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What the Myanmar Coup Means for Japan: Implications for Foreign Policy & International Business

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Executive Summary

Throughout much of the Cold War, Japan enjoyed what many scholars refer to as a “special relationship” with Myanmar, as Tokyo often bucked the policy approach of other Western countries to provide war reparations, humanitarian aid, official development assistance (ODA), and other forms of economic assistance to Myanmar’s military leaders—even during periods of increased international isolation.

As a result of this so-called “special relationship” between the two countries, Japan significantly boosted its trade and investment with Myanmar after its political re-opening process began in 2011, becoming the country’s largest foreign aid donor and one of its largest foreign investors. Japanese companies were heavily incentivized to enter Myanmar, Asia’s last “frontier economy” by both the Government of Japan and the Japan-Myanmar Association, an influential lobbying group comprised of powerful Japanese politicians and business leaders, which helped broker lucrative business deals between Japanese companies and the rulers of Myanmar’s pseudo-civilian government.

The February 1, 2021 military coup in Myanmar, and its ensuing aftermath, threatened to derail these substantial investments and upend the trajectory of the Japan-Myanmar relationship. In 2019, the United Nations Fact Finding Mission on Myanmar identified several multinational companies that were financially supporting the activities of the Myanmar military, an organization credibly accused of committing genocide and other war crimes against civilians in Myanmar. Faced with criticism from the United Nations, human rights activists, and the media, a number of high-profile investment projects pursued by Japanese actors came under increasing scrutiny following the military coup, particularly for their potential to further abet human rights abuses committed by the military.

To better assess how the February 1, 2021 military coup impacted the Japan-Myanmar relationship and Tokyo’s “human security” approach toward the country, this report provides insights into how the event impacted Japan’s foreign policy approach towards the country, and the investment strategies of the Japanese private sector. The report begins with an introduction to the report and a brief background of the February 1, 2021 coup. Chapter 1 details the history of Japan’s foreign policy approach towards Myanmar, the Japanese government’s response to the 2021 coup, and how its foreign policy approach evolved in the coup’s aftermath.

Chapter 2 explores the challenges faced by the Japanese business community following the military coup, with a particular focus on the reputational and human rights risks facing Japanese companies in the post-coup business environment. It discusses the response of international and Japanese companies to the coup, and conducts a case study analysis of how four Japanese companies responded to criticism of their investments in three military-aligned investment projects: the Thilawa Special Economic Zone, the Yetagun Gas Project, and the Landmark (Yoma Central) Project.

Chapter 2 also presents an analysis of key findings from a survey of Japanese companies invested in the Myanmar economy as of February 1, 2021, which was conducted specifically for this report. The report concludes with recommendations for how Japanese companies can better respect human rights and adhere to the United Nations Guiding Principles on Business and Human Rights (UNGPs) and international standards on responsible business conduct in the post-coup investment environment.

Key Findings

- Japan's initial response to the February 1, 2021 military coup largely mirrored the foreign policy approach it took towards an earlier military coup in Myanmar in 1988. Commonalities include a failure to issue economic sanctions, continued recognition of the military government, and the principal foreign policy action of the government being the temporary suspension of all new development assistance, but continued allowance for pre-existing ODA projects.
- While Tokyo still views its primary role in Myanmar to be a "bridge" between the military junta and other Western leaders, there are a number of key developments in Tokyo's foreign policy approach that indicate it may be shifting. Most principally, the suspension of a training program for Myanmar military cadets at the Japanese National Defense Academy, the occasional exclusion of junta officials in official government meetings, and increasing informal engagement with the National Unity Government of Myanmar (NUG).
- The Japan-Myanmar Association (JMA), a prominent lobbying group supportive of Myanmar's military leadership, continues to exert significant influence over Japan's foreign and economic policy toward the country. Although the organization remains influential, some Japanese companies have cut ties or distanced themselves from the organization in direct response to the military coup, due in large part to the Association's position on human rights, and the broader deterioration of the post-coup business environment.
- The February 1, 2021 military coup helped to facilitate a number of changes to the business activities of Japanese companies invested in the Myanmar economy, including their levels of investments, suspension of certain business operations, and even led some Japanese companies to exit the economy outright.
- While both Western and Japanese companies expressed concern over the deteriorating human rights situation in Myanmar following the military coup, most Japanese companies chose to temporarily suspend their operations rather than exit the economy outright, taking a "wait and see" approach to assess if conditions may eventually improve. Many Japanese companies have since resumed operations, while others, citing the relative improvement of the business environment, are slowly beginning to resume pre-coup business activities.
- Some Japanese actors including business leaders and policy officials in the government had quietly hoped that the so-called election planned by SAC Chairman Senior General Min Aung Hlaing would help to return stability to the country. As conflict across the country has only continued to worsen more than two years after the coup, such an election remains elusive, and some Japanese actors may be reconsidering their longer-term position in the country as a result.
- A case study analysis of how four prominent Japanese companies grappled with criticism from civil society and human rights groups about their investments in three investment projects that financially support the Myanmar military: the Thilawa Special Economic Zone, the Yetagun Gas Project, and Landmark Central Project found that while some companies changed their behavior, many quietly continued to operate and failed to disclose their efforts to minimize their human rights impacts.

A survey of Japanese companies invested in the Myanmar economy as of February 1, 2021 conducted for this report found that:

- The February 1, 2021 military coup significantly impacted the operations of Japanese companies in Myanmar, making it more difficult for them to conduct business in the country. At the same time, only a small number of respondents found it more difficult to respect the human rights of their employees and staff.
- A majority of Japanese companies plan to either retain or expand their operations in Myanmar in the near-to-medium term, despite the political and economic challenges brought about by the military coup. This in line with previous surveys conducted by JETRO and other Japanese government agencies which have found that approximately 70% of Japanese companies hoped to remain in the economy one year after the military coup.
- About half of surveyed Japanese companies adopted new standards on business & human rights in direct response to the coup, with the most common new measure being the implementation of human rights due diligence (HRDD).
- Japanese companies that chose to significantly scale-back their operations in Myanmar were significantly more likely to have made a commitment to adhere to or been knowledgeable about the UNGPs or international standards pertaining to responsible business conduct.
- There remains a significant lack of understanding about the UNGPs and other international standards on responsible business conduct among remaining Japanese companies invested in Myanmar, despite the country context requiring heightened attention due to the widespread nature of armed conflict throughout the country.
- While a majority of Japanese companies surveyed for the report had heard of the UNGPs, a majority had not heard of the corporate practice of HRDD, which is a key component of the UNGPs. This substantial lack of awareness raises questions about the nature of Japanese investment, even with the recent passage of Guidelines on Responsible Supply Chains
- The majority of Japanese companies surveyed for this report did not consult with a third-party organization to assess the viability of their sustained economic presence in Myanmar, despite civil society organizations reaching out to inquire about their links to military-backed conglomerates and adherence to international human rights standards. This differs from the approach of many European companies who were similarly impacted by the coup and who contracted external consultants to help them mitigate the reputational risks of their investments or assess the longer-term suitability of their presence in the economy in the face of pressure from investors.

Table of Contents

Prologue

Executive Summary	2
List of Figures	7
Acronyms and Abbreviations Used	8
About the Author & Acknowledgements	9
Introduction	10
Background of the February 1, 2021 Coup	12

Chapter 1: Japan's Foreign Policy

A Brief History of Japan-Myanmar Relations (1941-2021)

<i>The Birth of Modern Japanese–Burmese Relations (1941-1962)</i>	15
<i>The Ne Win Era (1962-1988)</i>	17
<i>The 1988 Coup (1988-1995)</i>	18
<i>The Era of 'Carrots' and 'Sticks' in Japan's Foreign Policy (1995-2010)</i>	20
<i>Political and Economic Reopening (2010-2021)</i>	22

Japan's Foreign Policy Response

<i>Initial Response to the Coup</i>	26
<i>The Evolution of Japan's Foreign Policy Approach</i>	28
<i>Comparing the 1988 and 2021 Coups</i>	33
<i>Key Findings</i>	35

Chapter 2: Business & Human Rights

<i>Introduction</i>	36
<i>A Brief Overview of the UNGPs and OECD Guidelines</i>	37
The UNGPs, Myanmar, and Japanese companies	
<i>Background and Context</i>	40
<i>The United Nations Fact-Finding Mission on Myanmar</i>	42
<i>The Struggle for Compliance with the UNGPs in Myanmar</i>	43
<i>The Response of International Companies to the Military Coup</i>	46
<i>The Response of Japanese Companies to the Military Coup</i>	48
<i>Comparing the Western and Japanese Approach</i>	54
<i>The Role of the “Sham Election”</i>	55
Three Problematic Investment Projects	
<i>Introduction</i>	57
<i>Thilawa Special Economic Zone (SEZ)</i>	57
<i>Case Study #1: Toyota Motors</i>	59
<i>Case Study #2: Marubeni</i>	61
<i>Yetagun Gas Project</i>	64
<i>Case Study #3: ENEOS</i>	65
<i>Landmark Project (Yoma Central Project)</i>	69
<i>Case Study #4: Mitsubishi Corporation</i>	69
<i>Key Findings of Case Studies</i>	71
Survey of Japanese Companies	74
<i>Key Survey Results</i>	75
Conclusion and Recommendations	83

List of Figures

1. 1988 vs. 2021 Coup	34
2. Timeline of Kirin's Involvement in Myanmar	49
3. Snapshot of Companies that Left the Japan-Myanmar Association	52
4. Composition of Ownership of the Thilawa SEZ	57
5. Timeline of Toyota's Involvement in Myanmar	60
6. Timeline of Marubeni's Involvement in Myanmar	62
7. Blood Money Campaign Poster	63
8. Japanese Ownership of the Yetagun Gas Project	64
9. Timeline of ENEOS's Involvement in Myanmar	67
10. Timeline of Mitsubishi's Involvement in Myanmar	70
11. Snapshot of Actions Taken by Japanese Companies to the Military Coup	72

Acronyms and Abbreviations Used

BHR	Business and Human Rights
CDM	Civil Disobedience Movement
ETI	Ethical Trading Initiative
FFM	United Nations Fact Finding Mission on Myanmar
HRDD	Human Rights Due Diligence
ILO MNE Declaration	International Labor Organization Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy
JETRO	Japan External Trade Organization
JFM	Justice for Myanmar
JICA	Japan International Cooperation Agency
JMA	Japan-Myanmar Association
LDP	Liberal Democratic Party of Japan
MEC	Myanmar Economic Cooperation
MEHL	Myanmar Economic Holdings Limited
METI	Japanese Ministry of Economy, Trade, and Industry
MOFA	Japanese Ministry of Foreign Affairs
MOGE	Myanma Oil & Gas Enterprise
NAP	National Action Plan on Business & Human Rights
NLD	National League for Democracy
NUG	National Unity Government of Myanmar
ODA	Official Development Assistance
OECD Guidelines	Organization for Economic Cooperation and Development Guidelines on Multinational Enterprises
OHCHR	United Nations Office of the High Commissioner for Human Rights
PDF	People's Defense Force
PTTEP	PTT Exploration and Production Public Company Limited
RBC	Responsible Business Conduct
SAC	State Administration Council
SEZ	Special Economic Zone
SLORC	State Law and Order Restoration Council
SOE	State-Owned Enterprise
UNGPs	United Nations Guiding Principles on Business and Human Rights

About the Author

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Introduction

On February 1, 2021, Myanmar's military—known as the Tatmadaw—toppled the country's civilian government in a coup d'état anticipated by few. The coup reversed nearly a decade of political and economic reforms in Myanmar that had first been initiated with the establishment of a semi-civilian government in November 2010, setting the country back onto a dark path of political and economic isolation.¹

The February 2021 coup was surprising to many international observers, as the preceding decade under semi-civilian rule was remarkable for the country's political and economic development. Prior to 2011, Myanmar had been under some form of authoritarian rule since 1962, when General Ne Win seized power from the democratically-elected leaders who had governed the country since the end of British colonial period. An effort by military leaders to enter into a power-sharing agreement with the National League for Democracy (NLD), the country's largest political party in 2011, marked a watershed moment that promised to re-open the country to the outside world.²

Prior to the 2011 re-opening, Myanmar was considered to be economically dependent on China due to the size of that country's economy, its geographic proximity to Myanmar, and the unwillingness of Western countries to economically engage with some of the world's most oppressive military leaders. President Thein Sein's suspension of the Myitsone hydropower dam, a high-profile development project funded by the Chinese government, was a clarion call that the new government aimed to attract new economic partners.³

At the time of Myanmar's reopening in 2011, Japan was arguably the country best positioned to take advantage of its liberalization and reinstatement of a democratic form of government.⁴ Throughout most of the latter half of the 20th century, Japan enjoyed what many refer to as a "special relationship" with Myanmar, as Tokyo often bucked the policy approach of other Western countries to provide reparations, humanitarian aid, official development assistance, and other forms of economic assistance to Myanmar's military leaders—even during periods of increased international isolation.⁵

As a result of this so-called "special relationship" between Japan and Myanmar and the help of influential cheerleaders for enhanced engagement such as Hideo Watanabe, the Chairman of the Japan-Myanmar Association, Japan significantly boosted its trade and investment with Myanmar in the years following the political re-opening – becoming the country's largest aid donor and one of its largest foreign investors.

For Japan, one of the most significant beneficiaries of Myanmar's political and economic liberalization, the February 2021 coup brought about a number of serious economic and foreign policy challenges. First and foremost, the coup marked the end of Myanmar's political re-opening, jeopardizing the Japanese government's efforts to rejuvenate its bilateral relations with the country following the civilian transition. From an investment

¹ Romain Caillaud, "Myanmar's Economy in 2021: The Unravelling of a Decade of Reforms." *Southeast Asian Affairs* 2022 (2022): 254-267. muse.jhu.edu/article/855274.

² Ibid.

³ Thomas Fuller, "Myanmar Backs Down, Suspending Dam Project," *The New York Times*, September 30, 2011. <https://www.nytimes.com/2011/10/01/world/asia/myanmar-suspends-construction-of-controversial-dam.html>.

⁴ Patrick Strefford, "Japan's Bounty in Myanmar: Finally Reaping the Rewards of Its Long-Term Investment." *Asian Survey* 56, no. 3 (2016): 488–511. <https://www.jstor.org/stable/26364370>.

⁵ Toshihiro Kudo, "Myanmar and Japan: How Close Friends Become Estranged," *Institute for Developing Economies (IDE-JETRO)*, August 2007. <https://www.ide.go.jp/English/Publish/Reports/Dp/118.html>.

perspective, it also created a dilemma for Japanese aid agencies and private-sector firms invested in special economic zones (SEZs) initially established with Japanese government money. For Japanese companies especially, the coup also cast a growing and unwelcome spotlight on the growing business ties between Japanese companies and state-owned enterprises controlled by Myanmar's military leaders.

Prior to the coup, in August 2019, the United Nations International Fact-Finding Mission on Myanmar (FFM), released a report entitled the *Economic interests of the Myanmar military*, detailing how some international companies were financially contributing to human rights abuses committed by the military even while the country was under civilian control.⁶ Of particular significance was that the report unveiled direct links between Kirin, one of Japan's largest beer companies, and Myanmar Economic Holdings Limited (MEHL), a conglomerate owned and operated directly by the Myanmar military. The domestic and international backlash to the revelation of Kirin's ties to the Myanmar military served as a cautionary tale to both Japanese and international companies conducting business in Myanmar, and put potential investors on high-alert.

After the February 2021 military coup, many international companies faced an increasingly difficult decision. On the one hand, the reputational risks associated with operating in a country now controlled by a regime credibly accused of genocide was not good for business. On the other, many international companies, especially Japanese ones, had heavily invested in the economy. Thus, leaving the economy out-right would also result in significant repercussions not only for their bottom line, but also for the many workers and subcontractors that they employed.

At around the same time that Myanmar re-opened its doors to global investors in 2011, a new set of international standards known as the United Nations Guiding Principles on Business & Human Rights (UNGPs) were finalized and adopted by the United Nations General Assembly. Under these new principles, companies were now required to respect human rights within their operations, and most principally, conduct human rights due diligence to mitigate the adverse impacts of their business operations in contexts in which they and their suppliers operated. Although the human rights situation in Myanmar was generally always poor, the Rohingya refugee crisis, which resulted in a mass exodus of more than 700,000 refugees across the border of Myanmar and Bangladesh spurred international backlash, and brought renewed negative attention to the dismal human rights situation in the country.

Against this backdrop, this report aims to assess the impact of the February 1, 2021 military coup on both Japan's foreign policy toward Myanmar and the Japanese private sector's investment in the country, seeking to answer the question: "What does the military coup mean for the future of Japan's economic and political relations with Myanmar?"

This is the first comprehensive research report published in English that details the fallout of the military coup on Japanese actors in Myanmar. It is also the first to delve into the specific implications of the military coup on the Japanese business community, examining to what extent current political conditions have impacted the decision-making of Japanese companies and their existing investments.

⁶ United Nations Office of the High Commissioner for Human Rights, "UN Fact-Finding Mission on Myanmar exposes military business ties, calls for targeted sanctions and arms embargoes," August 5, 2019. <https://www.ohchr.org/en/press-releases/2019/08/un-fact-finding-mission-myanmar-exposes-military-business-ties-calls?LangID=E&NewsID=24868>.

Background of the February 1, 2021 Coup

On February 1, 2021, Myanmar's military—known as the Tatmadaw—toppled the country's civilian government in a coup d'état. After arresting State Counsellor Aung San Suu Kyi, President Win Myint, and hundreds of other civilian officials, the military seized legislative, executive, and judicial power of the country, claiming that effective control of the government had been transferred to Commander-in-Chief Senior General Min Aung Hlaing.⁷ The military then moved to establish a governing body, the State Administrative Council (SAC), that enacted a range of legal and administrative changes including the appointment of current and former military officials or those connected to the army in positions of power.⁸

The coup provoked a significant domestic and international backlash, and within days, ordinary people from across the country took to the streets to oppose a return to military rule and demand the release of democratically-elected leaders. Popular resistance quickly coalesced around the Civil Disobedience Movement (CDM), a campaign led by normal Myanmar people including doctors, nurses, and other healthcare professionals who took to the streets to oppose military rule. The movement was bolstered by support from labor and trade unions, civil servants, and teachers, but as protests and support for the movement grew, the military responded with increasingly brutal tactics—arresting peaceful protesters and resorting to violence against them, including the use of live ammunition. To date, security forces have killed more than 3,200 civilians across the country, while thousands more have been arrested, tortured or detained.⁹

In response to the military's increasingly brutal tactics, armed resistance groups known as People's Defence Forces (PDFs) sprung up across the country, launching attacks on security force personnel and infrastructure throughout central Myanmar, often in areas which had not seen significant levels of violence for decades.¹⁰ Armed conflict also substantially flared up in ethnic minority areas, with reports of air strikes, indiscriminate shelling, and mortar fire forcing tens of thousands of women, men, and children to flee their homes.

Following the February 1, 2021 military coup, governments and international actors including the United States, the European Union, and even those in Asia such as South Korea distanced themselves from Myanmar's new military government, condemning junta leaders for both the coup and the unprecedented levels of violence they had committed against their own people.¹¹ Notably, the Association of Southeast Asian Nations (ASEAN), a regional organization of Southeast Asian states, took a number of unprecedented actions aimed at holding the junta accountable for its actions.

⁷ Laura Haigh and Kyaw Hsan Hlaing, "Rebuilding an Architecture of Oppression," *PROTECT Consortium*, December 2021. <https://www.article19.org/wp-content/uploads/2021/12/Rebuilding-an-Architecture-of-Oppression.pdf>.

⁸ *Ibid*, p. 6.

⁹ Assistance Association for Political Prisoners Burma (AAPPB), "Daily Briefing in Relation to the Military Coup", April 6, 2023. <https://aappb.org/?p=24656>.

¹⁰ Laura Haigh and Kyaw Hsan Hlaing, "Rebuilding an Architecture of Oppression," *PROTECT Consortium*, December 2021. <https://www.article19.org/wp-content/uploads/2021/12/Rebuilding-an-Architecture-of-Oppression.pdf>.

¹¹ United Nations Human Rights Council, "Illegal and Illegitimate: Examining the Myanmar military's claim as the Government of Myanmar and the international response: conference room paper of the Special Rapporteur on the situation of human rights in Myanmar," January 31, 2023.

This was particularly noteworthy as the organization is known for adhering to the principle of ‘non-interference.’ To that end, on April 24, 2021, ASEAN leaders convened a special summit in Jakarta, Indonesia, the headquarters of the organization’s secretariat, to address the widespread violence in Myanmar inflicted on civilians following the coup.¹² During the summit, the nine ASEAN leaders and Myanmar junta chief Min Aung Hlaing came to five points of agreement that later become known as the Five-Point Consensus.

These five points of agreement were¹³:

1. an immediate end to violence in the country;
2. dialogue among all parties;
3. the appointment of a special envoy;
4. humanitarian assistance by ASEAN; and
5. the special envoy’s visit to Myanmar to meet with all parties.

Less than two days after the consensus agreement, however, the junta walked back its endorsement of the plan – announcing that it would only consider the suggestions made by ASEAN leaders “when the situation returns to stability.”¹⁴ In the months afterwards, the junta not only attempted to defy each point of the consensus, it actively ramped up its attacks on civilians while also orchestrating a brutal nationwide crackdown aimed at suppressing millions of people of across the country opposed to military rule.

After months of escalating violence, ASEAN leaders reconvened in October 2021, holding a special session to address the failure of the junta to follow the consensus.¹⁵ Many ASEAN leaders, especially Malaysia, Indonesia, and Brunei, viewed the junta’s actions as destabilizing to ASEAN and became increasingly aware of the fact that the junta was making a “mockery” of its credibility as a regional institution.¹⁶

As a result, ASEAN leaders voted, in an unprecedented move, to exclude junta chief Min Aung Hlaing from participating in the organization’s leaders’ summit later that month, setting the stage for senior junta officials to be excluded from all other ASEAN meetings at the ‘political level’ in the months that followed.¹⁷ But while the move to exclude junta leaders from ASEAN meetings at the political level was initially welcomed by civil society groups and the Myanmar people, the regional bloc still allowed the junta to participate in lower-level meetings and failed to completely exclude them from the regional bloc. Notably, the regional bloc also refused to formally engage with the National Unity Government of Myanmar (NUG), a so-called ‘parallel’ government comprised primarily of the deposed

¹² Sebastian Strangio, ASEAN’s Special Leaders Meeting on Myanmar, One Month On,” *The Diplomat*, May 24, 2021. <https://thediplomat.com/2021/05/aseans-special-leaders-meeting-on-myanmar-one-month-on/>.

¹³ “Chairman’s Statement on the ASEAN Leaders’ Meeting, 24 April 2021 and Five-Point Consensus.” *ASEAN Secretariat*, April 24, 2021. <https://asean.org/wp-content/uploads/Chairmans-Statement-on-ALM-Five-Point-Consensus-24-April-2021-FINAL-a-1.pdf>.

¹⁴ Global New Light of Myanmar, “Press Release on ASEAN Leaders’ Meeting,” April 26, 2021. <https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/GNLM2021-04-27-red.pdf>.

¹⁵ Rozanna Latiff, Tom Allard, and Poppy McPherson, “ASEAN to exclude Myanmar junta chief from leaders’ summit – sources,” *Reuters*, October 16, 2021. <https://www.reuters.com/world/asia-pacific/malaysia-does-not-want-myanmar-junta-leader-summit-if-no-progress-minister-2021-10-15/>.

¹⁶ Reuters, “Malaysia says Myanmar executions make “a mockery” of ASEAN peace plan,” July 26, 2022. <https://www.reuters.com/world/asia-pacific/malaysia-condemns-myanmar-executions-sees-crime-against-humanity-minister-2022-07-26/>.

¹⁷ Rozanna Latiff, Tom Allard, and Poppy McPherson, “ASEAN to exclude Myanmar junta chief from leaders’ summit – sources,” *Reuters*, October 16, 2021. <https://www.reuters.com/world/asia-pacific/malaysia-does-not-want-myanmar-junta-leader-summit-if-no-progress-minister-2021-10-15/>.

lawmakers democratically elected in the country's November 2020 election.¹⁸ According to its mission, the parallel government claims to represent the will of the Myanmar people. Since its establishment in April 2021, the NUG now operates representative offices in at least a dozen cities, including Washington, DC, Brussels, and Tokyo.¹⁹ The NUG has also gained recognition as the official government of Myanmar by a number of governments and institutions including the Czech Republic, Taiwan (Republic of China), and the European Parliament.²⁰

¹⁸ Moe Thuzar and Htet Myet Min Tun, "Myanmar's National Unity Government: A Radical Arrangement to Counteract the Coup," *ISEAS Yusof-Ishak Institute*, January 28, 2022. https://www.iseas.edu.sg/wp-content/uploads/2021/12/ISEAS_Perspective_2022_8.pdf.

¹⁹ Moe Thuzar and Joanne Lin, "The Struggle for International Recognition: Myanmar after the 2021 Coup," *ISEAS Yusof-Ishak Institute*, December 12, 2022. <https://fulcrum.sg/the-struggle-for-international-recognition-myanmar-after-the-2021-coup/>.

²⁰ *Ibid.*

Chapter 1: Japan's Foreign Policy Response

A Brief History of Japan-Myanmar Relations (1941-2021)

In order to better contextualize the impact of the February 1, 2021 military coup on Japan's foreign policy approach towards Myanmar, this section provides a brief overview of the diplomatic history between the two countries. Each sub-section denotes a significant time period in the bilateral relationship.

