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Open Letter

United States Sanctions Myanmar Junta's Ministry of Defence Japanese Government Should Immediately and Completely Withdraw from the Y Complex Project

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CC:

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On June 21, 2023, the US government announced that it was imposing financial sanctions on the Myanmar junta's Ministry of Defence as a "Specially Designated National," noting that the Ministry was "responsible for the command and control of the armed forces, which has conducted decades of repressive military rule that was violently resumed following the coup in 2021."¹ With this designation, the connection between the Redevelopment of the Defense Services Museum Project (commonly known as the "Y Complex Project"), one of the projects being implemented using Japanese public funds, and the ongoing abuses by the Myanmar military junta, has been made even more obvious.

Y Complex involves building and operating a large-scale real estate complex at the site of the former military museum in Yangon, the largest city in Myanmar. The project receives public and private funds from Japan through Japan Overseas Infrastructure Investment Corporation for Transport and Urban Development (JOIN), a government-funded infrastructure investment corporation under the Ministry of Land, Infrastructure, Transport and Tourism, and Japan Bank for International Cooperation (JBIC) which is Japan's public export credit agency. JOIN and JBIC invests or lends to the Y Complex project in which the Myanmar military-controlled Ministry of Defence participates,² and they have continued their involvement even after the attempted coup by the Myanmar military on February 1, 2021.

Tokyo Tatemono, Fujita Corporation (a subsidiary of Daiwa House Industry), and JOIN set up a Joint Special Purpose Company (J-SPC) in Singapore. JBIC along with Sumitomo Mitsui Banking Corporation

¹ "Treasury Sanctions Burma's Ministry of Defense and Regime-Controlled Financial Institutions," June 21, 2023: <https://home.treasury.gov/news/press-releases/jv1555>

² JOIN's webpage on the Y Complex Project: https://www.join-future.co.jp/english/investments/achievement/index.php?c=investment_en_view&pk=1603170043; JBIC, "Loan for Mixed Use Development Project by Japanese Company in Myanmar," December 18, 2018: <https://www.ibic.go.jp/en/information/press/press-2018/1218-011714.html>

and Mizuho Bank co-financed a loan to this J-SPC, and the J-SPC in turn is co-investing in Y Complex Company Ltd., a Myanmar corporation set up jointly by the J-SPC and Yangon Technical and Trading Company Limited (YTT), a Myanmar military crony-owned company.

The land lease agreement is between YTT and "Colonel Aung Min Thein (Officer No. Army 17642), Vice Quarter Master General, Office of the Quarter Master General, Commander-in-Chief (Army)." Land lease payments are to be made to "Defence Account no. MD 010424," an account likely to be under control of the Office of the Quartermaster General³. On December 10, 2021, the US, UK and Canada imposed sanctions on the Office of the Quartermaster General.⁴ The UK government has pointed out that the Office of the Quartermaster General "plays a crucial role in procuring equipment for the Myanmar Armed Forces, including ammunition, bombs and jet fuel."⁵ More recently, the EU imposed sanctions on Kyaw Swar Lin, the Quartermaster General, on July 20, 2023, noting that he is a "person whose policies and activities undermine democracy and the rule of law in Myanmar/Burma, and who provides support for actions that threaten the peace, security and stability of Myanmar/Burma."⁶

We understand that making land lease payments in the Y Complex project is equivalent to providing funds to the Myanmar military through the Office of the Quartermaster General, and have alluded to this problem since before the attempted coup.⁷

So far, JOIN and JBIC have explained that because the Office of the Quartermaster General is within the Ministry of Defence and therefore a part of the government of Myanmar, land lease payments would not benefit the Myanmar military (see below).

