres of land taken by MEC in Thida Myaing village near Thilawa SEZ

Human rights abuses linked to UMEHL operations are also present at the Letpadaung copper mine in Sagaing Division, where UMEHL and China-based Wanbao Mining Ltd. operate a joint venture. Allegations of human rights abuses by local communities around the Letpadaung mine have been well-documented and include: lack of free, prior, and informed consent of local peoples; unsanctioned land confiscations; forced evictions; environmental impacts damaging to local people's health and livelihoods; and violent responses to peaceful protest.¹⁷

UMEHL and MEC's activities in Burma's jade industry also remain highly controversial. Both UMEHL and MEC are key players in Kachin State's multi-billion dollar jade industry, profiting from tax exemptions and monopolies on joint ventures with foreign investors. For example, at the 2014 Myanmar Gems Emporium, UMEHL's subsidiary Myanmar Imperial Jade alone recorded the second highest sales of all companies at almost US\$150 million.¹⁸ The UK-based NGO Global Witness found that military control of these profits has fueled the continued conflict in Kachin State, which has resulted in thousands of deaths and displaced upwards of 100,000 people.¹⁹

¹³ ISEAS – Yusof Ishak Institute (05 Dec 18) Veterans' Affairs in Myanmar's Reform Process

¹⁴ EarthRights International (07 May 18) Myanmar Farmers Convicted in Major Land Rights Case; Frontier Myanmar (08 May 18) Yangon court finds 33 farmers guilty of trespassing in land grab case; Box quote - Frontier Myanmar (08 May 18)

¹⁵ Myanmar Times (01 Apr 16) Military-owned MEHL applies to become public company.

¹⁶ DPA (17 Jul 13) Myanmar military to return little land; DVB (18 Jul 13) Ministry agrees to return meagre fraction of land confiscated by military

¹⁷ Amnesty International (2017) Open For Business? Corporate Crime and Abuses at Myanmar Copper Mine

¹⁸ Global Witness (23 Oct 15) Jade: Myanmar's "Big State Secret"

¹⁹ Swedwatch (20 Jun 18) Report: Overlooked and Undermined: Communities affected by jade mining operations in Myanmar and the responsibilities of companies providing machinery; Global Witness (23 Oct 15) Jade: Myanmar's "Big State Secret"