The Birth of Modern Japanese–Burmese Relations (1941-1962)

In January 1941, a special Japanese intelligence bureau concerned with Burma, the *Minami Kikan*, was set up by the Japanese military to coordinate Japanese activities in Thailand and other parts of Southeast Asia.²¹ In December 1941, the Burma Independence Army (BIA)—the immediate predecessor of Myanmar's current armed forces—was founded in Bangkok by the *Minami Kikan* with around 200 Burmese members. As part of the intelligence bureau, the Japanese military trained young Burmese fighters who would later go on to become influential independence leaders within Burmese politics. Most notably, the Japanese trained future independence leaders Generals Aung San and Ne Win – the two men who would arguably become the most significant Burmese political figures of the 20th century.²²

In December 1942, the *Minami Kikan* began its invasion of Burma together with the Japanese Army as a part of Japan's military campaign into Southeast Asia during World War II, and after their successful conquest, a Japanese puppet government was established on August 1, 1943. After Japan's conquest of Burma, Aung San, the father of Aung San Suu Kyi, served as the defense minister in the Japanese puppet government and retained close ties to many Japanese military officials. In an effort to gain popular support, the Japanese presented their actions as part of a wider a 'liberation movement', aiming to free the Burmese people from their colonial British oppressors.²³

While Malaya, Singapore, and Indonesia were set to be incorporated into permanent parts of the Japanese Empire, Burma was promised independence, strengthening the appeal of limited cooperation with the Japanese in the short-term. While the independence promised to the Burmese people was nominally granted in August 1943, the Japanese quickly reneged on their promise and began to impose a reign of terror. Harsh treatment by and general disillusionment about Japan among Burmese freedom fighters eventually prompted many of them to turn against Japanese officials and re-support the British in their campaign to expel the Japanese from Burma in 1945.²⁴

When the British Army returned to Rangoon (modern-day Yangon) in May 1945, thousands of citizens rejoiced, praising freedom fighter Aung San who became responsible for defense and external affairs in the new Burmese government established in January 1946. In January 1947, Aung San traveled to London to meet with British Prime Minister Clement Attlee and they signed an agreement guaranteeing Burma's independence. Six months

²¹ Bert Edström, "Japan and the Myanmar Conundrum" *Institute for Security and Development Policy*, October 2009, p. 11.

²² Kobayashi Hideo "Daitōa kyōeiken" no keisei to hakai the creation and fall of the Greater East Asia Co-Prosperity Sphere' (Tokyo: Ochanomizu shobō, 1975), p. 528.

²³ Ibid.

²⁴ Ibid.

later, however, he was assassinated, one year before Burma gained independence in January 1948.²⁵

After the war, the image of Japan among the Burmese people was mixed. During the early part of his interactions with Japan, Aung San delivered a number of speeches which indicated that Japanese ideas had a significant influence on him.²⁶ On the other hand, U Nu, who had been the first prime minister of Burma under Japanese rule, was deposed after the war and spent many years in jail, later becoming a bitter critic of Tokyo.

For the Japanese government in the early postwar period, it was a top priority to reach an agreement over the issue of war reparations with Southeast Asian countries, especially Burma. The relative urgency was underscored by Japan's negotiations with the U.S. government, as the Americans had advised the Japanese government to replace China with Southeast Asia as the primary arena for import and exports to source the resource-poor country.²⁷ The reparations policy pursued by the Japanese government was an adjustment to U.S. policies found in the 1951 San Francisco Peace Treaty.²⁸ Under Article 14 of that treaty, Japan assumed the burden of paying reparations.²⁹

Both Japan and the United States had an interest in solving the reparations problem because as long as it remained unresolved, the Japanese economy would remain in dire straits and the U.S. could foresee ever-continuing Japanese demands for food and other resources. Without agreements over reparations, neither trade nor general relations with Southeast Asia would take off. Thus, resolving the issue was a necessity if Japan would be turned into the anti-communist bulwark and industrial powerhouse that the U.S. government planned. In 1954, the Japanese government reached an agreement with Burmese leaders to begin paying the war reparations.³⁰

Prime Minister Yoshida Shigeru's post-war vision for rebuilding the Japanese economy through the framework of *keizaikyoryoku* (economic cooperation) began to include Japanese payment of reparations, but in such a way that it would also benefit Japan. The key role that the Japanese government assigned to Burma among Southeast Asian countries was symbolized by the fact that Prime Minister Kishi Nobusuke, the grandfather of Prime Minister Shinzo Abe, began in Rangoon when he made two extended trips to South and Southeast Asian countries in 1957.³¹

In his memoirs, Kishi claimed that the aim of his visits to Southeast Asia was to express remorse for the *meiwaku* (nuisance) that Japan had caused during the war, but also to

²⁵ Bert Edström, "Japan and the Myanmar Conundrum" *Institute for Security and Development Policy*, October 2009, p. 12.

²⁶ Gustaaf Houtman, *Mental Culture in Burmese Crisis Politics: Aung San Suu Kyi and the National League for Democracy*. Study of Languages and Cultures of Asia and Africa Monograph Series, No. 33 (Tokyo: Institute for the Study of Languages and Cultures of Asia and Africa, Tokyo University of Foreign Studies, 1999), p. 250.

²⁷ Hara Akira, 'Tōnan Ajia e no baishō' [Reparations to Southeast Asia], in Arizawa Hiromi, ed., *Shōwa keizaishi* [An economic history of the Shōwa period] (Tokyo: Ni-hon keizai shimbunsha, 1976), p. 359.

²⁸ Yamamoto Tsuyoshi, 'Tōnan Ajia e no baishō' [Reparations to Southeast Asia], in Yasuhara Kazuo and Yamamoto Tsuyoshi, eds., *Sengo Nihon gaikōshi*, 4: *Senshinkoku e no dōtai* [A history of Japan's postwar diplomacy, 4: Becoming an advanced country] (Tokyo: Sanseidō, 1984), p. 151.

²⁹ Hosoya Chihiro, *Nihon gaikō no kiseki* [The track record of Japan's foreign policy] (Tokyo: Nihon hōsō shuppan kyōkai, 1993), p. 163.

³⁰ MOFA, *History of Official Development Assistance*,

<https://www.mofa.go.jp/policy/oda/summary/1994/1.html#:~:text=The%20year%201954%20was%20also,paying%20reparations%20to%20that%20country>.

³¹ Ōhinata Ichirō, *Kishi seiken – The 1241 days of the Kishi government* (Tokyo: Gyōsei mondai kenkyūsho, 1985), pp. 71ff.

study the conditions in these countries that would enable him to establish personal contacts with their leaders.³² It was also a move designed to symbolize that the Japanese government saw itself as ‘representing Asia’ on the international stage, a precursor of the campaign energetically pursued ever since the country regained its political independence and a key element of its modern foreign policy.³³

The Ne Win Era (1962-1988)

In 1962, General Ne Win staged a military coup and imposed a new form of government on the country called the “Burmese Way to Socialism.” Under his rule, Burma became even more isolated from the outside world than before, with Japan arguably becoming the country’s sole foreign partner. Having received the bulk of his military training from Japanese soldiers, Ne Win thought of Japan as the least bad of the so-called ‘foreign evils’ and increasingly viewed the country as a better economic partner than either of Burma’s large neighbors, China and India – both of whom had played leading roles in the subjugation of Burmese nationalists during the country’s colonial era.³⁴

Ne Win was famously suspicious of foreigners, a sentiment shared by many other Burmese nationalists due in part to their collective colonial experience of subjugation under British rule. As the leader of a non-aligned state, Ne Win was also hesitant to engage with the United States or the USSR, the two major superpowers during the Cold War.³⁵ In 1964, for instance, Ne Win suspected that the Central Intelligence Agency (CIA) was ‘meddling’ in Burma’s internal affairs, and as a result, he refused development aid offered by the United States.

That Japan was viewed as an exception to Ne Win’s policy of disengagement with foreign countries became apparent about a year after the coup. In 1963, Prime Minister Hayato Ikeda visited Burma as part of a tour of Southeast Asian countries, and in his discussions with Burmese leaders during the trip, he agreed to greatly increase the amount of Japanese aid granted to Burma.³⁶ As a direct consequence of Ikeda’s decision, Japan provided roughly USD 2.2 billion in assistance to the Ne Win regime between 1964-1988, far eclipsing any other any country during the same period.³⁷

For the Japanese government, there were two important considerations behind the approval of the additional funds. First, it offered an opportunity to lure Burma away from China, and second, it could convince Burmese leaders to cut their links with Communism and join the “free world”.³⁸ Burma’s support for the Japanese government was a key reason behind why Foreign Minister Shintaro Abe visited the country in 1983. During this visit, Abe claimed Burma to be a so-called *kiwamete tsuyoi shinnichikoku* or a “strongly pro-Japanese country.” During the same visit, San Yu, Burma’s President at the time, reportedly told Abe that Japan had helped Burma to achieve its independence, and in some respects, made it possible for young Burmese nationalists to acquire political skills, signaling to Japanese

³² Kishi Nobusuke, *Kishi Nobusuke kaikoroku: Hoshu gōdō to ampō kaitei* [Kishi Nobu-suke’s reminiscences: conservative merger and security treaty revision] (Tokyo: Kōsaidō shuppan, 1983), p. 312.

³³ Kishi, Yatsugi, Itō, *Kishi Nobusuke no kaisō*, p. 167.

³⁴ Donald M. Seekins, ‘Japan’s Aid Relations with Military Regimes in Burma, 1962–1991,’ p. 254.

³⁵ *Ibid.*, p. 254.

³⁶ Yoshimura Katsumi, *Ikeda seiken – The 1575 days of the Ikeda government*, (Tokyo: Gyōsei mondai kenkyūsho, 1985), p. 140.

³⁷ Shimototai Nobuo and Kitaoka Shin’ichi, *Shinseiki no sekai to Nihon* [The world of the new century and Japan] (Tokyo: Chūō kōronsha, 1999), p. 214.

³⁸ Hatano and Satō, *Gendai Nihon no Tōnan Ajia seisaku*, p. 85.

leaders that the Ne Win regime wished to strengthen and expand its existing economic engagement with Tokyo.³⁹

The 1988 Coup (1988-1995)

Five years after Foreign Minister Abe's visit, the Ne Win regime collapsed. The so-called "Burmese Way to Socialism" practiced by the regime led to economic stagnation and social unrest, resulting in an economy that was essentially bankrupt.⁴⁰ The regime's economic woes were further fueled by the military's long-standing fight against various ethnic minority groups, which according to some sources, consumed as much of one third of the government's tax revenues every year.⁴¹ The country's economic decline became so pronounced that even the United Nations singled out the junta for its gross economic mismanagement, downgrading the status of the country to that of 'a Least Developed Country (LDC)'.⁴²

Throughout this period, Japan's role as one of Burma's few foreign economic partners greatly expanded, and Ne Win sought economic assistance directly from top Japanese leaders. By 1987, Japan's ODA constituted 20 percent of the regime's national budget and comprised at least 71.5 percent of the total foreign aid it received.⁴³ For that reason, some analysts and historians argue that the Ne Win regime would most likely have collapsed much sooner had it not been for Japan's economic support via the continuation of its post-war reparations and other aid.⁴⁴

Given Japan's position as an economic lifeline for the regime, and also the primary foreign aid donor to Burma, it became an ominous sign when no new aid projects were approved by Tokyo in 1986. Ne Win's gross mismanagement of the economy and growing civil strife throughout Burma was becoming a major concern for policymakers in Tokyo. The situation deteriorated further in early 1988, when the regime was informed by Japanese leaders that they viewed basic economic reforms as necessary to continue the current nature of their relationship, warning that Japan may be forced reconsider its economic assistance to the country unless significant changes were made.⁴⁵

On July 23, 1988, Ne Win finally bowed to the economic pressure and resigned after 26 years in power. Following a tumultuous period, a new military junta took over power in September of the same year. During the transition, military officials clamped down on the pro-democracy movement, and established a new military government known the State Law and Order Restoration Council (SLORC), abolishing all of the bodies established under the previous constitution.⁴⁶

³⁹ Kei Nemoto, 'The Japanese perspective on Burma' *Burma Debate*, Vol. 2, No. 43 (August–September 1995), available at: <http://www.burmalibrary.org/reg.burma/archives/199511/msg00076.html>.

⁴⁰ Myat Thein, *Economic Development of Myanmar* (Singapore: Institute of Southeast Asian Studies, 2004), p. 123.

⁴¹ Xiaolin Guo, *Towards Resolution: China in the Myanmar Issue*, Silk Road Paper (Washington, D.C. and Uppsala: Central Asia-Caucasus Institute Silk Road Studies Program 2007), pp. 37ff.

⁴² Patrick Strefford, 'Foreign Debt: Distorting Japan's ODA Diplomacy towards Myanmar,' *Ritsumeikan kokusai kenkyu*, Vol. 19, No. 2 (October 2006), p. 162.

⁴³ Mikio Oishi and Fumitaka Furuoka, 'Can Japanese Aid Be an Effective Tool of Influence: Case Studies of Cambodia and Burma,' *Asian Survey*, Vol. 14, No. 6 (November/December 2003), p. 898.

⁴⁴ Reinhard Drifte, *Japan's Foreign Policy for the 21st Century: From Economic Super-power to What Power?* (Basingstoke and London: Macmillan, 1998), p. 131.

⁴⁵ Houtman, *Mental Culture in Burmese Crisis Politics*, p. 149.

⁴⁶ Bert Edström, "Japan and the Myanmar Conundrum" *Institute for Security and Development Policy*, October 2009, p. 29.

After the coup, the Japanese government assumed a stance of critical disengagement towards the junta. Tokyo joined other Western countries and suspended its ODA, especially yen loans, to Myanmar, but only after considerable pressure from the United States.⁴⁷ The deteriorating economic conditions led to widespread discontent and anti-government demonstrations began to take place across the country. As pressure on the government mounted, the military's response was to brutally suppress the demonstrations, leading to even greater international condemnation and cementing Burma's status as a pariah of the international community for years to come.⁴⁸

In the months after the coup, instead of breaking relations with the new military regime as many other Western nations had done, officials in Tokyo actually attempted to find ways to continue economic support to the junta.⁴⁹ When the SLORC announced that general elections would take place in 1990, the Japanese government used it as a pretense to reverse its previous policy, recognizing the military regime as the official government of Burma in 1989. In doing so, Japan became the first Western country to recognize the new military junta as the legitimate government.

A key motivation behind the Japanese government's decision to reinstate its relationship with military leaders were the efforts of the Japan–Burma Association (JBA), a powerful lobbying group which represented the business interests of Japanese companies benefiting from aid projects in the country. The JBA complained to government officials at length that the aid cutoff was costing them significant amounts of revenue, and their members intensely lobbied Japanese officials for the resumption of diplomatic relations so that the projects could continue.⁵⁰

When the general elections finally took place in Myanmar in May 1990, it resulted in a landslide win for the National League for Democracy, the country's largest opposition party headed by Aung San Suu Kyi.⁵¹ But despite the outcome, the new military junta ignored the results, and refused to hand over power to the NLD, reinforcing its dictatorship.⁵² In May 1990, shortly after the election took place, Maraharu Kohno, the Director of the Japanese Foreign Ministry's First Southeast Asia Division, stunned Myanmar's pro-democracy activists and exiles in Japan by saying at a lecture in Tokyo:

*“Can we automatically equate military rule with human-rights repression?...I'm not sure that repression of human rights in Myanmar is as extensive as reported in the West...because Myanmar has not yet reached the stage of democracy. National security should come first.”*⁵³

In its 1991 annual report on foreign policy, the Japanese government further clarified its stance on the situation in Myanmar post-election, noting that:

⁴⁷ Donald Seekins, *The North Wind and the Sun*, p. 5.

⁴⁸ Bertil Lintner, *Outrage: Burma's Struggle for Democracy* (Hong Kong: Review Publishing, 1989); quoted in Josef Silberstein, 'Burma's Uneven Struggle,' *Journal of Democracy*, Vol. 7, No. 4 (1996), p. 88.

⁴⁹ Michael J. Green, *Japan's Reluctant Realism: Foreign Policy Challenges in an Era of Uncertain Power* (Basingstoke: Palgrave, 2001), p. 180.

⁵⁰ Patrick Strefford, "Japan's Bounty in Myanmar: Finally Reaping the Rewards of Its Long-Term Investment." *Asian Survey* 56, no. 3 (2016): 488–511. <https://www.jstor.org/stable/26364370>.

⁵¹ Maung Aung Myoe, *A Historical Overview of Political Transition in Myanmar Since 1988*, Asia Research Institute, National University of Singapore, Working Paper Series No. 95 (August 2007), p. 13.

⁵² Ian Holliday, 'Japan and the Myanmar Stalemate: Regional Power and Resolution of a Regional Problem,' *Japanese Journal of Political Science*, Vol. 6 (2005), p. 393.

⁵³ Bertil Lintner, "Japan's 'Special Relationship' With Myanmar Has Abetted Decades of Military Rule." *The Irrawaddy*, <https://www.irrawaddy.com/opinion/guest-column/japans-special-relationship-with-myanmar-has-abetted-decades-of-military-rule.html>.

*“Japan has been conveying to the Government of Myanmar at every opportunity the importance of indicating a specific schedule for transferring power based on the result of the general election.”*⁵⁴

At the same time, the Government of Japan gradually began resuming economic cooperation with Burmese military leaders that had been disrupted following the chaos of the coup. While the renewal of relations with Burma in February 1989 had differentiated Japan’s approach from the stance of other Western countries, the Japanese government still attempted to appease critics of its policy by announcing that it would not approve new aid projects apart from ‘debt-relief grants and small-scale humanitarian aid.’⁵⁵

Japan continued to take the stance of continuing “to wait and watch” to see if the situation warranted authorizing new projects – with the notable exceptions of emergency and humanitarian aid. At the time, Japanese aid to Burma described as “small scale, economic aid for infrastructure development” was resumed, under the guise that these ODA projects were those that had been initiated before the 1988 coup.⁵⁶ In 1992, an official shift in Japan’s ODA policy was announced with the adoption of a new ODA Charter. The Charter outlined the priorities of Japan’s ODA policy and prescribed that decisions on ODA should be taken only after taking into account the recipients’ record on military spending, democracy, moves towards becoming market economy, and human rights.⁵⁷

A key element of the 1992 Charter was that Japan planned to use ODA disbursements as ‘positive’ sanctions to encourage ‘positive’ trends exhibited by its counterparts in these four areas. Conversely, the Charter also stated that the Japanese government would use ODA suspensions as negative sanctions to discourage negative trends. The Japanese government’s description of positive sanctions as ‘carrots’ and negative sanctions as ‘sticks’ broadly characterizes the way the sanctions were implemented and also the broader foreign policy approach of the Japanese government toward Myanmar throughout the late 1990’s and early 2000’s.⁵⁸

The Era of ‘Carrots’ and ‘Sticks’ in Japan’s Foreign Policy (1995-2010)

While Japanese ODA to Myanmar was officially suspended in principle in 1988, aid disbursements nevertheless continued to take place until the country’s official ‘re-opening’ in 2011. Japan’s motive for providing aid often stemmed from some development in Myanmar deemed worthy of reward in the eyes of the Japanese government. In practice, however, the exact motivation behind individual decisions was oftentimes vague. Similarly, in instances when Japan suspended or cut aid to Myanmar, it was done in reference to some negative development or some action that the Myanmar government had taken which the Japanese government objected to.⁵⁹

⁵⁴ MOFA, 1991 Diplomatic Bluebook, Chapter 4, Regional Situations and Relations with Japan; Section 4-10, Myanmar, <http://www.mofa.go.jp/policy/other/bluebook/1991/1991-4-1.htm>.

⁵⁵ Shimototai and Kitaoka, *Shinseiki no sekai to Nihon*, p. 214. (Japanese)

⁵⁶ Donald M. Seekins, *The North Wind and the Sun: Japan’s Response to the Political Crisis in Burma, 1988–1998*, *The Journal of Burma Studies*, Vol. 4 (1999), p. 6.

⁵⁷ Bert Edström, “Japan and the Myanmar Conundrum” *Institute for Security and Development Policy*, October 2009, p. 6.

⁵⁸ *Ibid*, p. 6.

⁵⁹ *Ibid*, p. 6.

The Japanese government's approach during this period is well-encapsulated by a statement issued by Prime Minister Ryutaro Hashimoto in early 1997, after the news of Myanmar's admission to ASEAN broke:

*"Japan does not feel international isolation is the optimal way for the improvement of [the] domestic situation in Myanmar. Rather, Japan thinks it important to give Myanmar incentives to behave in line with international norms by drawing it out as a member of the international community. From that point of view, Japan appreciates ASEAN's recent agreement to grant official membership to Myanmar sometime in the future. On the other hand, Japan also thinks that ASEAN membership should not provide a smokescreen for oppression in Myanmar. Accordingly, Japan hopes that ASEAN will handle the membership issue in such a manner as to contribute to the improvement of the domestic situation in Myanmar."*⁶⁰

An example of this so-called 'carrot and stick' approach in practice occurred in September 2000, when Aung San Suu Kyi was detained at around the same time an UN-sponsored dialogue between the government and the political opposition resulted in the release of several political prisoners.

In April 2001, Foreign Minister Kono told Khin Maung Win, Myanmar's Deputy Foreign Minister, during a visit to Tokyo that Japan was considering providing a new ODA grant to repair the Baluchaung Hydroelectric Power Station. The Baluchaung Station had long been a symbol of Japanese assistance to Burma, as it was one of the first aid projects initiated during the post-war period in 1955. The reason behind Kono's decision was that Tokyo wanted to encourage the ongoing dialogue between the military government and Aung San Suu Kyi.⁶¹

When more detainees were released in June 2001, Chief Cabinet Secretary Yasuo Fukuda welcomed their release and said that Japan "highly appreciates the decisive step taken by the Myanmar government." Four days after Aung San Suu Kyi's release in May 2002, Japan announced that it would provide a 628-million-yen (USD 5.2 million) emergency grant to repair Baluchaung. The move was met with severe criticism from the U.S. government as well as from Aung San Suu Kyi herself.⁶² In an attempt to justify the grant—which was in stark opposition to Japan's official aid policy—it was argued that the power plant had provided electricity to up to 20 percent of the nation, including many hospitals and, as such, it ought to be classified as a 'humanitarian' project.⁶³

Shortly after Aung San Suu Kyi's release from prison, Foreign Minister Yoriko Kawaguchi visited Myanmar in August 2002. Her trip marked the first visit to Burma by a Japanese foreign minister in nineteen years, and also marked the first by any incumbent foreign minister belonging to a Group of 8 (G8) country since 1989. During the trip, Kawaguchi clarified Japan's stance toward Burma and presented a 'carrot': if progress in 'policy dialogue in the humanitarian areas' between the government and Aung San Suu Kyi brings to light projects that could help meet the basic needs of Myanmar people, Japan was prepared to actively support such projects.⁶⁴

⁶⁰ MOFA, 'Japan's Position Regarding the Situation in Myanmar.' <https://www.mofa.go.jp/region/asia-paci/myanmar/myanmar.html>.

⁶¹ Strefford, 'Foreign Debt: Distorting Japan's ODA Diplomacy towards Myanmar,' p. 163.

⁶² Oishi and Furuoka, 'Can Japanese Aid Be an Effective Tool of Influence?', p. 906.

⁶³ Thomas Crampton, 'Japan Rewards Burma for Political Opening Aid Linked to Junta's Talks With Opposition,' *International Herald Tribune*, April 26, 2001.

⁶⁴ MOFA, 'Minister for Foreign Affairs Yoriko Kawaguchi's Visit to Myanmar (Overview and Evaluation),' August 6, 2002, <http://www.mofa.go.jp/region/asia-paci/asean/fmv0207/myanmar.html>.

Given the symbolic nature of Kawaguchi's visit, the Japanese government was likely upset when Aung San Suu Kyi was rearrested together with a large number of NLD followers the following year after the Depayin Massacre, a violent confrontation between followers of the NLD and pro-junta forces in May 2003. Following the incident, Japan declared that no further assistance would be rendered until Aung San Suu Kyi and her compatriots were released.⁶⁵

Around 2004, Japan attempted to once again shift its overall approach towards its relations with Myanmar. Rather than continuing its prior carrot and stick approach, which frequently resulted in broken promises from the regime, Japan shifted to an approach referred to "bridge-building" or *kakehashi*.⁶⁶ This approach involved coaxing Myanmar into participating in a variety of regional initiatives and mechanisms in the hopes that it would help promote deeper transitions as it had in Vietnam, Cambodia, and Laos. The approach largely failed to achieve any notable or substantive results.

Between September 2007 with the Saffron Revolution and November 2010 with the Myanmar's first general election, Myanmar entered yet another tumultuous period, testing Japan's *kakehashi* tactics. Prominent international attention to the democracy movement's plight in Myanmar, the beating and arrest of monks during the Saffron Revolution, and the regime's fumbling response to a devastating natural disaster known as Cyclone Nargis in 2008, put a spotlight on Japan's minimalist and muted responses that prioritized maintaining its relationship with the regime rather than promoting reforms.⁶⁷

Political and Economic Reopening (2011-2021)

Once again faced with international pressure brought about by the Saffron Revolution and its mishandling of Cyclone Nargis, the junta began to loosen controls, and pushed forward a new constitution in 2008.⁶⁸ The 2008 constitution granted the military widespread powers even under civilian rule, including that it could retain one-third of the seats in Myanmar's parliament, granting the military effective veto power over any changes proposed by future civilian leaders. At the same time, the proposed changes promised to re-open the country to the outside world, acting as a pressure valve from the sanctions and other forms of economic pressure imposed on the country by the United States, the European Union, and other Western actors.