Response by Tatsuhiko Takesada, President & CEO of JOIN at the meeting of the Committee on Financial Affairs of the House of Representatives, April 20, 2021: "Regarding the contract for the project site, J-SPC is not directly involved, but under the contract, the local Myanmar company signed a land lease agreement with the Ministry of Defence which is a part of the government to obtain land use rights, and the said local [Myanmar] company subleases the land to the local project company. We have confirmed the current situation, but regarding the land lease payments, we understand that they were appropriately managed within the government."⁸

Statement by JBIC official in charge of the Y Complex Project at the "Ministry of Finance - NGO Regular Dialogue," March 5, 2021: "JBIC recognizes that in this project the rent is paid to the Office of the Quartermaster General in the Ministry of Defence. We understand that the rent payments are included as revenue in the general budget of the Myanmar government.... In Myanmar, based on a

³ Mekong Watch, et al., "Call for Engagement with Companies Involved in the Y Complex Project in Myanmar," May 24, 2022: http://www.mekongwatch.org/report/burma/mbusiness/20220524Letter_Eng.pdf

⁴ US Department of the Treasury, "Treasury Sanctions Perpetrators of Serious Human Rights Abuse on International Human Rights Day," December 10, 2021: <https://home.treasury.gov/news/press-releases/jy0526>;

Foreign, Commonwealth & Development Office, "New UK sanctions target human rights violations and abuses in Myanmar and Pakistan," December 10, 2021: <https://www.gov.uk/government/news/new-uk-sanctions-target-human-rights-violations-and-abuses-in-myanmar-and-pakistan>;

Global Affairs Canada, "Backgrounder: Additional Myanmar sanctions," December 10, 2021:

<https://www.canada.ca/en/global-affairs/news/2021/12/backgrounder-additional-myanmar-sanctions.html>

⁵ Foreign, Commonwealth & Development Office, "New UK sanctions target human rights violations and abuses in Myanmar and Pakistan," December 10, 2021: <https://www.gov.uk/government/news/new-uk-sanctions-target-human-rights-violations-and-abuses-in-myanmar-and-pakistan>

⁶ Council of the EU, "Myanmar/Burma: EU imposes seventh round of sanctions against six individuals and one entity," July 20, 2023: <https://www.consilium.europa.eu/en/press/press-releases/2023/07/20/myanmar-burma-eu-imposes-seventh-round-of-sanctions-against-six-individuals-and-one-entity/>

⁷ Request made to JBIC on August 25, 2020: http://www.mekongwatch.org/PDF/rq_20200825.pdf

⁸ Record of the meeting of the Committee on Financial Affairs of the House of Representatives, April 20, 2021: https://www.shugiin.go.jp/Internet/itdb_kaigiroku.nsf/html/kaigiroku/009520420210420012.htm

law called the Budget Law, so-called general accounts budget is publicly disclosed, and the Ministry of Defence is included as part of that."⁹

These statements show that both JOIN and JBIC recognized that the rent payments should not be benefiting the military and that they were attempting to maintain an appearance that the rent payments were not going to the military by publicly presenting their view that the ultimate destination of the rent payments was the Ministry of Defence and not the military. The recent imposition of sanctions by the US on the Ministry of Defence, has made these excuses even more untenable.¹⁰

Regardless of whether the ultimate destination of the land lease payments for the Y Complex Project is the Office of the Quartermaster General or the linked Ministry of Defence, these payments enable the Myanmar military to continue to commit atrocity crimes across the country. According to the UN, there are currently 1.9 million internally displaced persons (IDPs) in Myanmar.¹¹ The Japanese government and Japanese companies should fulfill their responsibilities under the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises by immediately stopping their involvement in the Y Complex Project. To do so, the Ministry of Land, Infrastructure, Transport and Tourism should withdraw the investment made by JOIN, and the Ministry of Finance should cancel the loan made by JBIC to stop the injection of public funds into the project and publicly announce that they have made the decision to do so.

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⁹ Record of the 75th Ministry of Finance - NGO Regular Dialogue, March 5, 2021: http://iacses.org/wp_jp/wp-content/uploads/2021/05/mof75.pdf

¹⁰ President & CEO of JOIN, Tatsuhiko Takesada, stated at the meeting of the Committee on Financial Affairs of the House of Representatives (April 20, 2021) that "there is no such fact at this point that the local project company in which JOIN invests through the J-SPC has made any payment to the other party in the land lease contract for the land lease for the project site etc since the coup d'etat on February 1 of this year." However, as long as the land lease contract is in effect, YTT continues to have an obligation to make land lease payments to the Office of the Quartermaster General.

¹¹ Myanmar Humanitarian Update No. 31, July 15, 2023: <https://reliefweb.int/report/myanmar/myanmar-humanitarian-update-no-31-15-july-2023>