Following Myanmar's nationwide elections in 2010, multiple liberalizing steps came in quick succession that nominally expanded both Myanmar's economy and democratic space.⁶⁹ In 2011, the military junta officially dissolved and established a military-dominated civilian parliament, during which time former army bureaucrat and Prime Minister Thein Sein was appointed as the new President. Thein Sein quickly spearheaded new reforms aimed at liberalizing the Burmese economy, which acted as a signal that the new government was ready to re-engage the West. With a population of roughly 50 million and rich mineral

⁶⁵ Helen James, 'Myanmar's International Relations Strategy: The Search for Security,' *Contemporary Southeast Asia*, Vol. 26, No. 3 (2004), p. 545.

⁶⁶ Lindsay Black, "Bridging between Myanmar and International Society: Japan's self-identity and *Kakehashi* policy." *Pacific Review*, Vol. 26, No. 4 (2013), 337-359.

⁶⁷ *Ibid.*

⁶⁸ Ryan Hartley, *The Evolution of Japan-Myanmar Relations since 1988*. "Japan's Foreign Relations in Asia. In Kingston, Jeffrey. & Brown, James. (eds.), 2018

⁶⁹ *Ibid.*

resources, Japan's expectations for Myanmar were high, and the country was famously dubbed to be "Asia's final frontier" within the Japanese business community.⁷⁰

The Japan-Myanmar Association

Shortly after the political re-opening was finalized in 2012, Hideo Watanabe, who was deeply involved in the former Japan-Burma Association, re-launched his old lobbying group under the new name of the Japan-Myanmar Association.⁷¹ Watanabe recruited prominent members of the Japanese business community including Mitsubishi Corporation Chairman Emeritus Mikio Sasaki and Marubeni Corporation Honorary Corporate Advisor Nobuo Katsumata to join the organization as advisors.⁷²

Many top politicians within both the Liberal Democratic Party of Japan (LDP) and other smaller parties also joined the Association, granting the group extraordinary influence over the Japanese government's foreign and economic policies toward the country. Among these influential members were former Prime Minister Yasuhiro Nakasone, who served as honorary chairman, former Prime Minister Taro Aso who served as supreme advisor, and Former Chief Cabinet Secretary and Justice Minister Yoshito Sengoku, who served as vice chairman and a member of the institution's newly-formed board of directors.⁷³

Vice Chairman Sengoku was one member of the Association particularly optimistic in his outlook of the country at the outset of the political reopening. It was his personal view that cancelling Myanmar's existing debt to Japan could help further open the door for Japanese businesses expand into the so-called "frontier" economy.⁷⁴

After being released from prison, Aung San Suu Kyi personally met with Sengoku and other Japanese policymakers, strongly urging them not to write off the USD 4.6 billion debt the country owed to Japan over decades of ODA loans and other economic assistance, arguing that it would bolster the administration of Thein Sein, which had been not democratically elected.⁷⁵ But her argument failed to hold much weight with Sengoku. He reportedly told Suu Kyi at the time that:

"Even if your party isn't currently in power, cancelling the debt will allow the current administration to lay the bedrock for people's livelihoods and establish infrastructure...these things will help you too if your party comes into power, so why shouldn't you happily accept them?"⁷⁶

Taro Aso, a member of the Association, and at that time, also the deputy prime minister and in official in charge of the Ministry of Finance and Financial Services Agency, ordered the Ministry of Finance to proceed with the debt cancellation, an action which was finalized in May 2013.⁷⁷ The primary objective for cancelling Myanmar's debt was to promote Japanese business in the country. In the eyes of the Japanese political elite, Myanmar would now be

⁷⁰ Lam Peng Er, "Myanmar: Japan's 'Last Frontier' in Asia?" *Asian Survey* 56, no. 3 (2016): 512-31.

<https://www.jstor.org/stable/26364371>.

⁷¹ Makoto Watanabe, "Japanese government wrote off \$46 million debt to open doors for business in Myanmar" *Tokyo Investigative Newsroom*, May 26, 2021. <https://en.tansajp.org/investigativejournal/7717/>.

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

⁷⁷ MOFA, "Debt-Relief Measure for Myanmar," May 26, 2013. https://www.mofa.go.jp/press/release/press6e_000096.html.

in a debt of gratitude, rather than in a strictly financial one.⁷⁸ With Myanmar's existing debt now forgiven, the stage was set for the Japan-Myanmar Association to begin facilitating investment throughout the economy and begin to reset the existing bilateral relationship.

The Burma Old Guard

Hideo Watanabe and the other conservative elites who joined the Japan-Myanmar Association in its early years were broadly representative of a so-called *biruma kichigai* or "crazy about Burma" phenomenon that had developed in Japan post-World War II.⁷⁹ Former Japanese soldiers who had served in Myanmar during the war and belonged to the All Japan—Burma Veteran Association often made frequent trips to Myanmar in the years following the war, searching for the remains of their fallen comrades. These former soldiers rose to become prominent members of Japanese society, and this eventually blossomed into a conservative "Burma Lobby" in Japan that helped to enable the re-entry of Japanese companies into the closed country.⁸⁰

The most influential member of this conservative "Burma Lobby" was arguably Yohei Sasakawa, the Chairman of The Nippon Foundation, Japan's largest charitable foundation. Upon the founding of the Association, Sasakawa donated 36 million yen (about USD 326,000) to Watanabe for the express purpose of facilitating new Japanese investment in Myanmar.⁸¹ Sasakawa was a long-term admirer of Burma, and deeply interested in the country. His foundation first began its operations in Myanmar in 1976, and by the time the political re-opening occurred in 2011, it had financed 37 projects worth almost USD 20 million.⁸² Sasakawa is also widely known for helping broker peace deals between the military and ethnic armed organizations (EOs), particularly in Myanmar's Rakhine State.⁸³

Throughout his more than four decades of activities in Myanmar, Sasakawa forged close relationships with Myanmar's military leaders in order to carry-out many of his activities. Thus, he served as a critical individual in supporting the diplomatic efforts of the government, and concurrently facilitating the entry of Japanese businesses into the Myanmar market.⁸⁴ In February 2013, Prime Minister Shinzo Abe appointed Sasakawa as the Special Envoy to Myanmar for ethnic reconciliation due to his long-track record of involvement in the country. At around the same time, Izumi Hiroto, an old-Myanmar hand and associate of Sasakawa was also appointed as a Special Advisor to Abe to help the Japanese government manage its Myanmar policy.⁸⁵

In May 2013, Abe visited Myanmar (the first visit by a sitting prime minister in 36 years), accompanied by 40 Japanese business leaders. Subsequently, in August 2013, the Japan

⁷⁸ Makoto Watanabe, "Japanese government wrote off \$46 million debt to open doors for business in Myanmar" *Tokyo Investigative Newsroom*, May 26, 2021. <https://en.tansajp.org/investigativejournal/7717/>.

⁷⁹ Ryan Hartley, *The Evolution of Japan-Myanmar Relations since 1988*. "Japan's Foreign Relations in Asia. In Kingston, Jeffrey. & Brown, James. (eds.), 2018

⁸⁰ *Ibid.*

⁸¹ Makoto Watanabe, "Japanese government wrote off \$46 million debt to open doors for business in Myanmar" *Tokyo Investigative Newsroom*, May 26, 2021. <https://en.tansajp.org/investigativejournal/7717/>.

⁸² Patrick Strefford, "Japan's Bounty in Myanmar: Finally Reaping the Rewards of Its Long-Term Investment." *Asian Survey* 56, no. 3 (2016): 488–511. <https://www.jstor.org/stable/26364370>.

⁸³ May Wong and Danelle Ng, "Japanese peacemaker brokers rare but shaky truce between Myanmar's military and Rakhine ethnic group," *ChannelNews Asia*, February 16, 2023. <https://www.channelnewsasia.com/asia/myanmar-coup-ethnic-rakhine-japan-envoy-yohei-sasakawa-truce-3281121>.

⁸⁴ *Ibid.*

⁸⁵ Ryan Hartley, *The Evolution of Japan-Myanmar Relations since 1988*. "Japan's Foreign Relations in Asia. In Kingston, Jeffrey. & Brown, James. (eds.), 2018

International Cooperation Agency (JICA)'s President, Tanaka Akihiko, gave a speech in Yangon that promised Japan would aim to re-prioritize its relations with Myanmar.⁸⁶ In December 2013, the Japan-Myanmar Investment Agreement was signed, paving the way for the establishment of the Thilawa Special Economic Zone (SEZ) in May 2014, officially kick-starting a flood of Japanese investment that would come to include at least 56 Japanese corporations including household names such as Suzuki, Toyota, and Yakult.⁸⁷

⁸⁶ Ibid.

⁸⁷ Makoto Watanabe, "Japan Myanmar Association promotes Thilawa SEZ even after coup," Tokyo Investigative Newsroom, June 30, 2021. <https://en.tansajp.org/investigativejournal/7730/>.

Japan's Foreign Policy Response

Introduction

Having provided significant background of the contemporary history of the Japan-Myanmar relationship, this section provides an overview of the Japanese government's foreign policy response to the February 1, 2021 military coup. Specifically, it details how the Japanese government's approach towards Myanmar evolved in the event's aftermath, and also provides an overview of the similarities between the Japanese government's approach to the 2021 coup and an earlier coup that occurred in the country in 1988.

Initial Response to the Coup

On February 1, 2021, mere hours after news of the coup broke, Japanese Foreign Minister Toshimitsu Motegi issued a public statement condemning the military for its actions, noting that "Japan strongly supported the process of democratization in Myanmar and opposes any action which goes against such process..." and further stating that Japan strongly urged the Myanmar military "to swiftly restore Myanmar's democratic political system."⁸⁸

In the days and weeks following the coup, Foreign Minister Motegi and other senior Japanese officials took a number of different actions in response to the escalating crisis. On February 10, Motegi held a telephone call with Retno Marsudi, Indonesia's Foreign Minister, to discuss developments in Myanmar related to the coup. The two discussed the ongoing violence against peaceful protestors and agreed that democracy should swiftly be restored.

As the junta continued its crackdown on peaceful protestors in the early weeks of February, reaching a fever pitch in March as civilians continued to be slaughtered at an alarming rate, the Japanese government issued a number of warnings to the junta, repeatedly dispatching the Kantei's Press Secretary on February 21, February 28, and March 28 to condemn the escalating violence. Against this backdrop of escalating violence, on February 23, Foreign Minister Motegi also moved to join a statement authored by the Group of Seven (G7) Foreign Ministers condemning the coup – becoming the only Asian country to do so.⁸⁹

Yet, despite repeated criticism of the junta in the form of condemnations at both the domestic and international levels, the Japanese government ultimately chose not to impose sanctions or other economic measures on the regime in the immediate aftermath of the coup – a stark difference between its approach towards the crisis and that taken by the United States and other Japan's other Western allies including the European Union.⁹⁰

In the absence of hard-hitting economic sanctions, the Japanese Ministry of Foreign Affairs instead chose to pause all new non-humanitarian Official Development Assistance projects in Myanmar at the end of February 2021.⁹¹ This policy still allowed the Japanese government to continue to provide humanitarian support through international agencies and nongovernmental organizations.

⁸⁸ MOFA, "The Internal situation in Myanmar (Statement by Foreign Minister Motegi Toshimitsu)," February 1, 2021. https://www.mofa.go.jp/press/release/press3e_000161.html.

⁸⁹ MOFA, "G7 Foreign Ministers' Statement on Myanmar, February 23 2021, https://www.mofa.go.jp/press/release/press6e_000273.html.

⁹⁰ United Nations Human Rights Council, "Illegal and Illegitimate: Examining the Myanmar military's claim as the Government of Myanmar and the international response: conference room paper of the Special Rapporteur on the situation of human rights in Myanmar," January 31, 2023.

⁹¹ The Asahi Shimbun, "Japan to suspend new Myanmar ODA projects but says not sanction," February 25, 2021, <https://www.asahi.com/ajw/articles/14219640>.

An anonymous Foreign Ministry official quoted by *The Asahi Shimbun*, one of Japan's largest daily newspapers, stated in response to a reporter's inquiry that Tokyo ultimately chose not to sanction the junta because "Japan's strength is having a communications channel with the military, the only one with such access among Western nations."⁹² This official's opinion was fairly commonplace and broadly representative of the opinions among many officials in the Japanese government.

The Junta's Hostage Diplomacy

Following repeated condemnations of the military, but few substantive policy actions, the Japanese government's policy approach was put to the test when Yuki Kitazumi, a Yangon-based Japanese journalist, was arrested by the junta in April 2021 on allegations of spreading "fake news."⁹³ Kitazumi, a former reporter for Japan's *Nikkei* newspaper, was arrested at his home and then transferred to the city's infamous Insein Prison. Shortly after his arrest, Kitazumi reportedly spoke on the phone with Ambassador Ichiro Maruyama, the incumbent Japanese Ambassador to Myanmar, who promised to help secure his release.⁹⁴

After roughly one month in prison, and a direct intervention from Ambassador Maruyama, Kitazumi was released from Insein Prison and sent back to Japan. Foreign Minister Motegi later told a meeting of the House of Representatives Foreign Affairs Committee that Kitazumi's release was directly "the result of efforts made by Ambassador Ichiro Maruyama and other people who tried to seek the early release of the Japanese journalist through various channels."⁹⁵ Maruyama is a diplomat often characterized as being supportive of dialogue with the junta, and is also reportedly a proponent of retaining an existing communication channels between Tokyo and military leaders.⁹⁶

Recognition of the SAC

While Japan retained its pre-existing communications channels with the military in the aftermath of the coup, it never formally presented its credentials to the SAC. Although the Japanese government continues to recognize military-aligned officials at diplomatic functions in Tokyo and at the Japanese Embassy in Yangon, the Government of Japan nonetheless allowed diplomats previously associated with the civilian government to stay in Japan.⁹⁷ According to *Kyodo News*, arrangements were made for the resident status of two diplomats who resigned from the Myanmar Embassy to be valid even after they joined the anti-coup movement. One of the diplomats, Aung Soe Moe, later joined the Tokyo Representative Office of the NUG with the title of First Secretary.

In May 2021, the Japanese government similarly permitted other Myanmar nationals already in Japan to extend their stay due to the instability caused by the coup.⁹⁸ The

⁹² Ibid.

⁹³ Kyodo News, "Japanese journalist detained in Myanmar returns home," May 15, 2021. <https://english.kyodonews.net/news/2021/05/a5b01bf68350-breaking-news-japanese-journalist-indicted-in-myanmar-freed-state-tv.html>.

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ Philip Heijmans and Kwan Wei Kevin Tan, "Japan's Refusal to Sanction Myanmar Undermines Biden's Strategy," *Bloomberg*, June 20, 2021. <https://www.bloomberg.com/news/articles/2021-06-19/japan-s-refusal-to-sanction-myanmar-over-abuses-undermines-biden-s-strategy#xj4y7vzkg>.

⁹⁷ Kyodo News, Japan to allow 2 axed Myanmar diplomats to remain after status expiry," May 26, 2021. <https://english.kyodonews.net/news/2021/05/748c8478a4db-japan-to-allow-2-axed-myanmar-diplomats-to-remain-after-status-expiry.html>.

⁹⁸ United Nations Human Rights Council, "Illegal and Illegitimate: Examining the Myanmar military's claim as

measure covered approximately 35,045 Myanmar nationals living in Japan, including 13,963 individuals working under a government-sponsored internship program.⁹⁹ The move coincided with the visit of UN Special Envoy for Myanmar, Christine Schraner Burgener, who met with then-Foreign Minister Motegi to discuss broad support for the country and how to facilitate a dialogue with all stakeholders to prevent the escalation of violence.¹⁰⁰

In November 2021, however, the Japanese government took a firmer position in the matter of the SAC's legitimacy, accepting five new junta-appointed diplomats as the new official representatives of Myanmar, after previously recognizing diplomats who left the embassy to join the anti-coup resistance movement. A source from Japan's Foreign Ministry reportedly defended these actions to a journalist at *Kyodo News*, stating that there must be "some practical connections with the military government."¹⁰¹

The Evolution of Japan's Foreign Policy Approach

Following the Japanese government's decision to suspend all new non-humanitarian ODA, the Ministry of Foreign Affairs and other arms of the government took few other notable foreign policy actions under the premiership of Yoshihide Suga, despite the politically motivated arrest and detention of Yuki Kitazumi. At the same time, and towards the beginning of Fumio Kishida's ascension to the top of the Japanese political ladder in October 2021, criticism of the government began to emerge over its longstanding policy of training Myanmar military cadets at the National Defense Academy in Tokyo.¹⁰²

Although the practice of training Tatmadaw cadets at Japan's National Defense Academy had been instated and continued under the previous military regimes of Ne Win and Than Shwe, the SAC's rather brazen attacks on civilians in the immediate aftermath of the 2021 coup raised questions from Japanese civil society about why the trainings were allowed to continue. In December 2021, the prominent human rights NGO Human Rights Watch called on Japan's Defense Ministry to cut its ties with the Myanmar military and immediately end the training program, a call that other organizations had made previously.¹⁰³

According to a report submitted to the UN Human Rights Council in January 2023 by Thomas Andrews, the UN Special Rapporteur on the situation of human rights in Myanmar, the Government of Japan had been "closely cooperating" with the Myanmar military through its decision to allow Myanmar military students to continue military training in facilities in Japan following the coup.¹⁰⁴

the Government of Myanmar and the international response: conference room paper of the Special Rapporteur on the situation of human rights in Myanmar," January 31, 2023.

⁹⁹ Mari Yamaguchi, "Japan to allow residents from Myanmar to extend stay," *The Associated Press*, May 28, 2021. <https://apnews.com/article/myanmar-japan-a2a2a89b8816ae3a647aa4eb21743825>.

¹⁰⁰ *Ibid.*

¹⁰¹ "Japan accepts 5 Myanmar diplomats appointed under junta rule," *Kyoto News*, 12 November 2021, <https://english.kyodonews.net/news/2021/11/5091a7c7be82-japan-accepts-5-myanmar-diplomats-appointed-underjunta-rule.html>.

¹⁰² *The Japan Times*, "Japan defense official warns Myanmar coup could increase China's influence," *The Japan Times*, February 2, 2021. <https://www.japantimes.co.jp/news/2021/02/02/national/myanmar-coup-china-influence/>.

¹⁰³ Human Rights Watch, Japan: Cut Defense Ties with Myanmar Military," December 20, 2021. <https://www.hrw.org/news/2021/12/21/japan-cut-defense-ties-myanmar-military>.

¹⁰⁴ United Nations Human Rights Council, "Illegal and Illegitimate: Examining the Myanmar military's claim as the Government of Myanmar and the international response: conference room paper of the Special Rapporteur on the situation of human rights in Myanmar," January 31, 2023.

The National Defense Academy of Japan was reportedly hosting 6 cadets from the military before the coup, and an additional 2 cadets joined afterwards.¹⁰⁵ In correspondence with the UN Special Rapporteur, Japan described the training program as primarily an “education program,” but confirmed that “the education program included physical training with firearms.”¹⁰⁶ The Government of Japan continued military its education programs for Myanmar soldiers throughout the entirety of 2022.

According to a Human Rights Watch report that cited a meeting of the Japanese the Committee on National Security in the House of Representatives on April 26, 2022, then-Japanese Defense Minister Nobuo Kishi disclosed that Japan would admit 4 additional military students to the so-called education programs.¹⁰⁷ He defended the government’s decision to accept the military students by saying that: “cultivating even one person who understands civilian control and democracy will hopefully contribute to Myanmar’s future.”¹⁰⁸

In communications with the UN Special Rapporteur, the Government of Japan further noted that Japan’s Defense Minister had in April 2022, “clarified the purpose to accept the students from Myanmar was that it had been expected they would grow up to valued people with deep knowledge of democracy and civilian control in the process of considering from the various perspectives what and how the armed forces should be by placing themselves in the real environment of the Japan Self-Defense Forces which operated under the strict civilian control.”¹⁰⁹

Toru Kubota and the Renewed Pressure Campaign

As pressure over the military training program began to mount, Japan’s relationship with Myanmar grew more contentious after another Japanese national, Toru Kubota, was arrested and detained in Yangon in July 2022 on similar charges to Kitazumi. Kubota, then a 26-year-old Japanese documentary filmmaker, was arrested while filming a protest in Yangon for a new documentary film. Before the coup, Kubota had previously produced several films about Myanmar’s Rohingya Muslim minority, and often travelled to Myanmar while working as a freelancer for media outlets including *Vice Japan*, *BBC*, and *Al Jazeera*.¹¹⁰

When Kubota was first arrested, the move was viewed by some analysts to be an insurance policy that would grant the junta greater leverage in their negotiations with Japanese policymakers. At the time Kubota’s arrest, the junta was increasingly concerned about the growing international outcry to their decision to execute four high-profile democracy

¹⁰⁵ “Japan accepts 5 Myanmar diplomats appointed under junta rule,” Kyodo News, November 12, 2021, <https://english.kyodonews.net/news/2021/11/5091a7c7be82-japan-accepts-5-myanmar-diplomats-appointed-underjunta-rule.html>.

¹⁰⁶ United Nations Human Rights Council, “Illegal and Illegitimate: Examining the Myanmar military’s claim as the Government of Myanmar and the international response: conference room paper of the Special Rapporteur on the situation of human rights in Myanmar,” January 31, 2023.

¹⁰⁷ Teppei Kasai, “Japan to Train New Cadets, Officers from Abusive Myanmar Military,” *Human Rights Watch*, April 27 2022, <https://www.hrw.org/news/2022/04/27/japan-train-new-cadets-officers-abusive-myanmar-military>.

¹⁰⁸ *Ibid.*

¹⁰⁹ United Nations Human Rights Council, “Illegal and Illegitimate: Examining the Myanmar military’s claim as the Government of Myanmar and the international response: conference room paper of the Special Rapporteur on the situation of human rights in Myanmar,” January 31, 2023.

¹¹⁰ Martin Fritz, Myanmar: Freed filmmaker Toru Kubota returns to Japan,” *Deutsche Welle*, November 18, 2022. <https://www.dw.com/en/myanmar-freed-filmmaker-toru-kubota-returns-to-japan/a-63809620>.

activists, the first state-authorized executions to occur in Myanmar in over 30 years.¹¹¹ The executions brought about a wave of new sanctions and criticism from Western countries including the United Kingdom, which put a fresh spotlight on the junta's brutality and the deteriorating human rights situation in Myanmar.

Shortly following Kubota's arrest in August 2022, the SAC also arrested Vicky Bowman, the former British Ambassador to Myanmar and her Burmese husband, Htein Lin, who had both been living together in Myanmar at the time of their arrest. Bowman's arrest very closely followed the decision of the British government to impose harder-hitting economic sanctions against junta forces in recognition of the 5th anniversary of the 2017 attacks against the Rohingya only a few days earlier.¹¹² More specifically, the new sanctions targeted three military-linked businesses, one of which, Sky One Construction Co. Ltd, was directly controlled by Min Aung Hlaing's son, leading to speculation that the arrest was retaliatory in nature.¹¹³

In September 2022, about a month and half after Kubota's arrest, Japan's Ministry of Defense relented to both domestic and international pressure and reversed its previous policy on training the military cadets, announcing that it would no longer accept Myanmar military students in its training program, beginning in 2023.¹¹⁴ The Ministry cited the junta's execution of four political activists in July 2022 as a motivating factor in the suspension of the program.¹¹⁵

The Ministry noted, however, that the two officers and nine cadets from the Myanmar military currently enrolled in the training program would be allowed to stay in Japan and complete their programs.¹¹⁶ A spokesperson from the Ministry of Defense said that the decision was made because it was: "decided it's not appropriate to continue the military cooperation and exchange in its current form."¹¹⁷

On October 5, 2022, only a day before a military court officially sentenced Toru Kubota to seven years in prison for sedition, Foreign Minister Yoshimasa Hayashi excluded the junta-appointed Ambassador to Japan in a meeting with other ASEAN ambassadors and representatives of Southeast Asia in Tokyo.¹¹⁸ That meeting, held to discuss activities pertaining to the 50th Anniversary of Japan's bilateral relationship with ASEAN, entirely excluded Myanmar, following a similar pattern to the U.S.-ASEAN Summit in May 2022, whereby the Biden administration excluded both the Myanmar junta and NUG. The timing

¹¹¹ Reuters, "World condemns Myanmar junta for 'cruel' execution of activists," July 26, 2022. <https://www.reuters.com/world/asia-pacific/myanmar-junta-execute-four-democracy-activists-state-media-2022-07-25/>.

¹¹² Foreign Commonwealth and Development Office (FCDO), "Fifth anniversary of the Rohingya crisis in Myanmar: UK statement," August 25, 2022. <https://www.gov.uk/government/news/uk-statement-on-the-5th-anniversary-of-the-rohingya-crisis>.

¹¹³ Rebecca Ratcliffe, "Ex-UK ambassador and her husband jailed for a year in Myanmar, reports say," *The Guardian*, September 2, 2022. <https://www.theguardian.com/world/2022/sep/02/ex-uk-ambassador-husband-jailed-year-myanmar-reports-vicky-bowman-htein-lin>.

¹¹⁴ United Nations Human Rights Council, "Illegal and Illegitimate: Examining the Myanmar military's claim as the Government of Myanmar and the international response: conference room paper of the Special Rapporteur on the situation of human rights in Myanmar," January 31, 2023.

¹¹⁵ Ibid.

¹¹⁶ Teppei Kasai, "Japan to Suspend Myanmar Military Training Program," *Human Rights Watch*, September 23, 2022, <https://www.hrw.org/news/2022/09/23/japan-suspend-myanmar-military-training-program>.

¹¹⁷ Teppei Kasai, "Japan to Train New Cadets, Officers from Abusive Myanmar Military," *Human Rights Watch*, April 27, 2022, <https://www.hrw.org/news/2022/04/27/japan-train-new-cadets-officers-abusive-myanmar-military>.

¹¹⁸ MOFA, "Foreign Minister Hayashi's Meeting with Ambassadors and Representatives of Southeast Asian Countries to Japan," October 5, 2022. https://www.mofa.go.jp/press/release/press3e_000473.html.

of the exclusion was particularly significant as only a week earlier, the Japanese government invited the Myanmar envoy to the state funeral of slain Prime Minister Shinzo Abe, which was criticized by the media and civil society groups as legitimating the junta's rule.¹¹⁹

In November 2022, however, the military junta unexpectedly released Kubota in a broad prisoner amnesty that included three other high-profile foreign prisoners, Sean Turnell, an Australian economic advisor to Aung San Suu Kyi, Vicky Bowman, the former British Ambassador and her husband Htein Lin, alongside thousands more Myanmar nationals. These so-called "catch-and-release" tactics employed by the junta against Kubota, Kitazumi, and other prominent foreigners such as Bowman led some analysts to further speculate that the junta was resorting to "hostage diplomacy" in an attempt to gain bargaining chips that would eventually relieve pressure on itself following the high-profile executions and mounting economic problems following the coup.

Some argue that such hostage diplomacy was also advantageous for the junta to demonstrate to Japan the necessity of keeping a "channel" with military leaders open, as pro-engagement Japanese officials had helped to secure the release of Kitazumi. Such speculation was further supported by media reports that pro-engagement Japanese actors such as Yohei Sasakawa reportedly played a pivotal role in securing the release of American journalist Danny Fenster, who had been detained following the military coup.¹²⁰

“We decided it’s not appropriate to continue the military cooperation and exchange in its current form.”

– Japanese Ministry of Defense, September 2022.¹²¹

ODA Policy and Yokogawa Bridge Corporation

More than a year a half after the coup, also in July 2022, *Toyo Keizai*, a Japanese media outlet, reported that the Japan International Cooperation Agency (JICA) had internally decided to potentially dispatch “dozens” of economic cooperation experts to Myanmar to engage in development ventures, citing unconfirmed internal JICA documents.¹²² According to the internal documents, JICA reportedly warned development consultants about the propaganda value the junta may place on JICA’s presence, reportedly advising them that, “When holding a meeting (with local officials above the director), be careful not to be reported in the state media, etc.”¹²³

In October 2022, it was also revealed by Human Rights Watch that ships initially provided to the Myanmar military for humanitarian purposes had been re-purposed for military use,

¹¹⁹ Yuichi Nobira, “Japan criticized for Myanmar envoy attending Abe state funeral,” *The Asahi Shimbun*, September 29, 2022. <https://www.asahi.com/ajw/articles/14730334>.

¹²⁰ Antoni Slodkowski, “Japan distances itself from report its envoy helped free U.S. reporter,” *Reuters*, November 16, 2021. <https://www.reuters.com/world/asia-pacific/japan-distances-itself-report-its-envoy-helped-free-us-reporter-2021-11-16/>.

¹²¹ Ibid.

¹²² Hiroyuki Okada, “Pros and cons of dispatching JICA experts to Myanmar,” *Toyo Keizai*, July 14, 2022, <https://toyokeizai.net/articles/-/603730>.

¹²³ Ibid.

violating Japan's ODA charter and other aid policies.¹²⁴ A hearing about the misappropriation of Japanese aid was later held in the Budget Committee of the National Diet, facilitated by Michihiro Ishibashi, the Chairman of that Committee.¹²⁵ Mr. Ishibashi, a Japanese senator belonging to the opposition Constitutional Democratic Party (CDP) also concurrently serves as the Executive Director of the Japanese Parliamentary Group Supporting Democratization in Myanmar, a bipartisan coalition of Japanese lawmakers in the National Diet working to restore democracy in the country.¹²⁶

In January 2023, Human Rights Watch further unveiled that Yokogawa Bridge Corporation paid Myanmar Economic Corporation (MEC), a military-aligned company, about 1.3 million USD for the Bago River Bridge Construction Project in Yangon from July to November 2022. The Bago River Bridge Construction Project, first approved in 2016 as part of the Japanese government's ODA to Myanmar, which included a more than JPY 31 billion (USD 240 million) loan from JICA, officially contracted Yokogawa Corporation to build the bridge in March 2019.¹²⁷

Although MEC was placed under sanctions from the U.S. Treasury Department due to the February 2021 coup, a foreign ministry official, who spoke to the international news outlet Reuters on the condition of anonymity, said that the construction firm had discussed the project with U.S. authorities, and gained approval to continue with the ODA project, a discussion that may have been facilitated by the Japanese government itself.¹²⁸ The U.S. Treasury Department said it could not confirm whether it granted a license for Japanese company Yokogawa Bridge Corporation to pay the Myanmar Economic Corporation, which would be the first known exemption to sanctions issued against junta-linked businesses since the coup.¹²⁹

These series of moves by Japanese government agencies including the Ministry of Foreign Affairs, JICA, and others, perhaps serve an indication that the Japanese government may have been looking for avenues to restart new ODA to Myanmar and some other forms of limited cooperation with military leaders, despite imposing previous punitive actions—a continuation its previous 'carrots and stick' approach with respect to ODA policy.

In May 2023, the Japanese government confirmed that the Myanmar government had used the ships provided to Myanmar authorities for non-military purposes in combat, using them to transport soldiers and other military equipment in attacks on the Arakan Army, an ethnic revolutionary group fighting for self-determination in the northwestern part of the country. In response, the Japanese government lodged an official complaint with military leaders, who then promptly apologized for using the ships.

Following the official complaint lodged by the Japanese government, an anonymous official from the Japanese Defense Ministry reportedly spoke to a journalist from the German newspaper *Deutsche Welle* and said that for a long time the Japanese government held the

¹²⁴ Human Rights Watch, "Myanmar: Military Used Japan-Funded Ships," October 11, 2022. <https://www.hrw.org/news/2022/10/11/myanmar-military-used-japan-funded-ships>

¹²⁵ Kyodo News, "Japan NPO aims to deliver for people suffering under Myanmar junta", June 19, 2022. <https://english.kyodonews.net/news/2022/06/c98e2f9d0fd4-japan-npo-aims-to-deliver-for-people-suffering-under-myanmar-junta.html>.

¹²⁶ Ibid.

¹²⁷ MOFA, Exchange of Notes Concerning Yen Loans to Myanmar, December 23, 2016. https://www.mofa.go.jp/mofaj/press/release/press4_004108.html

¹²⁸ Sakura Murakami and Simon Lewis, "Japan firm got U.S. sanctions exemption to pay Myanmar military company - Japanese official," *Reuters*, January 28, 2023. <https://www.reuters.com/world/asia-pacific/japan-firm-got-us-sanctions-exemption-pay-myanmar-military-company-japanese-2023-01-27/>.

¹²⁹ Ibid.

position that it was extremely important for Tokyo to keep lines of communication open with the Myanmar government. But now that the relationship was "clearly changing," an increasing number of Japanese politicians and officials were realizing that they didn't have the kind of leverage over Naypyitaw they thought they had.

The official added that "if the junta does not change now, then I think Japan has no choice but to follow in the footsteps of other governments and take a far harsher line on the government...They have sensed that nothing is working, and it is going to be harder and harder to justify not taking a firmer position."

"If the junta does not change now, then I think Japan has no choice but to follow in the footsteps of other governments and take a far harsher line on the government."

– Anonymous Official from the Japanese Ministry of Defense, May 2023.¹³⁰

Comparing the 1988 and 2021 Coups

When one compares the foreign policy response of the Japanese government to the February 1, 2021 military coup to its response to the previous military coup that occurred in Myanmar in 1988, many similarities very quickly begin to emerge. The key and obvious similarities are in the immediate steps taken by the Japanese government in the aftermath of both events. In both 2021 and 1988, the Japanese government chose not to impose sanctions or other forms of economic pressure to punish Myanmar's military leaders. Instead, the principal foreign policy action taken by Japanese actors to 'punish' the military regime was the suspension of all new ODA to the country, while still allowing existing projects carried out by private sector companies to continue.

Although existing ODA projects were allowed to continue, and exemptions for humanitarian purposes were granted following both events, some of the aid disbursements issued in the aftermath of both coups often contradicted Japan's official ODA Charter and other foreign policies pursued by the Ministry of Foreign Affairs. Following the 1988 coup, the Japanese government frequently weaponized its ODA policies to either reward or punish the military regime for actions it deemed to be either worthy of reward or detestable. Many questionable ODA disbursements were also made under the guise of 'humanitarian' purposes and later justified as a carrot to steer the regime in the right direction, a use of positive sanctions.

Following the February 1, 2021 coup, Tokyo similarly allowed existing aid projects to continue. Although Japanese policymakers stopped short of issuing new ODA grants that directly benefited the military, the apparent complicity of the Ministry of Foreign Affairs in allowing Yokogawa Bridge Corporation to seek a sanctions waiver from the U.S. Treasury Department so it could continue an existing ODA construction project that purportedly benefited the military regime. It is important to point out that the Japanese government only utilized 'positive' sanctions such as infrastructure grants and other forms of economic assistance to attempt to change the military's behavior after both coups. This was in direct

¹³⁰ Julian Ryall, "Why is Japan angry at Myanmar's military junta?," *Deutsche Welle*, May 3, 2023. <https://www.dw.com/en/why-is-japan-angry-at-myanmars-military-junta/a-65493778>.

contrast to an approach of imposing ‘negative’ sanctions, such as those imposed by other Western actors including the United States.

Another notable similarity in both approaches was the heightened pressure facing the Japanese government from both the United States and from industry groups such as the Japan-Myanmar Association. While the United States aimed to pressure the Japanese government to take a more ‘principled’ stand toward Myanmar, private industry groups such as the Japan-Myanmar Association pushed them in the other direction, arguing that policies aimed at punishing the junta were “bad for business”. This tension between trying to appease both the United States and the business community, created a delicate balancing act for policymakers in Tokyo after both the 1988 and 2021 military coups.

Lastly, the Japanese government viewed future elections in Myanmar proposed and administered by junta leaders as an off-ramp and/or a path towards the return of stability. Although the 1992 election administered by the regime ironically resulted in a landslide win for the NLD, it was nonetheless used by the Japanese government as pretense to reverse certain policies unfavorable to the junta that were imposed in the aftermath of the 1988 coup, despite the fact the junta failed to respect the results. In the aftermath of the 2021 coup, prominent Japanese officials including Yohei Sasakawa said that the “election must be held” to return stability to both the country and perceived investment environment.

Figure 1: 1988 vs. 2021 Coup

O = True
X = False

Actions taken by the Japanese Government	1988	2021
Suspended all new non-humanitarian ODA	O	O
Allowed existing ODA projects to continue	O	O
Recognized military junta as the official government	O	X
Imposed economic sanctions	X	X
Continued training military cadets	O	X
Pressured by business community to resume economic ties	O	O
Viewed junta-administered elections as a path toward stability	O	O

Key Findings

Overall, the abrupt transition from pseudo-civilian rule to a military dictatorship on February 1, 2021 significantly complicated Japan's political relations with Myanmar, paving the way for the subtle emergence of a new foreign policy approach in Tokyo after of a "special relationship" between the two countries defined the nature of their bilateral ties for more than 60 years. Although Tokyo's initial response to the coup mirrored the approach it took after the collapse of the Ne Win regime in 1988, steps taken in midst of the coup's aftermath may suggest the emergence of a new approach could be on the horizon.

Since the coup, the Japanese government has announced the suspension of training sessions for Myanmar military cadets at the National Defense Academy in Tokyo, Foreign Minister Yoshimasa Hayashi has excluded the junta from government meetings with other ASEAN officials, and the government has permitted the National Unity Government (NUG) to establish a new Representative Office in Tokyo, while continuing to engage informally with prominent representatives of the parallel government. This greatly contrasts with the previous policy of the Japanese government under civilian rule, which actively worked to cover up the Rohingya crisis and other human rights atrocities committed by the Myanmar military through a so-called "Independent Commission of Enquiry" and other judicial mechanisms.¹³¹

While economic sanctions remain un-imposed and ODA projects initiated before the coup remain active (and arguably continue to support the SAC), interviews with key stakeholders indicated that the current situation in Myanmar, where protracted conflict continues to expand, and a so-called 'election' proposed by junta authorities remains elusive, a longer-term shift in the Japanese foreign policy approach may be forthcoming, especially in view of heightened pressure from the United States.

¹³¹ MOFA, Release of the Executive Summary of the Final Report of the Independent Commission of Enquiry (ICoE) concerning the situation of Rakhine State by the Government of Myanmar (Statement by Press Secretary OHTAKA Masato), January 22, 2020. https://www.mofa.go.jp/press/release/press4e_002761.html.

Chapter 2: Business and Human Rights

Introduction

Following the February 1, 2021 coup, Japanese companies faced a number of serious challenges as they attempted to navigate the fallout of the coup and assess its impact on both their business operations and supply chains. On the one hand, the reputational risks associated with operating in a country now controlled by a regime credibly accused of genocide was not good for business. On the other, many Japanese companies had already heavily invested in the economy, and leaving out-right would not only result in significant repercussions for their bottom line, but also for the workers that they employed.

This dilemma facing Japanese companies in the aftermath of the coup—of whether to stay or exit from the Myanmar economy—is the primary focus of this chapter. This chapter specifically aims to analyze the responses of Japanese companies to the coup and also assess the coup’s prolonged impact on their planned investments in Myanmar. It will also examine whether the coup impacted how Japanese companies adhere to internationally recognized but voluntary standards on responsible business conduct including the United Nations Guiding Principles on Human Rights (UNGPs) and the OECD Guidelines on Multinational Enterprises (OECD Guidelines).

Due to economic incentives provided directly by Japanese government agencies such as METI, JETRO, and JICA, many Japanese companies had chosen to heavily invest in the newly re-opened Myanmar economy in 2011, viewing the country to be ripe for investment as Asia’s last “frontier economy.” Absent in these considerations from both the government and private sector at this time, however, were concerns over the significant human rights risks involved in operating within the economy. As a result, many Japanese companies opened themselves up to significant potential liability and reputational damage due to their investments, which were often initiated without accounting for human rights due diligence (HRDD) procedures.

This chapter is broken into three primary sections: 1) an overview of the historical context of the business & human rights landscape in Myanmar for Japanese companies, 2) a case study analysis of how different Japanese companies reacted to criticism and pressure resulting from their investments in the post-coup economy, and 3) the findings of a survey conducted for this report which seeks to shed light on how the coup impacted the decision-making of Japanese companies to alter their investment strategies and adopt or more closely follow business & human rights standards such as the UNGPs, OECD Guidelines, and the International Labour Organization’s MNE Declaration.

Before delving into the specifics of Japanese companies’ footprint in the Myanmar, however, it is important to provide an overview of the standards mentioned above and describe their prescriptions for both human rights and disengagement from an economy in which human rights ultimately cannot be respected. The below section provides such an overview.

A Brief Overview of the UNGPs and OECD Guidelines

The UNGPs

In 2005, The United Nations Commission on Human Rights appointed Professor John Ruggie of Harvard University to formulate a new framework that could outline the responsibilities of multinational corporations to protect human rights.¹³² The final result of these efforts, now known as United Nations Guiding Principles on Human Rights, were adopted and endorsed at the 17th session of the UN Human Rights Council in 2011.

Comprised of 31 principles, the UNGPs introduced a novel method for encapsulating business respect for human rights known as the “Protect, Respect, and Remedy” framework, which categorizes relations between multinational corporations and human rights into three pillars:

1. Pillar One – Protect (Principles 1 to 10) – the state duty to protect against human rights abuses by third parties, including business enterprises;
 - Pillar One specifies the state’s duty to protect human rights in the context of business operations. This requires states to set clear expectations for companies by enacting effective policies, legislation, and regulations. In doing so, states establish that appropriate steps are in place to prevent, investigate, punish and redress adverse human rights impacts.¹³³
2. Pillar Two – Respect (Principles 11 to 24) – the corporate responsibility to respect human rights;
 - Pillar Two outlines how businesses can identify their negative human rights impact and demonstrate that they have adequate policies and procedures to address them. Businesses should institute a policy commitment to meet this responsibility. Businesses should also undertake ongoing human rights due diligence to identify, prevent and mitigate human rights abuses.¹³⁴
3. Pillar Three – Remedy (Principles 25 to 31) – access to remedy.
 - Pillar 3 stipulates that when a right is violated, victims must have access to effective remedies which are legitimate, accessible, predictable, equitable, transparent and rights compatible. It also sets out criteria for the effectiveness of judicial and non-judicial grievance mechanisms implemented by both states and businesses.¹³⁵

According to the UNGPs, both governments and businesses hold these primary responsibilities under the principles¹³⁶:

¹³² The United Nations ““Protect, Respect, Remedy” Framework for Business and Human Rights and the United Nations Guiding Principles for Business and Human Rights: A Guide for Trade Unionists,” *ITUC*, 2012. https://www.ituc-csi.org/IMG/pdf/12-04-23_ruggie_background_fd.pdf.

¹³³ United Nations Development Program, “United Nations Guiding Principles on Business and Human Rights – Brochure. <https://www.undp.org/sites/g/files/zskgke326/files/migration/in/UNGP-Brochure.pdf>.

¹³⁴ *Ibid.*

¹³⁵ *Ibid.*

¹³⁶ United Nations Development Program, “Guiding Principles on Business and Human Rights,” September 2022. <https://www.undp.org/laopdr/publications/guiding-principles-business-and-human-rights>.

- **Governments** have a duty to protect everyone within their jurisdiction from environmental and social impacts caused by business practice;
- **Businesses** have a responsibility to avoid environmental and social impacts wherever they operate and whatever their size or industry, and address any impact that does occur; and
- Both **governments** and **businesses** have a duty/responsibility to support victims to access effective remedies through judicial and non-judicial grievance mechanisms when environmental and/or social impacts occur.

The OECD Guidelines on Multinational Enterprises

In 1976, the Organization for Economic Cooperation and Development (OECD) formulated the OECD Guidelines for Multinational Enterprises to set out recommendations and expectations for the activities of multinational enterprises. Since their initial adoption in 1976, the Guidelines have been revised five times—in 1979, 1984, 1991, 2000, and 2011. At present, in addition to OECD member states, 13 other countries adhere to the Guidelines.¹³⁷

The Guidelines are not legally binding but provide principles and standards for responsible business conduct across a range of fields, including general policies and policies on disclosure, human rights, employment and industrial relations, environment, combating bribery, bribe solicitation and extortion, consumer interests, science and technology, competition, and taxation.

The Guidelines' last revision was made in 2011 to include a chapter on human rights and provide for enterprises' responsibility to respect human rights and also to add other provisions including that on the implementation of risk-based due diligence for enterprises to perform as part of their risk management to identify, prevent, and mitigate the actual and potential adverse impacts that they may cause or contribute to causing.

The Concept of a 'Responsible' Exit

Both the UNGPs and the OECD Guidelines are the most broadly accepted standards containing guidance for companies on disengagement, otherwise known as initiating an 'exit' from an economy. The UNGPs and the OECD Guidelines were developed in tandem including on issues related to disengagement, though some minor differences exist.¹³⁸ The OECD Guidelines refer to disengagement as a measure of "last resort", thereby stressing the importance of engagement with business partners as the preferred means for multinational enterprises to prevent and mitigate adverse impacts that they may contribute to or are directly linked to via their business relationships.

The term disengagement does not appear in the UNGPs. Instead, the UNGPs speak of "ending the relationship". Like the OECD Guidelines, the UNGPs elaborate on the responsibility of a company firstly to engage with a business partner and use its leverage over business partners in order to address adverse impacts. If the company lacks leverage and is unable to increase it, the company should consider. Thus, the concept of leverage is

¹³⁷ MOFA, "OECD Guidelines for Multinational Enterprises." https://www.mofa.go.jp/ecm/oecd/page22e_000946.html.

¹³⁸ Joseph Wilde-Ramsing, et. al, "Should I stay or should I go? Exploring the role of disengagement in human rights due diligence," *Centre for Research on Multinational Corporations (SOMO)*, April 1, 2016. <https://www.somo.nl/should-i-stay-or-should-i-go-2/>.

thus a crucial factor in both the UNGPs and the OECD Guidelines when it comes to both mitigation efforts as well as the decision to disengage from a business relationship. Both standards consider leverage to exist when a company “has the ability to effect change in the wrongful practices of an entity that causes a harm”.¹³⁹

The UNGPs and OECD Guidelines both encourage companies to consider the potential adverse social and environmental impacts of disengagement prior to taking the decision, but many practical questions remain about how to identify and mitigate these potential impacts and how they should be weighed against the (potential) impacts caused by the business partner. Potential adverse impacts from disengagement include things like loss of jobs for workers, loss of tax revenues, and other potential local economic impacts resulting from a hasty departure. They could also include things like the sale of (or stake in) an operation to a less responsible company, which could result in more severe impacts on workers, communities or the environment.

¹³⁹ OECD Guidelines for Multinational Enterprises, commentary on Chapter 4, OECD (2011), available at <http://www.oecd.org/daf/inv/mne/48004323.pdf>.

The UNGPs, Myanmar, and Japanese companies

“Myanmar tests the logic that underpins the United Nations Guiding Principles on Business and Human Rights.”

– Business and Human Rights Resource Center (BHRCC), August 10, 2020.¹⁴⁰

Background and Context

The UNGPs were adopted at around the same time that Myanmar’s political ‘re-opening’ process began in 2011. At the time of their endorsement and adoption, the UNGPs were virtually unknown to the vast majority of multinational businesses in the developing world, and for the first decade after their release, adoption of the voluntary principles was mostly limited to a small number of companies operating or headquartered in Western countries.

Although many foreign companies were well aware of the political and reputational risks of investing in Myanmar’s economy in the early years of the reopening, only a small handful of companies properly carried out human rights due diligence (HRDD) in accordance with the UNGPs and other international standards governing responsible business conduct such as the OECD Guidelines and the International Labor Organization’s Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO MNE Declaration).

For Japanese companies, many of whom had rushed to enter or expand into Myanmar’s economy at the behest of the Japanese government, a very large number of them failed to account for the adverse human rights impacts of their business activities and the risky operating environment they would soon enter. As a result of these circumstances, concerns over the human rights footprint of Japanese companies became particularly pronounced as the operating environment in the country grew more politically contentious.

In August 2017, a mass exodus of Rohingya, one of Myanmar’s most persecuted ethnic minorities, fled across the border of Myanmar into Bangladesh due to so-called ‘clearance operations’ carried out by Myanmar’s security forces. The attacks were deemed by most international actors, including the United Nations, to constitute crimes against humanity.¹⁴¹ As time went on, a growing number of international legal experts proclaimed that the crimes were severe enough to be ‘genocidal in nature’, leading to even further condemnation.

While the persecution of the Rohingya and other ethnic minority groups across Myanmar had been ongoing for decades, the visibility of the 2017 attacks within the international community resulted in a major backlash against the pseudo-civilian government. Almost overnight, the image of Aung San Suu Kyi in the West transformed from a revered Nobel

¹⁴⁰ Catherine Renshaw, “Myanmar’s military: Its power over business and human rights and the UN’s Guiding Principles.” *Business and Human Rights Resource Center*, August 10, 2020. <https://www.business-humanrights.org/en/latest-news/myanmars-military-its-power-over-business-and-human-rights-and-the-ung-guiding-principles/>.

¹⁴¹ United Nations Office of the High Commissioner for Human Rights, “Myanmar Fact Finding Mission: accounting for the gravest international crimes,” August 29, 2018. <https://www.ohchr.org/en/stories/2018/08/myanmar-fact-finding-mission-accounting-gravest-international-crimes>.

laureate into an accomplice of a military force complicit in abetting some of the worst international crimes of the 21st century.

The 2017 attacks and ensuing Rohingya refugee crisis was also bad news for international companies, and human rights groups quickly began targeting companies they suspected of being complicit in their financial support of Myanmar's security forces. As a pseudo-civilian democracy, the structure of the Myanmar economy was such that the military still played a critical role in the some of the country's largest industries. For example, many of Myanmar's largest companies, especially in extractive sectors such as oil & gas, rare-earth mineral extraction, and jade mining, were controlled by state-owned enterprises (SOEs) with direct links to the Myanmar military.

The two largest of these military-controlled conglomerates, and those arguably providing the most amount of revenue to the military were Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC), both of which had previously been sanctioned by the United States, European Union, and other countries before the 2011 political reopening, and then sanctioned again in the aftermath of the 2021 coup.

MEHL became the military's first official business enterprise in 1990. According to Japan's *Nikkei* newspaper, MEHL's main source of revenue in its early years was the mining and sale of gemstones and timber.¹⁴² Although MEHL was never *officially* engaged in the gem-mining business, it effectively controlled the sector and reaped massive profits from the sale and trade of the resources. MEHL enjoyed several advantages that made it extremely profitable. First, the lack of competition in the Myanmar market in the early years of the reopening created a situation in which the enterprise could easily rope in foreign businesses to establish joint ventures with it. Until the pseudo-civilian Thein Sein government significantly revised the country's investment policy a few years after the reopening, the vast majority of foreign direct investment (FDI) entering Myanmar were through these joint ventures established with MEHL.

In setting up joint ventures with foreign companies, MEHL was granted access not only to foreign technologies, but also reaped huge profits through a fixed exchange rate system more favorable than the actual market rate. In practice, what this meant is that before 2013, if a foreign company set up a 50-50 venture with MEHL contributed 600 million kyat each, the venture could take the USD 100 million contributed by the foreign party and exchange it for 100 billion kyat.

The second of these companies, Myanmar Economic Corporation (MEC) was established in February 1997, some seven years after MEHL. Although no official records have confirmed this to be the case, MEC is believed to be the largest corporate enterprise in Myanmar. The enterprise built itself up by accumulating assets sold off by the government, and its main focus is on infrastructure and heavy industry, which have generated steady revenues in part because they have been largely unaffected by ethnic conflicts.¹⁴³

¹⁴² Koji Fusa, "What will become of military-owned corporate behemoths?", *Nikkei Asia*, December 1, 2015. <https://asia.nikkei.com/Economy/What-will-become-of-military-owned-corporate-behemoths>.

¹⁴³ *Ibid.*

The United Nations Fact-Finding Mission on Myanmar

In August 2019, the United Nations Independent and Investigative Fact-Finding Mission on Myanmar (IIFFMM), a group of human rights investigators appointed to assess the situation in Myanmar following the 2017 attacks against the Rohingya, released an ad hoc report entitled: *The economic interests of the Myanmar military*. The report unveiled financial links between prominent multinational companies and MEC, MEHL, and other SOEs owned and operated by the Myanmar military.

According to its authors, the report detailed “the Myanmar military’s vast web of control over the country’s economy”, and its findings demonstrated that the military was able to generate profits and influence “to perpetuate an unending cycle of abuses and impunity.” The report followed an earlier FFM report released in 2018 which came to the conclusion that: “No business enterprise active in Myanmar or trading with or investing in businesses in Myanmar should enter into an economic or financial relationship with the security forces of Myanmar...”¹⁴⁴

Upon its release, the 2019 report shined a bright and unwelcome spotlight on the political and reputational risks for Japanese and international companies invested in Myanmar. In some respects, the report also served as a cautionary tale for many international investors considering an entrance into the economy. In particular, the report singled out Kirin, one of Japan’s largest beer conglomerates, for providing direct financial support to the Myanmar military via the joint venture it had entered with MEHL in 2015.

At the time of Kirin’s entrance into Myanmar, MEHL owned at least 45% of Myanmar Brewery Ltd., a subsidiary that controlled over two-thirds of the country’s beer market, making it the most logical and attractive partner for the company in its quest to expand its operations in the country, despite the conglomerate’s explicit ties to the military.

The high-profile nature of the Kirin exposé in the 2019 report and the associated media coverage that would follow, set the stage for much greater scrutiny of other international companies invested in Myanmar in the two years that would follow. Particularly, the release of the UN report and the associated Kirin case brought greater attention to the investment of Japanese companies and the involvement of the Japanese government in incentivizing, and oftentimes, facilitating this investment.

Two years after the release of the report, it was revealed by the Japanese media outlet *Toyo Keizai* that a prominent Japanese real estate company, Aeon Mall, chose not to invest in a project to establish a shopping mall in the Mindama area of Yangon because the FFM report had designated Japan Myanmar Development Institution Inc, a company with which they were considering to do business maintained direct links to the Myanmar military. As such, the company believed that the project could pose future reputational risk and ultimately decided to abandon it.¹⁴⁵

Building off of the momentum of the FFM report, a group of covert human rights activists established a non-profit organization called *Justice for Myanmar* in April 2020 with the

¹⁴⁴ United Nations Office of the High Commissioner for Human Rights, “Myanmar Fact Finding Mission: accounting for the gravest international crimes,” August 29, 2018. <https://www.ohchr.org/en/stories/2018/08/myanmar-fact-finding-mission-accounting-gravest-international-crimes>.

¹⁴⁵ Hiroyuki Okada and Akira Mizushima, “Circumstances where companies continue to withdraw from the Japan Myanmar Association.” *Toyo Keizai* (Japanese). <https://toyokeizai.net/articles/-/599770>.

express purpose of “pressuring individual businesses and investors from countries around the world to divest from Myanmar military businesses and deprive the military of profits they receive from every day people...”¹⁴⁶ Although other Japanese human rights organizations including (but not limited to) Mekong Watch and Human Rights Now had been pushing for responsible investment activities in conflict-afflicted economies such as Myanmar prior to the coup, such activism was relatively low-profile and not well recognized outside of Japan prior to JFM’s establishment.

The Struggle for Compliance with the UNGPs in Myanmar

Following the military coup on February 1, 2021, the UN’s independent experts on the situation of human rights in Myanmar and on business & human rights jointly released a statement further warning international companies of the risks of engagement in Myanmar due to the rapidly deteriorating human rights situation.¹⁴⁷ Surya Deva, then Vice-Chair of the UN Working Group on Business and Human Rights, noted in the release that due to the worsening situation “human rights due diligence by business, and investors, should be rapidly and proportionately heightened.”¹⁴⁸

While the UNGPs do not specifically mention a different type of due diligence for contexts affected by armed conflicts and other situations involving widespread violence, they are built around the concept of proportionality – i.e., the higher the risk, the more complex the processes should become for businesses. Thus, due to the inherent risks of human rights abuses in conflict-affected areas such as Myanmar, business actors, in most cases, should be required to conduct a ‘heightened’ version of human rights due diligence while operating in such settings if they adhere to the UNGPs as an international standard.¹⁴⁹

The UN Working Group’s guidance on ‘heightened’ human rights due diligence, which further builds on the UNGPs, specifically instructs companies to mitigate the impacts of their own activities to cause human rights harms, while also demonstrating their respect for the principles of internationally recognized human rights, most principally, to ensure that they do not exacerbate the existing in-country situation through the execution of their activities.¹⁵⁰ Deva also rather ominously noted in the joint release that there may come a point at which foreign businesses in Myanmar may need to suspend operations or even consider an exit from the economy if the risks of “involvement in human rights abuse cannot be reasonably managed.”¹⁵¹

The UNGPs are clear in setting out the standard that companies should mitigate or eliminate harm where they cause, contribute to, or are linked with human rights abuses.¹⁵²

¹⁴⁶ Justice for Myanmar, “About our Movement.” <https://www.justiceformyanmar.org/about>.

¹⁴⁷ United Nations Office of the High Commissioner for Human Rights, “Myanmar: Time for business to take a stand against human rights violations - UN experts.” May 12, 2021. <https://www.ohchr.org/en/press-releases/2021/05/myanmar-time-business-take-stand-against-human-rights-violations-un-experts>.

¹⁴⁸ Ibid.

¹⁴⁹ United Nations Development Programme. Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts: A Guide, 2022. https://www.myanmarsbn.org/en/system/files/resource-files/undp_heightened_human_rights_due_diligence_for_business_in_conflict-affected_contexts_v2.pdf.

¹⁵⁰ United Nations Working Group on Business and Human Rights, “Business, human rights and conflict-affected regions: towards heightened action – Executive Summary,” October 2020. <https://www.ohchr.org/EN/Issues/Business/Pages/ConflictPostConflict.aspx>.

¹⁵¹ Ibid.

¹⁵² Debevoise & Plimpton, “Practical Definitions of Cause, Contribute, and Directly Linked to Inform Business Respect for Human Rights,” February 9, 2017. <https://media.businesshumanrights.org/media/documents/files/documents/Debevoise-Enodo-Practical-Meaning-of-Involvement-Draft-2017-02-09.pdf>.

As is noted by the Institute for Human Rights and Business, it could make sense for Japanese or other international companies to cut their ties and exit the Myanmar economy if their company was contributing to, or directly linked to harm, and the company could not exercise any leverage – collectively or individually – to prevent or mitigate that harm.¹⁵³ The answer to the question of whether an individual company should exit the Myanmar economy, however, will be different for each individual business and the sector that the business operates in.

In the manufacturing sector, for example, companies can usually maintain leverage to ensure that at least their own operations, and usually those of their business partners, respect human rights on issues such as worker safety, fair wages, and the rights to freedom of association and expression. For other sectors, such as telecommunications, however, Myanmar’s legal framework does not provide human rights protections on issues such as internet shutdowns or surveillance, and after the coup, many companies were put under pressure to share sensitive data with military authorities that was then used to punish those organizing protests opposed to military rule.

Indeed, both Telenor and Ooredoo, two of Myanmar’s largest foreign-owned telecommunications providers, initiated an exit from the economy shortly after the coup, as the military’s application of laws put both of the firms in an extremely difficult position.¹⁵⁴ While in theory, telecommunications firms could still operate responsibly with regards to worker rights, the forced undermining of its customers’ rights to privacy was not compliant with the UNGPs and other international standards on responsible business conduct such as the OECD Guidelines.

To fully exit the Myanmar economy, Telenor sold its remaining stake in the country to a private equity company, M1 Group.¹⁵⁵ Unbeknownst to Telenor, however, M1 Group was controlled and operated by the former Prime Minister of Lebanon, who had been accused of committing severe human rights violations in the Middle East.¹⁵⁶ In response to this revelation, several civil society organizations raised the alarm that the sale to M1 Group was not characteristic of a ‘responsible exit’ as prescribed by the UNGPs and other international standards.¹⁵⁷ To further their point, a total of 474 civil society organizations jointly filed a complaint with the Norwegian government’s National Contact Point on the OECD Multinational Guidelines for Responsible Business Conduct, arguing that the sale of its Myanmar business to M1 Group failed to meet the necessary standards of responsible disengagement set out in the Guidelines.¹⁵⁸

Another serious question that arose for international businesses – particularly in the highly militarized environment that materialized in post-coup Myanmar – was whether they also ran the risk of being complicit and/or legally liable in human rights abuses. As Professor

¹⁵³ Salil Tripathi, John Morrison, and Vicky Bowman, “Staying or Leaving Myanmar? What’s Needed is a Human Rights-led Approach,” September 14, 2021, *Institute for Human Rights and Business (IHRB)*. <https://web.archive.org/web/20220325065600/https://www.ihrb.org/other/businesss-role/staying-or-leaving-myanmar-whats-needed-is-a-human-rights-led-approach>.

¹⁵⁴ Nikkei Asia, “Qatari telecom Ooredoo to exit Myanmar, following Norway’s Telenor”, September 9, 2022. <https://asia.nikkei.com/Business/Telecommunication/Qatari-telecom-Ooredoo-to-exit-Myanmar-following-Norway-s-Telenor>.

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

¹⁵⁷ Cara Casey-Boyce, “Assessing the human rights impact of doing business in Myanmar.” *Ethical Trading Initiative*, August 10, 2022. <https://www.ethicaltrade.org/blog/assessing-human-rights-impact-doing-business-myanmar>.

¹⁵⁸ OECD Watch, SOMO representing 474 Myanmar CSOs vs. Telenor ASA,” July 27, 2021. <https://www.oecdwatch.org/complaint/somo-representing-474-myanmar-csos-vs-telenor-asa/>.

John Ruggie noted in his 2008 report to the UN Human Rights Council, a company’s “mere presence in a country, paying taxes, or silence in the face of abuse is unlikely to amount to the practical assistance required for legal liability.”¹⁵⁹ But while companies are not likely to be held legally liable for the human rights abuses of others, the reputational risks for companies present in such settings remain quite high.

Thus, as it became more and more clear that some international companies were increasingly unable to meet their responsibilities under the UNGPs and other international standards to which they committed themselves in the Myanmar context, some companies began commissioning third party assessments to evaluate their sustained economic presence within the Myanmar economy. Of particular note was an assessment conducted by the Ethical Trading Initiative (ETI), an NGO that promotes responsible investment and trade in developing economies. Their assessment, commissioned by Marks & Spencer and other European firms, focused specifically on exports to the European Union (EU) and the UK from Myanmar’s garment sector between February 2021 and July 2022.¹⁶⁰

Among other pertinent issues, the ETI assessment found that forced labor, excessive use of overtime, financial penalties for refusing work, and the harassment and abuse of workers were rampant across Myanmar’s garment sector in the aftermath of the military coup.¹⁶¹ While the report did not explicitly recommend that international brands leave the country, it suggested that brands plan for a ‘responsible exit’ from the Myanmar economy to mitigate the impact of their withdrawal on workers and their suppliers.¹⁶²

The ETI assessment further noted that in the face of widespread violence and corruption, a culture of fear pervaded normal life in Myanmar, creating a situation wherein workers were mostly unable to fully exercise their human rights.¹⁶³ In this kind of environment, the assessment concluded that brands would find it nearly impossible to conduct normal human rights due diligence, let alone the heightened due diligence that conflict-afflicted countries such as Myanmar would normally require. Thus, the ability of individual businesses to mitigate their impacts would be extremely limited.¹⁶⁴

Pointing to language the UNGPs (particularly Principle 23), the ETI assessment concluded that “the domestic context renders it impossible” for international companies engaged in the garment sector to uphold their responsibility to respect human rights wherever they operate, and to the greatest extent possible to demonstrate their efforts in this regard.”¹⁶⁵

In response to the ETI assessment and their own internal risk analysis, Marks & Spencer, a British retailer, declared that it would likely be impossible for the company to respect their Global Sourcing Principles, and that the company would soon execute a ‘responsible exit’

¹⁵⁹ United Nations, “Protect, Respect and Remedy: A Framework for Business and Human Rights Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie.” <https://media.business-humanrights.org/media/documents/files/reports-and-materials/Ruggie-report-7-Apr-2008.pdf>.

¹⁶⁰ Libby Annat and Jennifer Schappert, “Myanmar enhanced due diligence sectoral assessment.” *Ethical Trading Initiative*, September 12, 2022. <https://www.ethicaltrade.org/resources/myanmar-enhanced-due-diligence-sectoral-assessment>.

¹⁶¹ Cara Casey-Boyce, “Assessing the human rights impact of doing business in Myanmar.” *Ethical Trading Initiative*, August 10, 2022. <https://www.ethicaltrade.org/blog/assessing-human-rights-impact-doing-business-myanmar>.

¹⁶² Ibid.

¹⁶³ Ibid.

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

from Myanmar.¹⁶⁶ A recommendation similar to that of ETI was also issued by the parallel National Unity Government of Myanmar, which requested that companies investing in Myanmar follow its socially responsible disengagement policy based on the UNGPs.¹⁶⁷ This was particularly the case for companies in the mining sector – jade, copper, and rare earth mines, where the activities of these companies was fueling human rights abuses, deforestation, environmental contamination, and land expropriation, among other issues.¹⁶⁸

The Response of International Companies to the Military Coup

Introduction

Over roughly the same period as the ETI assessment (February 2021 – December 2022), at least 28 large multinational companies, including Japanese firms, left Myanmar or temporarily suspended their activities in the country as a result of the military coup.¹⁶⁹ Among others, this included Kirin, the Amata Corporation, Electricité de France, Petronas, Sembcorp, the Woodside V Power group, Moattama Gas Transportation Company, Myanmar Metal, Toyota, Suzuki, Adani Ports, and Metro.¹⁷⁰

In exiting or suspending their operations in Myanmar, many European companies cited the growing human rights and reputational challenges to continuing their operations there.¹⁷¹ Compounding the situation further, especially for these same European companies, was the particularly strong pressure from shareholders and human rights advocacy groups, who approached companies and institutional investors to request that they sever their financial ties with MOGE, MEC, or MEHL and other SOEs that ostensibly provided direct financial support to the Myanmar military.¹⁷²

Against this backdrop of international exits and increasing pressure from civil society, a new UN report entitled ‘*Progress made and remaining challenges with regard to the recommendations of the independent international fact-finding mission on Myanmar*’, authored by the United Nations Office of the High Commissioner for Human Rights (OHCHR) was released roughly a year and a half after the military coup in September 2022.¹⁷³ The report outlined the remaining challenges for multinational corporations in mitigating the impact of their business activities to support the economic interests to the military. It also recommended that all companies operating in Myanmar systematically

¹⁶⁶ Ibid.

¹⁶⁷ The National Unity Government of Myanmar (Ministry of Planning, Finance, and Investment), “Announcement No.3/2022: Supporting Business for Socially Responsible Disengagement,” April 2, 2022. <https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/2022-04-02-NUG-MOPFI-Announcement-No.3-pio-en.pdf>.

¹⁶⁸ Ibid.

¹⁶⁹ This figure is only accurate as of December 31, 2022.

¹⁷⁰ Cecilia Brighi and Khaing Zar Aung, “Economic and political challenges imposed on the Myanmar labor movement by the military junta,” *Torino World Affairs Institute*, December 1, 2022. <https://www.twai.it/articles/economic-political-challenges-myanmar-labor-movement/>.

¹⁷¹ Nikkei Asia, “Farewell, Myanmar: Corporate exodus grows, from Europe to India,” October 30, 2021. <https://asia.nikkei.com/Spotlight/Myanmar-Crisis/Farewell-Myanmar-Corporate-exodus-grows-from-Europe-to-India>.

¹⁷² Justice for Myanmar, “Concern Expressed Over Japanese Companies Continuing Business in Myanmar,” April, 20, 2022. <https://www.justiceformyanmar.org/press-releases/concern-expressed-over-japanese-companies-continuing-business-in-myanmar>.

¹⁷³ United Nations Office of the High Commissioner for Human Rights, *Progress made and remaining challenges with regard to the recommendations of the independent international factfinding mission on Myanmar*, Geneva, Switzerland: September 2022.

carry-out heightened HRDD in line with the recommendations of the FFM to ensure that financial flows did not end up benefitting the military regime.¹⁷⁴

The U.S. State Department released a similar report in January 2022, issuing a business advisory that warned American companies operating in Myanmar “to inform individuals, businesses, financial institutions, and other persons...of the heightened risks associated with doing business...particularly business activity that could benefit the Burmese military regime.”¹⁷⁵ According to the advisory, U.S. “businesses and individuals with potential exposure to, or involvement in operations or supply chains tied to, the military regime that do not conduct appropriate due diligence run the risk of engaging in conduct that may expose them to significant reputational, financial, and legal risks, including violations of U.S. anti-money laundering laws and sanctions.”¹⁷⁶

But while many Western companies and governments warned domestic investors, citing the military coup and the human rights situation in their decisions issue advisories in the months following the coup, most Japanese companies took a slightly different approach. As will be elaborated in the individual case studies of Japanese companies in the following section, many Japanese companies attempted to mitigate the immediate adverse impacts of the coup by temporarily suspending their operations, and embracing a so-called “wait and see” approach, to assess whether the situation in Myanmar would stabilize and regular investments could eventually resume.

¹⁷⁴ Ibid, p.19.

¹⁷⁵ U.S. Department of State, “Risks and Considerations for Businesses and Individuals with Exposure to Entities Responsible for Undermining Democratic Processes, Facilitating Corruption, and Committing Human Rights Abuses in Burma (Myanmar),” January 26, 2022. <https://www.state.gov/risks-and-considerations-for-businesses-and-individuals-with-exposure-to-entities-responsible-for-undermining-democratic-processes-facilitating-corruption-and-committing-human-rights-abuses-in-burma/>.

¹⁷⁶ Ibid.

The Response of Japanese Companies to the Military Coup

Kirin's Response

When news of the military coup first broke, for Kirin, the Japanese brewery first implicated in the 2019 United Nations FFM report, it greatly complicated the company's position and internal calculus on its future planned investment in Myanmar. After more than two years of criticism by human rights activists and the media for their ties and joint venture with MEHL, the coup served as the final proverbial straw that "broke the camel's back."

Only four days after the military coup, the company officially announced that it would sell its stake in the joint venture with MEHL. In a press statement published on Kirin's website which elaborated on its decision, the company noted that it had "decided to invest in Myanmar in 2015, believing that, through our business, we could contribute positively to the people and the economy of the country as it entered an important period of democratization."

"We decided to invest in Myanmar in 2015, believing that, through our business, we could contribute positively to the people and the economy of the country as it entered an important period of democratization..."

– Kirin Press Release, February 5, 2021.¹⁷⁷

Although some expected Kirin to fully exit the economy or otherwise take strong action following the military coup, the company did not immediately choose to exit the economy. In December 2021, more than 9 months after the coup, Kirin's CEO Yoshinori Isozaki was quoted by Japan's *Nikkei* newspaper as saying that the company wanted to "continue its beer business in Myanmar...and that the best scenario is that we keep operating."¹⁷⁸ Isozaki further noted that if Kirin were to leave the economy, it would open the door to replacement companies that do not respect human rights. Thus, the company argued that their sustained presence in the economy would promote human rights.

After unsuccessful negotiations with MEHL that spanned several months, however, Kirin grew frustrated and took its case to the Singapore International Arbitration Center in early December 2021. Despite the arbitration filing, the Japanese company deemed two months later, in February 2022, that it would remain increasingly difficult for the company to promptly dissolve the joint venture under its terms, and thus withdrawal from the economy was now a realistic option.¹⁷⁹ In formulating a withdrawal plan, Kirin said it would place importance on the livelihood and safety of local employees and their families, would act in accordance with its internal human rights policy.

¹⁷⁷ Kirin, Press Release: "Statement on the situation in Myanmar," February 5, 2021. https://www.kirinholdings.com/en/newsroom/release/2021/0204_01.html

¹⁷⁸ Nana Shibata, "Kirin CEO: top priority is to continue brewing in Myanmar," *Nikkei Asia*, December 15, 2021. <https://asia.nikkei.com/Editor-s-Picks/Interview/Kirin-CEO-top-priority-is-to-continue-brewing-in-Myanmar>.

¹⁷⁹ Kyodo News, "Kirin to exit Myanmar, end beer partnership with military entity," February 14, 2022. <https://english.kyodonews.net/news/2022/02/b8946c36b36f-kirin-to-exit-myanmar-end-beer-partnership-with-military-entity.html>.

On June 30 2022, Kirin announced its official exit policy from the Myanmar economy, deciding to transfer all shares of Myanmar Brewery Limited (MBL), a joint venture with allegedly military-linked Myanma Economic Holdings Public Company Limited (MEHPCL), to MBL. The press release explained three possible options that Kirin had, and finally decided on a share transfer to MBL in a share buyback transaction to prioritise quick termination of the joint venture.¹⁸⁰

To this decision, *Justice for Myanmar*, the activist group, described Kirin's exit as "irresponsible", as the current exit plan would continue providing revenue to the Myanmar military. Its press release stated the responsible move should be denying funds to the Myanmar military and remedying the negative impact on workers. It also demanded Kirin to disclose their human rights due diligence process.¹⁸¹

¹⁸⁰ Business and Human Rights Resource Center, "Myanmar: Justice For Myanmar says Kirin Holdings' exit "irresponsible" for placing military conglomerate in control of their joint venture; incl. co. response," July 12, 2022. <https://www.business-humanrights.org/en/latest-news/myanmar-justice-for-myanmar-says-kirin-holdings-exit-irresponsible-for-placing-military-conglomerate-in-control-of-their-joint-venture-incl-co-response/>.

¹⁸¹ Justice for Myanmar, "Kirin Holdings' irresponsible exit will continue its complicity in Myanmar military's atrocity crimes, June 30, 2022. <https://www.justiceformyanmar.org/press-releases/kirin-holdings-irresponsible-exit-will-continue-its-complicity-in-myanmar-militarys-atrocity-crimes>.

Figure 2: Timeline of Kirin's Involvement in Myanmar

August 2015	Kirin's subsidiary, Myanmar Brewery, announces a USD 70 million investment to build a new brewery in Myanmar.
August 2017	Kirin acquires a 55% stake in Mandalay Brewery, one of Myanmar's largest beer producers. The remaining 45% was owned by the Myanmar military-linked Myanmar Economic Holdings Limited (MEHL).
August 2019	United Nations Fact-Finding Report <i>The economic interests of the Myanmar military</i> is released. ¹⁸²
June 2020	Kirin announces that it had commissioned an independent investigation into Myanmar Brewery Limited's links to the military. The investigation was conducted by Deloitte Tohmatsu Financial Advisory. ¹⁸³
January 2021	The results of the independent investigation conducted by Deloitte Tohmatsu Financial Advisory were found to be inconclusive. ¹⁸⁴
February 2021	Following the military coup in Myanmar, Kirin announces that it will terminate its joint venture with the Myanmar military-owned Myanmar Economic Holdings Limited (MEHL) due to human rights violations by the military.
February 2021	Kirin announces that it will write down the value of its Myanmar brewery assets and take a loss of approximately USD 400 million due to the termination of the joint venture.
December 2021	Kirin files an arbitration case with the Singapore Arbitration Center to assist it in selling its stake in the joint venture with MEHL. ¹⁸⁵
February 2022	Kirin announces that it will withdraw from the Myanmar economy after failed negotiations to exit the joint venture with MEHL. ¹⁸⁶
June 2022	Kirin releases its official plan for disengagement from the Myanmar economy. ¹⁸⁷
September 2022	Kirin withdraws its arbitration case from the Singapore Arbitration Center. ¹⁸⁸

¹⁸² United Nations Office of the High Commissioner for Human Rights, "UN Fact-Finding Mission on Myanmar exposes military business ties, calls for targeted sanctions and arms embargoes," August 5, 2019. <https://www.ohchr.org/en/press-releases/2019/08/un-fact-finding-mission-myanmar-exposes-military-business-ties-calls?LangID=E&NewsID=24868>.

¹⁸³ Kirin, Press Release: "Progress Report Regarding Kirin's Operations in Myanmar," June 5, 2020. https://www.kirinholdings.com/en/newsroom/release/2020/0605_01.html.

¹⁸⁴ Reuters, "Kirin undecided on Myanmar beer business after inconclusive third-party probe," January 7, 2021. <https://www.reuters.com/article/kirin-myanmar-idINKBN29C0A0>.

¹⁸⁵ The Asahi Shimbun, "Kirin seeking arbitration to end venture linked to Myanmar military," December 6, 2021. <https://www.asahi.com/ajw/articles/14496352>.

¹⁸⁶ Nikkei Asia, "Kirin makes painful decision to exit Myanmar over human rights," February 14, 2022. <https://asia.nikkei.com/Spotlight/Myanmar-Crisis/Kirin-makes-painful-decision-to-exit-Myanmar-over-human-rights>.

¹⁸⁷ Business and Human Rights Resource Center, "Myanmar: Justice For Myanmar says Kirin Holdings' exit "irresponsible" for placing military conglomerate in control of their joint venture; incl. co. response," July 12, 2022. <https://www.business-humanrights.org/en/latest-news/myanmar-justice-for-myanmar-says-kirin-holdings-exit-irresponsible-for-placing-military-conglomerate-in-control-of-their-joint-venture-incl-co-response/>.

¹⁸⁸ Nikkei Asia, "Kirin pulls arbitration request in venture with Myanmar," September 21, 2022. <https://asia.nikkei.com/Spotlight/Myanmar-Crisis/Kirin-pulls-arbitration-request-in-venture-with-Myanmar-military>.

The Extended Fallout of the Coup

Elaborating on the fallout of the coup on Japanese companies outside of the Kirin case, a Japanese diplomat working on the Myanmar desk in the Ministry of Foreign Affairs, and who was stationed at the Japanese Embassy in Yangon on February 1, 2021, mentioned in an interview with the author of this report that many Japanese companies had approached the Embassy in the days after the military coup asking for assistance in how to navigate the rapidly deteriorating political situation.¹⁸⁹ Many of these same companies then reportedly requested and received governmental assistance to navigate the coup's fallout. According to the diplomat, Tokyo viewed the Embassy as an important vehicle by which "to assist the more than 400 Japanese companies operating in Myanmar."¹⁹⁰

As political instability dragged on for months after the coup, the diplomat joked that the Embassy acted more like a "hotline" for the more than 400 Japanese businesses still operating Myanmar, rather than a diplomatic mission carrying out typical consular or economic duties. Many of the Japanese companies which requested help from the Embassy also reportedly expressed concerns about how to manage the situation, including some who asked questions about whether to suspend their in-country operations or to begin initiating an exit from the economy.

Following the coup, many Japanese companies also grew increasingly concerned about where their tax revenues would be sent and whether the revenues would potentially benefit the new military regime. Akio Mimura, then-President of the Japan Chamber of Commerce and Industry in Myanmar, pointed out in an interview with the *Sankei Shimbun* that "Companies are being told not to pay taxes by their employees and citizens. The idea of paying taxes is to support the military... and that "...companies operating in the country are having a very hard time."¹⁹¹

Yet despite the concerns of many large Japanese companies operating within the economy over these tax revenues, initiating an exit from the economy, and other operational challenges brought about by the coup, very few companies cited or otherwise referred to the UNGPs. An interview with the CEO of one Japanese SME in Myanmar conducted for this report revealed that in the immediate aftermath of the coup, the company actively sought to end its financial relationships with military-backed companies, and it also joined a statement released by the Myanmar Center for Responsible Business (MCRB) condemning the coup.

However, when the CEO was asked about the UNGPs, he stated that they were non-factor consideration in its decision-making. Instead, the company referred to external resources such as Burma Campaign UK's "Dirty List" – a list of companies published by an NGO that identifies companies that conduct business with military-backed entities.¹⁹²

¹⁸⁹ Interview with official from the Japanese Ministry of Foreign Affairs, conducted in January 2023.

¹⁹⁰ Ibid.

¹⁹¹ The Sankei Shimbun, "Japanese companies continue to face difficulties in Myanmar Unable to accept coup d'état," April 25, 2021. <https://www.sankei.com/article/20210425-XJ4ITUM5CZPINHV3AO2MB6BM7A/>.

¹⁹² Interview with the CEO of Japanese SME, conducted in April 2023.

Exodus From the Japan-Myanmar Association

Another direct consequence of the military coup specific to the Japanese context was that it facilitated a mass exodus of Japanese companies from the ranks of the Japan-Myanmar Association, the influential pro-military lobbying group. Although some large companies such as Toyota very quickly left the Association following the coup, other companies only decided to leave after damning public comments made by the Chairman of the Association, Hideo Watanabe.¹⁹³

According to various media reports, Mr. Watanabe directly endorsed the military coup and lavished praise on Senior General Min Aung Hlaing, saying that the orchestrator of the coup and Chairman of the SAC had “grown fantastically as a human being” since the coup took place.¹⁹⁴ Watanabe’s son Yusuke also penned an Op-Ed in the popular international affairs magazine *The Diplomat*, arguing that Japan “must position itself as a bridge between the Tatmadaw and the United States and other democratic countries rather than blindly aligning itself with the Western policy of regime change.”¹⁹⁵ In doing so, Watanabe explicitly rejected the so-called ‘Western’ approach towards Myanmar, which included the imposition of economic sanctions.

Needless to say, the comments made by both Watanabe and other senior Association leaders were a major cause for alarm among Japanese companies attempting to manage their exposure to reputational damage in the coup’s aftermath, prompting many of the companies to reconsider their position. Many companies quietly exited the Association in the months following the coup, only confirming that they had left to journalists or other members of the media rather than issuing public statements.

According to a news report released by Reuters in December 2021, some companies also actively and publicly pushed back against comments made by Watanabe and other members of the Association. For instance, XYMAX Corp, a Japanese property management firm, told Reuters that it had expressed concerns directly to the JMA about the association’s position on the coup several times, with Ryuhei Mori, an executive at XYMAX noting that company did not support the coup, and that it “can’t support comments that seem to endorse the coup.”

“We don’t support the coup at all, and we can’t support comments that seem to endorse the coup...”

– Ryuhei Mori, executive at XYMAX Corporation, December 20, 2021.¹⁹⁶

Perhaps the most emblematic of the Association’s position and the opinions of its senior leadership towards the military was the ceremony held in Naypyitaw in February 2023 to

¹⁹³ Ju-min Park and Antoni Slodkowski, “Japan business lobbyist backs Myanmar coup, urges investment,” *Reuters*, December 20, 2021. <https://www.reuters.com/business/autos-transportation/japan-business-lobbyist-backs-myanmar-coup-urges-investment-2021-12-17>.

¹⁹⁴ *Ibid.*

¹⁹⁵ Yusuke Watanabe, “On Myanmar, Japan Must Lead by Example,” *The Diplomat*, May 26, 2021. <https://thediplomat.com/2021/05/on-myanmar-japan-must-lead-by-example/>.

¹⁹⁶ Ju-min Park and Antoni Slodkowski, “Japan business lobbyist backs Myanmar coup, urges investment,” *Reuters*, December 20, 2021. <https://www.reuters.com/business/autos-transportation/japan-business-lobbyist-backs-myanmar-coup-urges-investment-2021-12-17>.

bestow awards upon Hideo Watanabe and Taro Aso for their efforts “to promote friendship between Myanmar and Japan, to develop Myanmar and to promote Japanese investment in Myanmar.”¹⁹⁷

Figure 3: Snapshot of companies that left the Japan-Myanmar Association

* = An approximate date based on media reports.¹⁹⁸

Date of Exit	Company Name	Industry
February 2021	Toyota Motors	Auto
February 2021	Itochu Corporation	Trading Company
December 2021*	Vessel Hotel Development Co. ¹⁹⁹	Hospitality
December 2021*	Global Innovation Consulting ²⁰⁰	Professional Services
December 2021*	Musashi Fusoh	Garment/Clothing
December 2021*	JCB International Co	Financial Services
December 2021*	SPARX Asset Management	Financial Services
March 2022*	Mitsubishi Corporation	Trading Company
March 2022*	SOMPO Holdings	Insurance
March 2022*	Kawasaki Kisen Kaisha	Transportation/Logistics
March 2022*	Tokio Marine & Nichido Fire Insurance	Insurance

¹⁹⁷ The Asahi Shimbun, “Aso, Watanabe awarded medals by Myanmar military regime,” February 22, 2023. <https://www.asahi.com/ajw/articles/14845699>.

¹⁹⁸ Hiroyuki Okada and Akira Mizushima, “Circumstances where companies continue to withdraw from the Japan Myanmar Association.” *Toyo Keizai*, <https://toyokeizai.net/articles/-/599770>.

¹⁹⁹ Ju-min Park and Antoni Slodkowski, “Japan business lobbyist backs Myanmar coup, urges investment,” *Reuters*, December 20, 2021. <https://www.reuters.com/business/autos-transportation/japan-business-lobbyist-backs-myanmar-coup-urges-investment-2021-12-17>.

²⁰⁰ *Ibid.*

Comparing the Western and Japanese Approach

From the very beginning, a particular point of difference between the approach of Western and Japanese companies invested in Myanmar was that while many Western companies had adopted internal human rights policies in-line with international standards such as the UNGPs and OECD Guidelines, very few Japanese companies had done the same. As will be discussed later on, this lack of awareness among Japanese companies about standards on responsible business conduct significantly contributed to the lack of action taken by companies to mitigate the real and potential human rights impacts created or exacerbated by their business activities in Myanmar following the military coup.

Another critical reason for the difference between the Japanese and Western approach was the direct involvement of the Japanese government, which had attempted to “rush” back into the economy to win back economic influence in the country from China.²⁰¹ In the process of doing so, the Japanese government often provided incentives such as technical and financial assistance to conglomerates who chose to invest in the economy. Despite facilitating fairly substantial amounts of investment, the Japanese government instituted no requirements for companies to actively screen for potential or actual human rights risks.

This was the exact opposite of the approach taken by the U.S. State Department following Myanmar’s political reopening in 2011, which instituted a set of reporting requirements for American companies entering the economy to ensure that they disclosed information that would allow the U.S. government to evaluate their impact on human rights.²⁰² Although these screening requirements were ultimately eliminated in 2016, they provided key data to both the U.S. Government and American companies entering or expanding into the Myanmar economy in the early years of the civilian transition to mitigate potential reputational or human rights risks.²⁰³

As will be explored in more depth later in the report, very few Japanese companies actively withdrew their investments from Myanmar voluntarily in the aftermath of the coup. Instead, most Japanese companies took a so-called “wait and see” approach, temporarily suspending their operations while waiting for the situation to improve so they could better assess if “business as usual” could eventually resume. Of the Japanese companies that voluntarily left the Myanmar economy following the coup, the vast majority had some prior exposure to reputational damage relating to their existing investments that simply worsened after the military coup occurred.

Although most Japanese companies invested in Myanmar chose to suspend their operations rather than initiate a responsible exit from the economy, there were a still small handful of companies that actually chose to expand their operations, despite the political and human rights challenges that greatly complicated further investment. A notable example of such a company was the apparel maker Honeys Holdings, who decided to build a third factory in Myanmar shortly after the coup, citing the cost of cheap labor in the country’s garment sector.²⁰⁴

²⁰¹ Patrick Strefford, ‘Foreign Debt: Distorting Japan’s ODA Diplomacy towards Myanmar,’ *Ritsumeikan kokusai kenkyu*, Vol. 19. No. 2 (October 2006), p. 162.

²⁰² Domini, “Can Japanese Companies Help Uphold Human Dignity in Burma?” December 10, 2019. <https://domini.com/insights/can-japanese-companies-help-uphold-human-dignity-in-burma/>.

²⁰³ Ibid.

²⁰⁴ Michinori Oguchi, “Myanmar garment industry draws fresh investment from Japan's Honeys,” *Nikkei Asia*, August 2, 2022. <https://asia.nikkei.com/Business/Retail/Myanmar-garment-industry-draws-fresh-investment-from-Japan-s-Honeys>.

Addressing the question of human rights in an interview with Japan's *Nikkei* newspaper, Honeys President Eisuke Ejiri said that the company actively undergoes screenings by an international certification firm, and that these audits sufficiently check factories for human rights abuses such as child labor, forced labor and discrimination, as well as for the health and safety of workers, and freedom of association. Honeys Chairman Yoshihisa Ejiri added that the company maintained "no relationship with the military, and we contribute to the community by retaining and adding jobs."

"Our company has no relationship with the military, and we contribute to the community by retaining and adding jobs..."

– Yoshisha Ejiri, Chairman of Honeys, August 2, 2022.²⁰⁵

The Role of the "Sham Election"

Shortly after assuming power on February 1, 2021, the SAC announced that a new election would soon take place due to the widespread fraud that ostensibly took place during the prior November 2020 elections.²⁰⁶ The original timeline for this so-called election, which was almost immediately condemned and discredited by the international community as a sham upon its announcement, were for nationwide elections to be held in August 2023 – roughly two years and a half after the military took power.²⁰⁷ The legal instrument the junta initially used to take power mandated that such that elections be announced six months prior to the expiration of the SAC's own self-imposed state of emergency.²⁰⁸

For some Japanese companies and other foreign investors who had been patiently waiting for the situation to return the normalcy, the election announcement provided a rough timeline by which they may soon be able to resume planning economic activities, similar to how they had under the previous civilian regime headed by the NLD. An interview conducted by the author with another Foreign Ministry official in December 2022 revealed that some Japanese actors viewed the "election" announced by Senior General Min Aung Hlaing and the SAC as a potentially critical turning point.²⁰⁹

At the time of interview, however, the Foreign Ministry official expressed skepticism about the timing of the election, and expressed additional concern that the security situation in Myanmar could mean that such an election would perhaps need to be canceled or postponed.²¹⁰ The view that an election needed to be held to return the country to stability was one pushed by high-profile supporters of the SAC within Japan, including Taro Aso,

²⁰⁵ Ibid.

²⁰⁶ International Crisis Group, "A Road to Nowhere: The Myanmar Regime's Stage-Managed Elections," March 28, 2023. <https://www.crisisgroup.org/asia/south-east-asia/myanmar/b175-road-nowhere-myanmar-regimes-stage-managed-elections>.

²⁰⁷ Mizzima News, "US's Blinken urges rejection of Myanmar junta 'sham' elections," August 6, 2022. <https://mizzima.com/article/uss-blinken-urges-rejection-myanmar-junta-sham-elections>.

²⁰⁸ International Crisis Group, "A Road to Nowhere: The Myanmar Regime's Stage-Managed Elections," March 28, 2023. <https://www.crisisgroup.org/asia/south-east-asia/myanmar/b175-road-nowhere-myanmar-regimes-stage-managed-elections>.

²⁰⁹ Interview with official from the Japanese Ministry of Foreign Affairs, conducted in December 2022.

²¹⁰ Ibid.

the former Japanese Prime Minister and other influential officials belonging to the Japan-Myanmar Association.

Particularly notable were the comments of Yohei Sasakawa, Chairman of the Nippon Foundation, who spoke for many in the Japanese business and investment communities when he proclaimed that the junta's proposed election must be held, a thinly veiled allusion to restoring business confidence in the country among both the Japanese government and other potential private sector investors.²¹¹ Conversations with several officials and private-sector stakeholders in March 2023, including a representative of a Japanese law firm based in Yangon who advised several Japanese companies in the aftermath of the coup, also believed that the delay of the junta's proposed election could possibly lead more companies to exit the economy in the foreseeable future.²¹²

²¹¹ Nikkei Asia, "ASEAN working-level talks key to Myanmar peace: Japan special envoy," February 10, 2023. <https://asia.nikkei.com/Editor-s-Picks/Interview/ASEAN-working-level-talks-key-to-Myanmar-peace-Japan-special-envoy>.

²¹²

Three Problematic Investment Projects

Introduction

At the heart of Japan's investments in Myanmar are three key investment projects deemed to be 'unacceptable' by civil society organizations (CSOs) and human rights activists for their direct role in bankrolling and/or otherwise financial supporting activities carried out by the Myanmar military. To better assess how criticism of Japanese companies over their investments in these high-profile investment projects impacted their decision-making with respect to their future investment and policies on business and human rights, this section conducts a case study analysis of individual Japanese companies and how they reacted to criticism of their investments.

The three projects analyzed are the:

- *Thilawa Special Economic Zone (Thilawa SEZ);*
- *Yetagun Gas Project; and*
- *Landmark Project (Yoma Central Project)*

For each of these three investment projects, this section will provide background, context, and a case study assessment of how individual Japanese companies invested in the above projects responded to heightened criticism from human rights activists, civil society organizations, and the media in the aftermath the coup.

It will also assess to what extent the companies cited human rights concerns or their failure to adhere to international standards on responsible business conduct in the announcement of their decisions. By analyzing how Japanese companies responded to criticism of their involvement in high-profile investment projects, it is hoped that that patterns into how the February 1, 2021 military coup impacted can be identified and further elaborated.

It should be noted that the role of the Japan Bank of International Cooperation (JBIC) and other Japanese financial institutions in financing the 'Y Complex', a high-profile real estate project reportedly built on military-leased land is not covered within the scope of this report.²¹³

Thilawa Special Economic Zone (SEZ)

Background and Context

The Thilawa Special Economic Zone was the first large-scale project pursued by the Japan-Myanmar Association after its founding in 2012. Yukio Edano, the incumbent METI minister, reportedly stated at the JMA's launch party that "together with members of the Japanese business community, cooperation between our two countries can definitely make this development project [the Thilawa SEZ] happen for the benefit of all involved."²¹⁴

²¹³ Fair Finance Guide Japan, "Who is Financing the Myanmar Military? Tracking Monetary Flows from Japanese Businesses and the Institutions that Finance Them," February 15, 2022. https://fairfinance.jp/media/497629/ffgj-myanmar_en20220215.pdf.

²¹⁴ Makoto Watanabe, "Japanese government wrote off \$46 million debt to open doors for business in Myanmar" *Tokyo Investigative Newsroom*, May 26, 2021. <https://en.tansajp.org/investigativejournal/7717/>.

In October 2011, President Thein Sein officially offered the Thilawa area to Japan to develop as an SEZ. The new government had reportedly been considering dividing up the area surrounding the Thilawa development project between China, South Korea, and Japan, but Tokyo secured exclusive development rights by cancelling Myanmar's outstanding USD 46 million in debt and offering new ODA.²¹⁵

The Thilawa SEZ project, covering an area of over 2,000 hectares, was jointly developed between Myanmar and Japan, with Myanmar holding a 51% stake and Japan 49%.²¹⁶ Nine Myanmar public companies and a consortium of three Japanese firms comprising of Mitsubishi, Marubeni, and Sumitomo were principally responsible for the development of the project.²¹⁷

As the project progressed, Japan supplied Myanmar with an additional JPY 111.9 billion (about USD 1 billion) in ODA for establishing infrastructure within the Thilawa area. At least fifty-six Japanese corporations, including household names like Suzuki, Toyota, and Yakult – set up operations in the economic zone between 2011-2021.

Following the February 1, 2021 military coup, the Thilawa SEZ became problematic for the more than 56 Japanese companies that had been operating there. This was most principally the case in relation to tax revenues. Prior to the coup, most, if not all, tax revenues generated by Japanese companies within the SEZ were sent directly to the civilian government nominally headed by Aung San Suu Kyi's National League for Democracy. Now that tax revenues were flowing to that previously

As noted above, ownership of the Thilawa SEZ is currently comprised of a 51% stake owned by the government of Myanmar, and a 49% stake controlled by Japan. Within the portion controlled by Japan, the stake was broken up between Japanese government agencies and private companies, with Japanese trading houses Sumitomo, Marubeni, and Mitsubishi corporations controlling the majority of the SEZ at the initial inception of the project.

Figure 4: Composition of Ownership of the Thilawa SEZ.²¹⁸

Japanese Companies (39%)
<i>Sumitomo Corporation (32.2%)</i>
<i>Marubeni Corporation (32.2%)</i>
<i>Mitsubishi Corporation (32.2%)</i>
<i>Mizuho Bank (1.13%)</i>
<i>Sumitomo Mitsui Banking Corporation (1.13%)</i>
<i>MUFG Bank (1.13%)</i>

²¹⁵ Ibid.

²¹⁶ Ibid.

²¹⁷ Ibid.

²¹⁸ Justice for Myanmar, "Concern Expressed Over Japanese Companies Continuing Business in Myanmar," April, 20, 2022. <https://www.justiceformyanmar.org/press-releases/concern-expressed-over-japanese-companies-continuing-business-in-myanmar>.

Other Entities (61%)
<i>Myanmar Thilawa SEZ Holdings (41%)</i>
<i>Japan International Cooperation Agency (JICA) (10%)</i>
<i>Thilawa SEZ Management Committee (10%)</i>

Although some human rights activists and left-leaning media figures had criticized the Thilawa SEZ and the Japanese government’s cancellation of debt to establish the special economic zone, the project remained largely uncontroversial up until the military coup, as some of the largest Japanese companies relocated their operations there to reap the tax benefits and other provisions provided by Myanmar government. For the purposes of this section, two case studies of companies invested in the Thilawa SEZ will be conducted – Toyota and Marubeni.

Case Study #1: Toyota Motors

Background

Toyota first entered Myanmar in May 2019, announcing that it would build a new truck factory within the Thilawa SEZ. The company was a relatively late-entrant into the economy when compared to other Japanese automakers such as Suzuki, Nissan, and other smaller manufacturers. Suzuki, for instance, had already built two factories in the country and controlled more than half of the auto market when Toyota entered the market in 2019.

At the time of Toyota’s entry into the economy, the company exported around 2,000 passenger and commercial vehicles to Myanmar each year. As such, Toyota increasingly viewed the construction of a new Myanmar factory as a strategic base in which it could expand its presence in Southeast Asia, while also capitalize on preferential tax policies implemented by the government of Aung San Suu Kyi in 2018.²¹⁹

Although construction of the Toyota factory began in 2019, it was not scheduled to open until February 2021. The original purpose of the factory was to assemble pickup trucks through so-called knockdown production, in which parts imported from Japan and other nearby nations are put together at the new plant.²²⁰

Reaction to February 1, 2021

Following the military coup, Toyota announced that it would delay the planned February 2021 opening of its new truck factory in the Thilawa SEZ. According to a report written by Japan’s *Nikkei* newspaper, Toyota was increasingly concerned about facing criticism for launching the plant right after the military coup.²²¹ This was especially the case in light of circumstances that may have forced the company to pay taxes directly to the new military government.²²²

²¹⁹ The Straits Times, “Japanese automaker Toyota to build factory in Myanmar,” May 27, 2019. <https://www.straitstimes.com/asia/east-asia/japanese-automaker-toyota-to-build-factory-in-myanmar>.

²²⁰ Ibid.

²²¹ Yohei Muramatsu, “Toyota delays opening of new Myanmar plant in wake of coup,” *Nikkei Asia*, February 25, 2021. <https://asia.nikkei.com/Business/Automobiles/Toyota-delays-opening-of-new-Myanmar-plant-in-wake-of-coup>.

²²² Ibid.

At around the same time as the delayed opening of its factory, Toyota, in a similar move, also voluntarily withdrew itself from the Japan-Myanmar Association, joining ITOCHU Corporation as companies that directly cited the coup and worsening human rights challenges in their decisions to exit.²²³ As a late-entrant into the Myanmar economy, Toyota was somewhat less reluctant than other firms to suspend their operations and delay the opening of their new factory, given that it had not yet officially begun operating. In view of the fact that the company still spent had invested significant resources to build the factory, however it did not want to give up and initiate an exit from the economy.

About a year and a half after the coup, in October 2022, Toyota announced that it would officially open its truck factory, beginning production of Hilux trucks from part kits shipped to the factory the previous month. The company further noted that it would aim to assemble around one or two of Hilux trucks per day, with the aim of eventually selling or exporting them back onto the open market.

Following the decision to re-open its factory in Thilawa SEZ, a Toyota spokesperson told the media that the company believed that move met their “initial intention to contribute to the industrial development of Myanmar ... and to support our employees and their families’ lives.” The press release further noted that “under these circumstances, we are continuously making every effort to comply with all relevant laws and regulations.”

As of this writing, it is not clear if Toyota Motor Corporation has resumed tax payments to the SAC, although it seems likely given the successful production of trucks and other equipment there.

"We believe this meets our initial intention to contribute to the industrial development of Myanmar ... and to support our employees and their families’ lives."

– Toyota Press Release, October 12, 2022.²²⁴

²²³ Hiroyuki Okada and Akira Mizushima, “Circumstances where companies continue to withdraw from the Japan Myanmar Association,” *Toyo Keizai*, June 28, 2022 (Japanese).

²²⁴ The Japan Times, “Toyota opens new Myanmar plant put on hold following coup,” October 12, 2022. <https://www.japantimes.co.jp/news/2022/10/12/business/corporate-business/toyota-open-myanmar-plant/>.

Figure 5: Timeline of Toyota’s Involvement in Myanmar

May 2019	Toyota establishes its Myanmar-based subsidiary, Toyota Myanmar Co., Ltd and announces plans to establish a new factory in the Thilawa SEZ scheduled to begin production in February 2021. ²²⁵
February 2021	Toyota announces that its plans to open its new factory in the Thilawa SEZ will be postponed due to the military coup. ²²⁶
February 2021	Toyota exits the Japan-Myanmar Association, citing the military coup. ²²⁷
October 2022	Toyota opens its truck factory in the Thilawa SEZ after a delay of more than a year and a half due to the military coup. It slowly resumes the production of a handful of trucks per month, according to media reports. ²²⁸

Case Study #2: Marubeni

Background

Marubeni has been operating in Myanmar since at least 1959, and is the Japanese company with perhaps the longest track record of investment in the economy.²²⁹ The company is also long-standing beneficiary of ODA loans and other projects initiated in Myanmar by the Japanese government. It was one of the original contractors for the more than 27 billion yen (USD 113 million) in Japanese ODA yen loans that were used for the modernization of Yangon International Airport between 1984 and 1986, and throughout its long history, the company has often directly lobbied the Japanese government to change its investment policies towards Myanmar.²³⁰

Back in the late 1990s, the Japanese government chose to freeze ODA loans and other financial assistance due to outstanding political and economic grievances with the junta. At that time, Iwao Tomimuri, then-president of Marubeni and also the Chairman of JETRO’s Japan-Myanmar Economic Committee, reportedly promised junta officials that the Japanese private sector would pressure the MOFA to fully resume Japan’s ODA.²³¹ In March 1998, the MOFA did exactly that, granting an exemption to Marubeni and one other contractor to continue repair work on the Yangon International Airport modernization project, the same project formerly funded by Japanese aid between 1984 and 1986.²³²

Marubeni’s general perception of its investments in Myanmar can perhaps best be encapsulated by the following statement made by then-CEO Asada Teruo shortly after

²²⁵ Toyota, Press Release: Toyota decides to establish new plant in Myanmar,” May 30, 2019. <https://global.toyota/jp/newsroom/corporate/28253394.html>.

²²⁶ The Associated Press, “Toyota begins making cars in Myanmar after delay due to coup,” <https://apnews.com/article/business-myanmar-yangon-aung-san-suu-kyi-toyota-motor-corp-2b6f3fa1f9ec30d8463ea65d89ccb53d>.

²²⁷ Hiroyuki Okada and Akira Mizushima, “Circumstances where companies continue to withdraw from the Japan Myanmar Association,” *Toyo Keizai*, June 28, 2022 (Japanese).

²²⁸ The Japan Times, “Toyota opens new Myanmar plant put on hold following coup,” October 12, 2022. <https://www.japantimes.co.jp/news/2022/10/12/business/corporate-business/toyota-open-myanmar-plant/>.

²²⁹ Patrick Strefford, “Japan’s Bounty in Myanmar: Finally Reaping the Rewards of Its Long-Term Investment.” *Asian Survey* 56, no. 3 (2016): 488–511. <https://www.jstor.org/stable/26364370>.

²³⁰ *Ibid.*

²³¹ *Ibid.*

²³² *Ibid.*

Myanmar's political reopening in 2012, "Marubeni boasts a 70-year history in Myanmar with a good track record...Myanmar is emotionally attached to us, and that's important to us."²³³

Reaction to February 1, 2021

Following the military coup, Masumi Kakinoki, the current CEO of Marubeni, noted in a press conference with investors that while the company was "deeply concerned" over the situation in Myanmar, it did not want to give up on the economy. Kakinoki reaffirmed that while the company would temporarily halt two feasibility studies on projects to build a hydro power station and a gas-fired power plant respectively, it still planned to continue operating within the Thilawa SEZ for the foreseeable future.²³⁴

Although Marubeni ultimately stood firm on its decision not to withdraw from the Thilawa SEZ, it did temporarily halt a joint project on a hydropower dam in coordination with a consortium of different investors from Western economies. The primary investor in the dam venture, a French utility known as EDF, told civil society groups that it chose to suspend the dam operation in the aftermath of the coup because "it respects human rights."²³⁵

EDF further noted that the decision to suspend the dam project was made *collectively* as a consortium of partners that included as Marubeni. While Marubeni has not revealed public details of its involvement in the project, including the size of its investment, it nonetheless was a stakeholder involved in the decision to temporarily suspend operations on the project. The Japanese company further noted in a media statement that it would handle the case "appropriately" but did not say how it assesses the project's future prospects.

"We don't want to give up and we want to continue our businesses in Myanmar, while we also need to think about protecting the safety of the people involved."

– Masumi Kakinoki, CEO of Marubeni, May 6, 2021.²³⁶

²³³ Yoree Koh, "Angling for Myanmar's Business," *The Wall Street Journal*, November 20, 2012.

<https://www.wsj.com/articles/SB10001424127887324712504578130952722680998>.

²³⁴ Yuka Obayashi, "Marubeni CEO 'deeply concerned' but not giving up on Myanmar," *Reuters*, May 6, 2021. <https://www.nasdaq.com/articles/marubeni-ceo-deeply-concerned-but-not-giving-up-on-myanmar-2021-05-06>.

²³⁵ The Jakarta Post, "Marubeni-involved hydropower project in Myanmar to be frozen," March 23, 2021. <https://www.thejakartapost.com/seasia/2021/03/23/marubeni-involved-hydropower-project-in-myanmar-to-be-frozen.html>.

²³⁶ *Ibid.*

Figure 6: Timeline of Marubeni's Involvement in Myanmar

* = rough estimate

1959	Marubeni enters the Myanmar economy. ^{*237}
1984	Marubeni receives a contract from the Japanese government to modernize Yangon International Airport. ²³⁸
1998	Marubeni receives the greenlight from the Japanese Ministry of Foreign Affairs to resume construction on Yangon International Airport. ²³⁹
May 2013	Marubeni announces expansion of its feed and poultry farming business in Myanmar. ²⁴⁰
October 2013	Marubeni officially establishes its presence within the Thilawa SEZ by forming a subsidiary with Sumitomo and Mitsubishi called Myanmar Japan Thilawa Development Ltd. ²⁴¹
March 2015	Marubeni begins production of gas-fired thermal power generation projects in Myanmar. ²⁴²
October 2017	Marubeni is awarded a contract to refurbish the Taketa combined cycle power plant. ²⁴³
July 2020	Marubeni wins deal for USD 2 billion Myanmar LNG power plant in partnership with Sumitomo and Mitsui & Co. ²⁴⁴
March 2021	Marubeni suspends the development of a hydropower project, in collaboration with of a consortium of international investors led by French company EDF. ²⁴⁵
May 2021	Marubeni CEO Masumi Kakinoki announces the company's intention to remain in Myanmar and the Thilawa SEZ, despite difficulties caused by the military coup.

²³⁷ Patrick Strefford, "Japan's Bounty in Myanmar: Finally Reaping the Rewards of Its Long-Term Investment." *Asian Survey* 56, no. 3 (2016): 488–511. <https://www.jstor.org/stable/26364370>.

²³⁸ Ibid.

²³⁹ Ibid.

²⁴⁰ Marubeni, Press release: "Entry into feed and poultry farming business in Myanmar," May 15, 2013 (Japanese). <https://www.marubeni.com/jp/news/2013/release/00046.html>.

²⁴¹ Marubeni, Press Release: "Establishment of Thilawa Special Economic Zone/Japan-Myanmar joint venture," October 29, 2013 (Japanese). <https://www.marubeni.com/jp/news/2013/release/00097.html>.

²⁴² Marubeni, Press Release: Conclusion of Memorandum of Understanding with Myanmar's Ministry of Electricity for the development of gas-fired thermal power generation project," 2015. <https://www.marubeni.com/jp/news/2015/release/thanlyin.pdf#search=%22%E3%83%9F%E3%83%A3%E3%83%B3%E3%83%9E%E3%83%BC%22>.

²⁴³ Marubeni, Press Release: Marubeni Power Systems Receives Order for Refurbishment of Thaketa Combined Cycle Power Plant from Myanmar Electricity Generating Company Limited," November 1, 2017. <https://www.marubeni.com/jp/news/2017/group/00041.html>.

²⁴⁴ Yuichi Nitta and Yusuka Tanaka, "Japan Marubeni wins deal for \$2bn Myanmar LNG power plant," *Nikkei Asia*, July 23, 2020. <https://asia.nikkei.com/Business/Energy/Japan-Marubeni-wins-deal-for-2bn-Myanmar-LNG-power-plant>.

²⁴⁵ The Jakarta Post, "Marubeni-involved hydropower project in Myanmar to be frozen," March 23, 2021. <https://www.thejakartapost.com/seasia/2021/03/23/marubeni-involved-hydropower-project-in-myanmar-to-be-frozen.html>.

Yetagun Gas Project

Background and Context

The Yetagun gas field was discovered off the coast of Myanmar in December 1992. The development of the gas field started in 1996, while commercial production of natural gas officially began in May 2000. Initially developed by Premier Oil, the gas field was sold to Petronas, Malaysia's state oil company, which took over operations in September 2004.²⁴⁶ At its peak, the gas field's net sales volume exceeded the equivalent of more than 8,000 barrels of oil per day, making Yetagun Myanmar's second largest gas field, and also a highly profitable venture for both the Government of Myanmar and companies involved in the energy extraction.²⁴⁷

Following the February 1, 2021 coup, the Yetagun gas field became a high-profile target of international human rights activists, civil society organizations, and even the Civil Disobedience Movement, who claimed that the involvement of international companies in the project abetted the crimes of the Myanmar military by providing them with significant tax revenues and other funding. At the heart of this criticism was that the international companies had directly engaged with Myanmar Oil and Gas Enterprise (MOGE), Myanmar's state-owned oil company which operated a portion of the project in partnership with Petronas and PTTEP, Thailand's state oil company.²⁴⁸

After the coup, many in the resistance movement targeted MOGE, as activists claimed that the enterprise comprised one of the largest sources of revenue that was bankrolling the regime and providing an unnecessary economic lifeline to Min Aung Hlaing and the SAC. Upon the revelation that some international companies had initially decided to remain in the project, activists began to ramp up their pressure campaign, targeting the international companies involved in the project. Most notably, this included the French company TotalEnergies, and the American energy giant Chevron, who became the prime targets of the so-called "Blood Money Campaign", an effort of local civil society actors to shame international companies into exiting the project and take a more principled approach with respect to their investments in the post-coup economic environment.²⁴⁹

Figure 7: Blood Money Campaign Poster.²⁵⁰



²⁴⁶ NS Energy, "Yetagun Gas Field." <https://www.nsenergybusiness.com/projects/yetagun-gas-field/>.

²⁴⁷ Ibid.

²⁴⁸ Ibid.

²⁴⁹ Blood Money Campaign, Tweet. <https://twitter.com/bloodmoney2222/status/1442344654708506632>.

²⁵⁰ Ibid.

In 2013, a consortium of Japanese business actors including the Government of Japan, JX Nippon Oil & Gas (a subsidiary of ENEOS Corporation) and Mitsubishi Corporation entered into the Yetagun project shortly after Myanmar’s political ‘reopening’ process kicked-off. Upon entering into the project, the Government of Japan took ownership of a majority stake in the gasfield. The private sector companies that partnered with the Government of Japan, ENEOS and Mitsubishi, also became lower-scale targets of activists, but not nearly on the same scale as their Western counterparts.

Figure 8: Ownership of the Yetagun Gas Project

Japanese Ownership
Government of Japan (50.0%)
JX Nippon Oil & Gas Exploration Corporation (ENEOS) (40.0%)
Mitsubishi Corporation (10.0%)

Partner Companies
Petronas (40.9%)
Myanma Oil and Gas Enterprise (MOGE) (20.5%)
PTT Exploration and Production (PTTEP) (19.3%)

Response to Human Rights Criticism

Following more than a year of heightened pressure on both ENEOS and Mitsubishi to exit the Yetagun project, both companies ultimately left the project in 2022, selling their stakes in the venture to other buyers. In a press release citing its decision to leave the project, Mitsubishi Corporation noted that output in the Yetagun gas field had “decreased in recent years” due to resource depletion, making the business less profitable than other similar resource development projects. Thus, the situation made it increasingly difficult for the company to continue operating in Yetagun field given these economic and technical hardships.

When asked by reporters whether Mitsubishi Corporation was re-considering its other investments in Myanmar, a company representative told the media that Mitsubishi would make decisions on the other projects in a “comprehensive manner,” taking into account future developments in the country.²⁵¹ Following Mitsubishi’s exit from the gas field in 2022, both Petronas and PTTEP, the Thai state-owned oil company that controlled a small part of the gas field soon followed suit, leaving in April and May 2022 respectively.²⁵²

The last major Japanese partner in the project, ENEOS, took the opposite approach of Mitsubishi, being very explicit that the reason for its exit from the Yetagun project was

²⁵¹ Nikkei Asia, “Mitsubishi Corp. to offload interest in Myanmar gas field, February 18, 2022.

<https://asia.nikkei.com/Spotlight/Myanmar-Crisis/Mitsubishi-Corp.-to-offload-interest-in-Myanmar-gas-field>.

²⁵² Justice for Myanmar, “Petronas, PTTEP, ENEOS, Mitsubishi Corp & Japan Gov irresponsibly exiting Yetagun gas project,” June 28, 2022. <https://www.justiceformyanmar.org/press-releases/petronas-pttep-eneos-mitsubishi-corp-japan-gov-irresponsibly-exiting-yetagun-gas-project>.

related to the deterioration of the human rights situation and other “social issues” related to the fallout from the coup. In a statement to the media, an ENEOS spokesperson said that the company was closely “examining and discussing with our business partners about all possible measures toward closing the business based on the situation to address social issues and business potential.”²⁵³

Case Study #3: ENEOS

Background

JX Nippon Oil & Energy Corporation, a subsidiary of ENEOS Holdings, formally entered into the Myanmar market in 2011 and joined the Yetagun Gas Project the same year. The company joined the Yetagun Gas Project as part of a consortium with other international and Japanese investors, most principally, the Japanese METI and Mitsubishi Corporation, as previously illustrated in Figure 8 above.

Reaction to the February 1, 2021

For the first year following the coup, ENEOS, and its subsidiary JX Nippon Oil & Energy Corporation, remained relatively quiet about its future investment plans for the Yetagun project and post-coup Myanmar economy writ-large. Although Petronas, the primary operator of the consortium in the Yetagun gasfield announced only two months after the coup in April 2021 that it would indefinitely suspend production in the gasfield, pressure began mounting from civil society groups on all joint partners invested in the project due to concerns over the revenues from the project potentially flowing to the new military government.²⁵⁴

In August 2021, Japan’s Ministry of Economy, Trade and Industry, a partner in the joint venture, was questioned by Japanese lawmaker Michihiro Ishibashi about how the project may be financing the Myanmar military. A METI official reportedly stated in response to the question that they were “not aware of any funds related to the Yetagun project going to the Myanmar military regime, and that it is extremely difficult to ascertain whether the funds are going to the Myanmar military.”²⁵⁵ This statement was made despite the fact it was evident that MOGE, an SOE directly controlled by the Myanmar military, was involved in the project and likely paying tax revenues to the junta.

In March 2022, ENEOS and JX Nippon Oil & Energy Corporation announced its intention to disengage from the Yetagun gas project, alongside other partners including Petronas and Mitsubishi, citing concerns related to the deterioration of the human rights situation and other “social issues” following the February 2021 military coup.

Upon the announcement of its decision to disengage from the Yetagun project, the company was very explicit that the reason for its exit from the Yetagun project was related “social issues” as a result of the coup. In a statement to the media, an ENEOS

²⁵³ Reuters, “Japan’s ENEOS plans to withdraw from Myanmar’s Yetagun gas project.” March 25, 2022. <https://www.reuters.com/business/japans-eneos-withdraw-myanmar-gas-field-project-nikkei-2022-03-25/>

²⁵⁴ Nikkei Asia, “Gas majors halt Myanmar projects while Total stays put,” April 20, 2021.

<https://asia.nikkei.com/Spotlight/Myanmar-Crisis/Gas-majors-halt-Myanmar-projects-while-Total-stays-put>.

²⁵⁵ Mekong Watch, “Statement by the Ministry of Economy, Trade and Industry about Japan’s involvement in the Yetagun natural gas project in Myanmar, given in response to an inquiry by Michihiro Ishibashi, member of the House of Councilors of the Japanese Diet (the upper house of Japan’s parliament),” August 31, 2021. http://www.mekongwatch.org/PDF/Yetagun_METI_response_20210831_Eng.pdf.

spokesperson said that the company was closely “examining and discussing with our business partners about all possible measures toward closing the business based on the situation to address social issues and business potential.”²⁵⁶ In a separate statement provided to the media, ENEOS noted that the company had “decided to withdraw after discussions taking into consideration the country's current situation, including the social issues, and project economics based on the technical evaluation of Yetagun gas fields.”²⁵⁷

In April 2023, ENEOS announced that the company's withdrawal from the project had been completed, but refused to say how it disengaged except to note that it was not a sale of the joint venture. This disengagement came on the heels of a visit from Thomas Andrews, the UN Special Rapporteur on the situation of human rights in Myanmar, who traveled to Japan on official business. During his trip, Andrews spoke with the leadership of ENEOS and JX Nippon Oil & Gas about the disengagement and their involvement in the partnership with MOGE. The ENEOS and JX Nippon executives reportedly told Andrews that although they were barred by a confidentiality agreement from providing details about their withdrawal, they requested MOGE to ensure that funds did not flow to the military. Andrews noted in his end of mission statement that given that MOGE is directly controlled by the Myanmar military regime, “this assertion is frankly, absurd.”²⁵⁸

“We have decided to withdraw after discussions taking into consideration the country's current situation, including the social issues, and project economics based on the technical evaluation of Yetagun gas fields.”

– ENEOS Press Statement, May 2, 2022.²⁵⁹

²⁵⁶ Reuters, “Japan's ENEOS plans to withdraw from Myanmar's Yetagun gas project.” March 25, 2022. <https://www.reuters.com/business/japans-eneos-withdraw-myanmar-gas-field-project-nikkei-2022-03-25/>

²⁵⁷ The Japan Times, “Japan's Eneos withdraws from Myanmar gas project,” May 2, 2022. <https://www.japantimes.co.jp/news/2022/05/02/business/corporate-business/eneos-myanmar-project/>

²⁵⁸ United Nations OHCHR, “End of Mission Statement: Thomas Andrews United Nations Special Rapporteur on the situation of human rights in Myanmar, April 28, 2023. <https://www.ohchr.org/sites/default/files/documents/issues/srmyanmar/statements/20230427-eom-japan-sr-myanmar-en.pdf>

²⁵⁹ The Japan Times, “Japan's Eneos withdraws from Myanmar gas project,” May 2, 2022. <https://www.japantimes.co.jp/news/2022/05/02/business/corporate-business/eneos-myanmar-project/>

Figure 9: Timeline of ENEOS's Involvement in Myanmar

2011	ENEOS Holdings Limited (and its subsidiary JX Nippon Oil & Energy Corporation) begins selling petroleum products in Myanmar through a local distributor. ²⁶⁰
December 2013	ENEOS establishes a subsidiary in Myanmar, ENEOS Myanmar Co., Ltd., to promote the company's businesses in the country.
January 2015	ENEOS begins operations in Myanmar with the opening of its first retail fuel station in Yangon.
October 2017	ENEOS announces that it will begin selling lubricants in Myanmar through a local distributor. ²⁶¹
February 2021	ENEOS Myanmar Co., Ltd. issues a statement expressing concern about the situation in Myanmar following the military coup, and announces that the company will take appropriate actions to ensure the safety of its employees.
May 2022	ENEOS Holdings announces that it will aim to withdraw from Myanmar's Yetagun gas project in response to "social issues", amid criticism that the project is funding the Southeast Asian nation's military. ²⁶²
April 2023	ENEOS Holdings confirms that their withdrawal from the Yetagun Gas Project was finalized by the military government. ²⁶³

²⁶⁰ Mitsubishi Corporation, "Mitsubishi Corporation Invests in Yetagun Gas Field Project in Myanmar," December 17, 2013.

²⁶¹ National Energy Group of Companies, "Japan's ENEOS motor oil and lubricant gains market share," August 2, 2017. <https://web.archive.org/web/20210207084652/https://negc.com.mm/japans-eneos-motor-oil-lubricant-gains-market-share/>.

²⁶² The Japan Times, "Japan's Eneos withdraws from Myanmar gas project," May 2, 2022. <https://www.japantimes.co.jp/news/2022/05/02/business/corporate-business/eneos-myanmar-project/>.

²⁶³ Justice for Myanmar, "Serious questions over the withdrawal of ENEOS Holdings and other entities from the Yetagun gas project," April 17, 2023. <https://www.justiceformyanmar.org/press-releases/serious-questions-over-the-withdrawal-of-eneos-holdings-and-other-entities-from-the-yetagun-gas-project>.

Landmark Project (Yoma Central Project)

Background and Context

In July 2016, Mitsubishi Corporation jointly launched the Landmark Project, a large-scale mixed-use redevelopment project in central Yangon in collaboration with Yoma Group, a leading local conglomerate.²⁶⁴ The aim of the project was to develop a huge complex of four buildings including housing, offices, shops, and hotels called "Yoma Central" near the Yangon Central railway station. The Landmark Project received large investments from the Asian Development Bank (ADB) and International Finance Corporation (IFC) which allowed the joint venture to borrow funds to promote the development of the project.²⁶⁵

Although construction of the project was originally scheduled to be completed in 2021, the COVID-19 pandemic, pro-democracy demonstrations, and intensifying clashes between the military and resistance forces following the February 1, 2021 military coup significantly delayed the project's construction.²⁶⁶ In response to the coup d'état, Mitsubishi Corporation further delayed the project timeline by temporarily suspending construction on the developments located within the Landmark project.²⁶⁷

Despite Mitsubishi's efforts to mitigate the adverse impacts of the construction on workers and others, a coalition of NGOs including *Justice for Myanmar*, Mekong Watch and Friends of the Earth Japan targeted Mitsubishi and the Landmark Project, arguing that the developments were built on top of subleased land owned and operated by Myanmar Railways, a state-owned enterprise controlled directly by the Myanmar military.²⁶⁸

In their press release, JFM stated that because the military effectively controlled the Ministry of Railways and Transport, which has jurisdiction over Myanmar National Railways, it was likely impossible to reliably stem the flow of land rents and other revenues to the military, thus implicating all investors.²⁶⁹

Case Study #4: Mitsubishi Corporation

Background

As Japan's largest trading company, Mitsubishi Corporation and its various subsidiaries are currently operating industrial complexes in Myanmar, alongside a slew of other infrastructure and real estate businesses. Due to its size and economic influence, Mitsubishi Corporation is the only Japanese company to have been directly or indirectly involved in all three problematic investment projects: The Thilawa SEZ, Yetagun Gas Project, and Landmark Project via the business activities of its subsidiaries.

²⁶⁴ Ryuutsu News, "Mitsubishi Corporation and Mitsubishi Estate Participate in Large-Scale Mixed-Use Redevelopment in Myanmar," July 12, 2016. <https://www.ryuutsu.biz/store/i071213.html>.

²⁶⁵ Ibid.

²⁶⁶ Nikkei Asia, "Myanmar building projects worth \$1.3bn frozen since army took power," July 24, 2022. <https://asia.nikkei.com/Spotlight/Myanmar-Crisis/Myanmar-building-projects-worth-1.3bn-frozen-since-army-took-power>.

²⁶⁷ Ibid.

²⁶⁸ Friends of the Earth Japan, "13 Institutional Investors Respond to Call for Engagement. Concern Expressed Over Japanese Companies Continuing Business in Myanmar," April 20, 2022. <https://foejapan.org/en/issue/20220420/7609/>.

²⁶⁹ Justice for Myanmar, "Concern Expressed Over Japanese Companies Continuing Business in Myanmar," April, 20, 2022. <https://www.justiceformyanmar.org/press-releases/concern-expressed-over-japanese-companies-continuing-business-in-myanmar>.

Mitsubishi was also one of the original investors and developers of the Thilawa SEZ, helping to attract other Japanese investors to establish a presence in the tax-beneficial zone shortly after Myanmar's political re-opening in 2011.

Reaction to February 1, 2021

While Mitsubishi ultimately reacted differently to its investments in the three different projects spread amongst its subsidiaries, it is important to note the company's high-profile status as a key early investor in Myanmar economy. With such a unique position of having been one of the "big three" developers of the Thilawa SEZ, the company serves as a useful case to analyze how circumstances relating to individual projects impacted the corporate decision-making processes of Japanese companies in relation to business and human rights.

Despite significant turmoil relating to the coup, Mitsubishi ultimately chose not to relinquish its stake in the Thilawa SEZ nor the Landmark Project. Notably, however, the company did choose to withdraw from the Yetagun gas project over heightened human rights pressure, and, similarly, initiated an exit from lower-profile projects in the country following the coup.²⁷⁰ An interesting point to note is that Mitsubishi was one of the few companies that did not cite human rights concerns in their rationale to exit individual projects, instead citing that economic conditions and/or a deterioration in the business environment were ultimately responsible for its decision-making.

With respect to the Landmark Project, although Mitsubishi and its business partners collectively agreed to suspend construction on the real-estate developments being built near the railway station due to instability caused by the military coup, Mitsubishi ultimately chose to remain in the project, despite significant criticism.

Additionally, the resignation of Mitsubishi Corporation from the Japan-Myanmar Association seems to be a further indication of the company's evolving position. According to an Association official, Chairman Watanabe was "extremely shocked" by Mitsubishi's withdrawal from the group.²⁷¹ Prior to its withdrawal, the company had active officers serve as directors of the Association, employees were seconded to the association's secretariat. In addition, and the former chairman of the company, Mikio Sasaki, served as the Association's vice chairman, making its decision quite noteworthy.

²⁷⁰ Myanmar-Japan Online, "Mitsubishi Corporation withdraws from Myanmar tire sales business at the end of July," July 9, 2021. <https://myanmarjapon.com/newsdigest/2021/07/09-33765.php>.

²⁷¹ Hiroyuki Okada and Akira Mizushima, "Circumstances where companies continue to withdraw from the Japan Myanmar Association." *Toyo Keizai* (Japanese). <https://toyokeizai.net/articles/-/599770>.

Figure 10: Timeline of Mitsubishi's Involvement in Myanmar

October 2013	Mitsubishi officially establishes its presence within the Thilawa SEZ by forming a subsidiary with Sumitomo and Mitsubishi called Myanmar Japan Thilawa Development Ltd. ²⁷²
July 2016	Mitsubishi jointly launches the Landmark Project with local subsidiary Yoma Group. ²⁷³
April 2021	A consortium of investors including Mitsubishi announces the suspension of construction on the Yoma Central Project due to instability resulting from the military coup. ²⁷⁴
July 2021	Mitsubishi withdraws from a joint venture with a company called Bridgestone Tires because its existing project with the company "did not meet the expectations of the company's business plan." ²⁷⁵
February 2022	Mitsubishi announces its intention to withdraw from the Yetagun gas project due to "difficulties to continue business activities from technical and economical perspectives." ²⁷⁶
June 2022	Justice for Myanmar criticizes Mitsubishi's withdrawal from the Yetagun gas project, deeming its exit to be 'irresponsible'. ²⁷⁷

Key Findings of Case Studies

By analyzing how four individual Japanese companies reacted to both the military coup and heightened criticism of their involvement in three controversial investment projects, this section hoped to better assess how the decision-making of these companies evolved in response to the event. Based upon these analyses and the prior sub-section, there are several key takeaways.

First, is that several Japanese companies invested in the high-profile investment projects reconsidered their investments in the aftermath of the coup. While some companies explicitly cited human rights challenges in their decision to withdraw from certain projects or temporarily suspend their in-country operations, others like Mitsubishi merely cited the deterioration of the business environment, but quietly withdrew from pro-military groups such as the Japan-Myanmar Association.

Second, is that Japanese companies differed in their approach and response to human rights criticism, depending on the severity of the allegations. For example, while Toyota chose to temporarily suspend operations in its factory due to concerns over the coup, these

²⁷² Marubeni, Press release: "Establishment of Thilawa Special Economic Zone/Japan-Myanmar joint venture," October 19, 2013. <https://www.marubeni.com/jp/news/2013/release/00097.html>.

²⁷³ Ryuutsu News, "Mitsubishi Corporation and Mitsubishi Estate Participate in Large-Scale Mixed-Use Redevelopment in Myanmar," July 12, 2016. <https://www.ryuutsu.biz/store/i071213.html>.

²⁷⁴ Friends of the Earth Japan, "13 Institutional Investors Respond to Call for Engagement. Concern Expressed Over Japanese Companies Continuing Business in Myanmar," April 20, 2022. <https://foejapan.org/en/issue/20220420/7609/>.

²⁷⁵ Myanmar-Japon Online, "Mitsubishi Corporation withdraws from Myanmar tire sales business at the end of July," July 9, 2021. <https://myanmarjapon.com/newsdigest/2021/07/09-33765.php>.

²⁷⁶ Toru Takahashi, "Mitsubishi Corporation to sell natural gas interest in Myanmar." *Nikkei*, February 18, 2022. <https://www.nikkei.com/article/DGXZQOUC180IU0Y2A210C2000000/#k-paywall-form>.

²⁷⁷ Justice for Myanmar, "Petronas, PTTEP, ENEOS, Mitsubishi Corp & Japan Gov irresponsibly exiting Yetagun gas project," June 28, 2022. <https://www.justiceformyanmar.org/press-releases/petronas-pttep-eneos-mitsubishi-corp-japan-gov-irresponsibly-exiting-yetagun-gas-project>.

operations were eventually resumed, as the company was not directly linked with any military enterprise. On the other hand, companies such as ENEOS and Kirin cut their losses, completely exiting the economy, despite initial plans to remain in the projects and criticism from civil society groups that their exits were ‘irresponsible’ and not in compliance with international human rights standards such as the UNGPs. Another notable point was that many Japanese companies expressed little commitment to adhering to international BHR standards pertaining a ‘responsible exit’ from the economy. This is contrast to Kirin, who cited the company’s human rights policy in its decision to exit.

Lastly, while it is clear that the February 1, 2021 military coup was a significant factor in the decision-making processes of Japanese companies with respect to their future investment in these individual projects and the broader Myanmar economy, it was not the only factor. Other considerations including the longer-term business outlook, the relative level of human rights criticism, and overall profitability of individual sectors were also equally important.

Figure 11: Snapshot of Actions Taken by Japanese Companies to the Military Coup

Company Name	Industry	Project(s) Involved	Actions Taken
Marubeni	General Trading	Thilawa SEZ	March 2021: Suspended activities in hydropower dam project; continues operations in Thilawa SEZ. ²⁷⁸
Toyota	Automobile	Thilawa SEZ	February 2021: Delayed opening of truck factory located in the Thilawa SEZ. ²⁷⁹ February 2021: Left the Japan-Myanmar Association. ²⁸⁰ October 2022: Resumed production of trucks in Thilawa SEZ factory. ²⁸¹
Mitsubishi	General Trading	Thilawa SEZ	May 2022: Withdrew from the Yetagun Gas project. ²⁸² March 2022*: Left the Japan-Myanmar Association. ²⁸³
ENEOS	Oil / Gas	Yetagun Gas Project	May 2022: Announced decision to withdraw from the Yetagun gas project. ²⁸⁴ April 2023: Withdrawal finalized. ²⁸⁵
Suzuki	Automobile	Thilawa SEZ	February 2021: Suspended production of vehicles in factory located in the Thilawa SEZ. ²⁸⁶ Late 2021/Early 2022: Resumes production in factory. ²⁸⁷ July 2022: Re-suspends production due to difficulties in importing auto-parts.
Honeys	Manufacturing	Thilawa SEZ	August 2022: Expanded operations in Myanmar factory, citing cheap labor costs. ²⁸⁸
Uniqlo	Clothing/Garments	N/A	March 2023: Withdrew from the Myanmar economy. ²⁸⁹

²⁷⁸ The Jakarta Post, "Marubeni-involved hydropower project in Myanmar to be frozen," March 23, 2021. <https://www.thejakartapost.com/seasia/2021/03/23/marubeni-involved-hydropower-project-in-myanmar-to-be-frozen.html>.

²⁷⁹ The Associated Press, "Toyota begins making cars in Myanmar after delay due to coup," <https://apnews.com/article/business-myanmar-yangon-aung-san-su-kyi-toyota-motor-corp-2b6f3fa1f9ec30d8463ea65d89ccb53d>.

²⁸⁰ Hiroyuki Okada and Akira Mizushima, "Circumstances where companies continue to withdraw from the Japan Myanmar Association." *Toyo Keizai* (Japanese). <https://toyokeizai.net/articles/-/599770>.

²⁸¹ The Associated Press, "Toyota begins making cars in Myanmar after delay due to coup," <https://apnews.com/article/business-myanmar-yangon-aung-san-su-kyi-toyota-motor-corp-2b6f3fa1f9ec30d8463ea65d89ccb53d>.

²⁸² The Japan Times, "Japan's Eneos withdraws from Myanmar gas project," May 2, 2022. <https://www.japantimes.co.jp/news/2022/05/02/business/corporate-business/eneos-myanmar-project/>.

²⁸³ Hiroyuki Okada and Akira Mizushima, "Circumstances where companies continue to withdraw from the Japan Myanmar Association." *Toyo Keizai* (Japanese). <https://toyokeizai.net/articles/-/599770>.

²⁸⁴ The Japan Times, "Japan's Eneos withdraws from Myanmar gas project," May 2, 2022. <https://www.japantimes.co.jp/news/2022/05/02/business/corporate-business/eneos-myanmar-project/>.

²⁸⁵ ENEOS Corporation, "Completion of the procedures for withdrawal from the E&P business in the Republic of the Union of Myanmar (update)," April 12, 2023.

https://www.hd.eneos.co.jp/english/newsrelease/upload_pdf/20230413_02_01_0960492.pdf.

²⁸⁶ Nikkei Asia, "Suzuki halts Myanmar assembly, stymied by foreign currency curbs," July 8, 2022.

<https://asia.nikkei.com/Business/Automobiles/Suzuki-halts-Myanmar-assembly-stymied-by-foreign-currency-curbs>.

²⁸⁷ Ibid.

²⁸⁸ Michinori Oguchi, "Myanmar garment industry draws fresh investment from Japan's Honeys," *Nikkei Asia*, August 2, 2022. <https://asia.nikkei.com/Business/Retail/Myanmar-garment-industry-draws-fresh-investment-from-Japan-s-Honeys>.

²⁸⁹ Nikkei Asia, "Uniqlo owner joins clothiers exiting Myanmar," March 30, 2023.

<https://asia.nikkei.com/Spotlight/Myanmar-Crisis/Uniqlo-owner-joins-clothiers-exiting-Myanmar>.

Survey of Japanese Companies

Introduction

To better assess how Japanese companies adopted and changed their investment strategies in response to the military coup, the author of this report conducted a survey of Japanese companies still officially listed as invested in the Myanmar economy as of February 1, 2021.²⁹⁰ The primary aim of the survey was to gain clarity on four key questions pertaining to the activities of Japanese companies in Myanmar in the aftermath the coup:

- How did the coup impact the decision-making processes of Japanese companies to remain, exit, or temporarily suspend their operations in Myanmar?
- Following the military coup, are Japanese companies choosing to expand, retain, or curtail their current operations in Myanmar?
- Are Japanese companies invested in the Myanmar economy aware of international standards pertaining to business & human rights?
- How did the military coup impact how Japanese companies adopt new policies relating to business & human rights and other voluntary international standards relating to responsible business conduct?

A full list of the questions asked of Japanese companies in the survey can be found in Annex I of the report.

Methodology

This survey of Japanese companies officially invested in Myanmar as of February 1, 2021 was carried out for a period of 35 days between January 15, 2023 – February 20, 2023. Companies were contacted in the Japanese language via email or through the individual contact forms located on their websites. Each contacted company was given at least four weeks to respond. Although it was challenging to determine the exact number of Japanese companies invested in Myanmar based on limited data, approximately 390 companies were positively identified based on information from the Japanese Chamber of Commerce, non-governmental organizations, and media reports. All companies in the survey are anonymous, and not explicitly mentioned by name.

Of these 390 companies, 58 responded to the survey. However, due to the sensitive nature of the survey, some companies chose not to provide their name or declined to answer specific questions. Some companies even attempted to use a pseudonym to answer the survey questions, while others declined to participate, citing their company's internal policy not to respond to any survey requests. This is consistent with the cautious approach of many Japanese companies in speaking out publicly or in the media about the situation in Myanmar, which was termed as 'laying low' by Channel NewsAsia in February 2023.²⁹¹

²⁹⁰ This data was primarily taken from the Japanese Chamber of Commerce in Myanmar and other open-source information such as media reports.

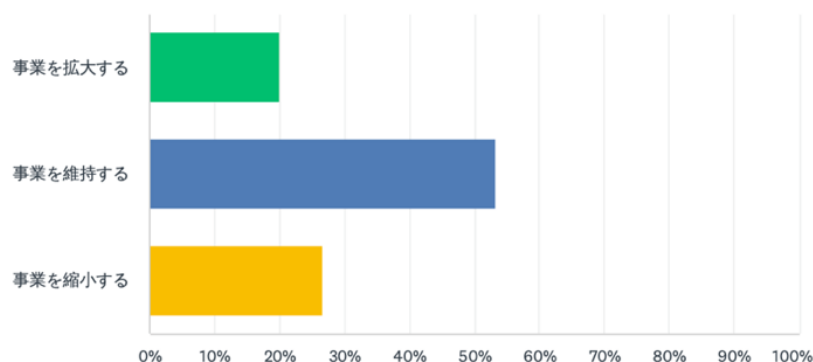
²⁹¹ Michiyo Ishida, et. al, "Taiwanese, Japanese firms in Myanmar staying put despite political unrest, but are laying low." Channel NewsAsia, February 3, 2023. <https://www.channelnewsasia.com/asia/taiwanese-japanese-businesses-myanmar-staying-3252031>.

Out of the 58 companies that responded, only 18 completed the survey in its entirety. Given the small number of companies that fully completed the survey, it is important to note that this small sample size may limit the generalizability of the overall findings. Nonetheless, the responses still provide valuable insights into the attitudes and actions of Japanese companies invested in Myanmar with respect to their business & human rights practices in the aftermath the military coup.

Key Survey Results

Q: Over the next year, does your company plan to expand, retain, or curtail your current operations in Myanmar? (Answered: 45)

- a. Expand operations
- b. Retain operations
- c. Curtail operations



Analysis

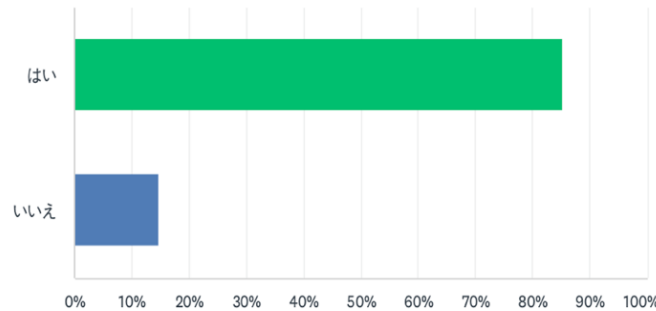
At the beginning of the survey, participants were asked if they intended to expand, retain or curtail their current operations in Myanmar. The survey results revealed that the majority of Japanese companies planned to retain their operations, which is consistent with the views expressed by several officials during the interview phase of the project. Many of these officials suggested that Japanese companies were taking a cautious approach of "waiting to see" if the political situation would improve before resuming or expanding their operations. This finding is also supported by other surveys, such as the one conducted by the Japan External Trade Organization (JETRO) in January 2022, which found that around 70% of Japanese companies intended to stay in Myanmar, despite the challenges posed by the military coup.²⁹²

Another interesting finding from this survey question was that the majority of Japanese companies which answered that they planned to "curtail" their operations in Myanmar were planning to leave the economy or had already done so, demonstrating that the majority of Japanese companies either plan to remain in the economy or even expand their operations over the near-to-medium-term.

²⁹² Kyodo News, '70% of Japan firms keep, expand business in Myanmar even after coup.' <https://english.kyodonews.net/news/2022/01/7e3de89004f5-70-of-japan-firms-keep-expand-business-in-myanmar-even-after-coup.html>.

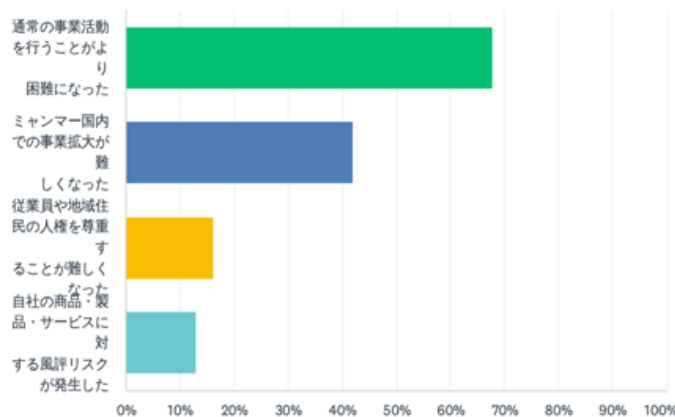
Q: Since February 1, 2021, political conditions in Myanmar have deteriorated, creating a more challenging operating environment for many international companies. Would you say that these conditions have made it more difficult for your company to operate in Myanmar? (Answered: 41)

- a. Yes
- b. No



If yes, how have these conditions impacted your business operations in Myanmar? (select all that apply) (Answered: 31)

- a. Made it more challenging for the company to carry out normal business activities
- b. Made it more difficult for the company to expand its in-country operations
- c. Made it more difficult for the company to respect the human rights of its employees
- d. Created reputational risks for the company’s goods, products, or services

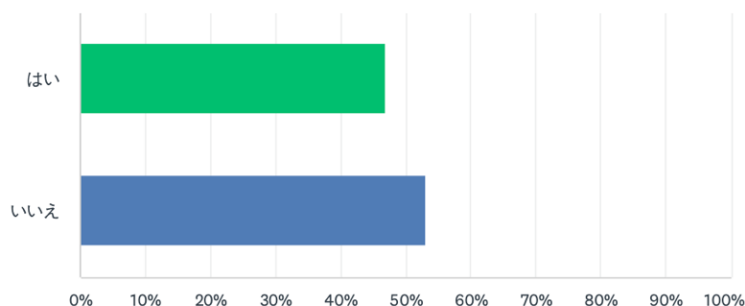


Analysis

To the question of whether the February 1, 2021 military coup made it more difficult to operate in Myanmar, virtually all companies expressed that the coup made it more challenging for them to operate normally. Interestingly, however, of those that said that the coup impacted their business operations, only around 15% said that it made it more difficult for their company to respect the human rights of its employees and staff. While it is impossible to know the rationale for their responses, it is interesting to note how this differs from the responses of large so-called ‘Western’ companies, who largely acknowledged the challenges impacts of the coup on their workers’ safety.

Q: Since February 1, 2021, has your company consulted with a third-party organization to assess the viability of your business or the suitability of your sustained economic presence in Myanmar? (Answered: 32)

- a. Yes
- b. No



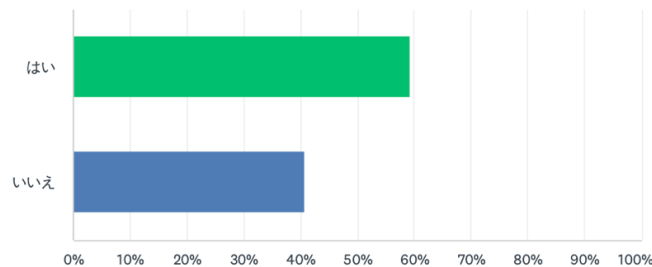
Analysis

Interestingly, the majority of Japanese companies surveyed for this report said that they had NOT consulted with a third-party organization to assess the viability of their sustained economic presence in the Myanmar economy. This is somewhat surprising, especially in view of the fact that several civil society organizations including JFM and Human Rights Now approached Japanese companies and their investors to inquire about their links to military-backed conglomerates and adherence to international human rights standards and guidelines on responsible business conduct in the aftermath of the coup.

Given that the majority of even large multinational companies headquartered in Japan lack significant capacity on business and human rights issues, including the absence of dedicated human rights departments. Moreover, it would make sense for some Japanese companies, especially high-profile investors in Myanmar such as Mitsubishi, Sumitomo, and Marubeni to consult with law firms and/or other business consultancies.

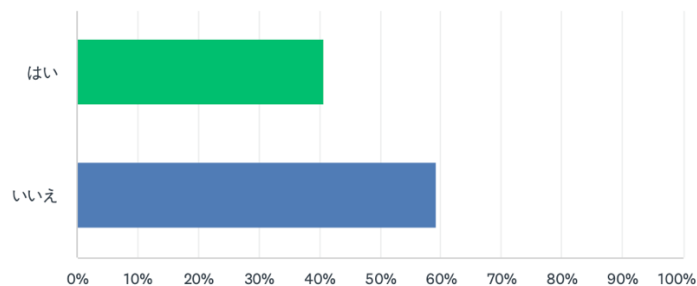
Q: Have you heard of the United Nations Guiding Principles on Business and Human Rights (UNGPs)? (Answered: 32)

- a. Yes
- b. No



Q: Have you heard of the corporate practice known as human rights due diligence? (Answered: 32)

- a. Yes
- b. No



Analysis

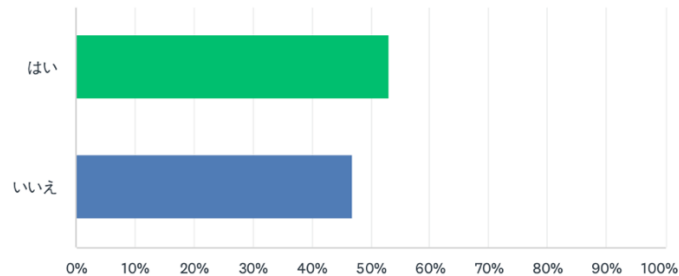
Despite a majority of surveyed companies having heard of the United Nations Guiding Principles on Business & Human Rights (UNGPs), a majority of the same companies had not heard of the corporate practice human rights due diligence (HRDD). This is particularly confounding given that HRDD is a key component of the UNGPs and heavily incorporated and discussed in Pillar II of the principles. This discrepancy between Japanese companies that claim to have heard of the UNGPs but not HRDD reveals a lack of understanding about the UNGPs and business & human rights standards among Japanese companies invested in Myanmar more broadly. One interpretation of these results is that these companies only have cursory knowledge of HRDD practices and may not actually be actively implementing or enforcing adherence to such provisions both in their normal operations and across their value and supply chains.

This survey result corroborates previous studies, including those carried out by MOFA and METI, which have demonstrated that even large multinational companies operating in high-risk or conflict-afflicted settings such as Myanmar lack sufficient knowledge about international business and human rights standards, including access to remedy and the need for heightened human rights due diligence, among other relevant issues.²⁹³

²⁹³ METI, “Release on the Results from the Questionnaire Survey on the Status of Efforts on Human Rights in the Supply Chains of Japanese Companies.” November 30, 2021. https://www.meti.go.jp/english/press/2021/1130_002.html.

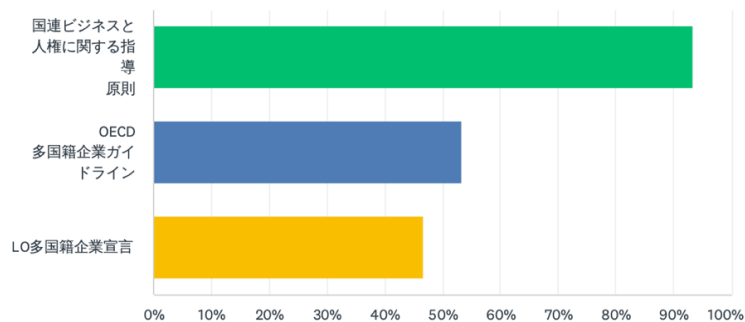
Q: Does your company conduct human rights due diligence in accordance with international standards such as the UNGPs? (Answered: 32)

- a. Yes
- b. No



If yes, by what international standard(s) does your company abide? (select all that apply) (Answered: 15)

- a. United Nations Guiding Principles on Business and Human Rights
- b. OECD Guidelines on Multinational Enterprises
- c. ILO Multinational Enterprise Declaration
- d. Other (free-form)

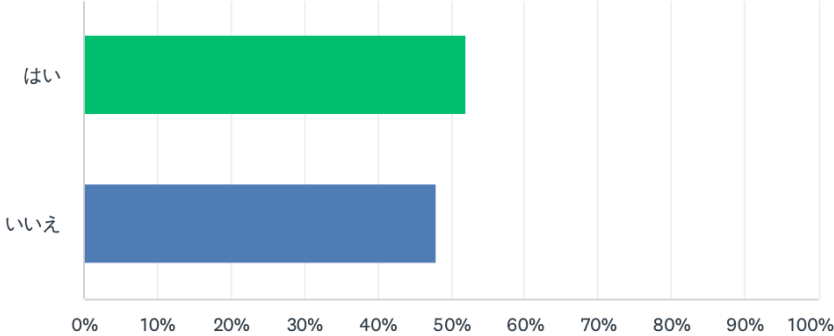


Analysis

Interestingly, despite only 40% of surveyed companies having heard of HRDD, at least 50% claim to conduct HRDD in line with international standards such as the UNGPs. Meanwhile, only around half of Japanese companies operating in Myanmar that claim to respect the UNGPs also account for other RBC standards such as the OECD Guidelines or ILO Fundamental Principles within their supply chains. This finding reveals that the UNGPs remain the overwhelming favorite for adherence to international business & human rights standards.

Q: Does your company conduct human rights due diligence in Myanmar? (Answered: 25)

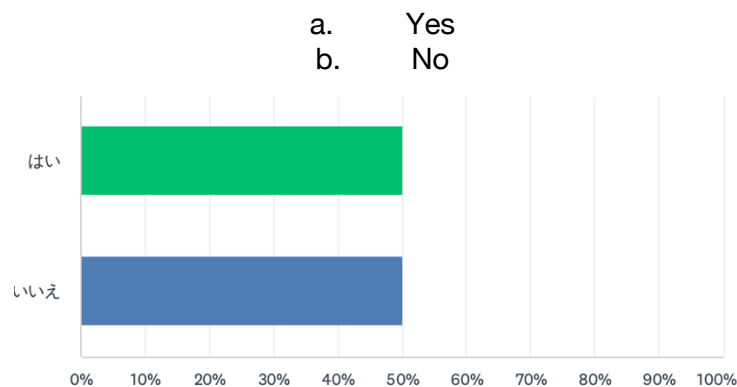
- a. Yes
- b. No



Analysis

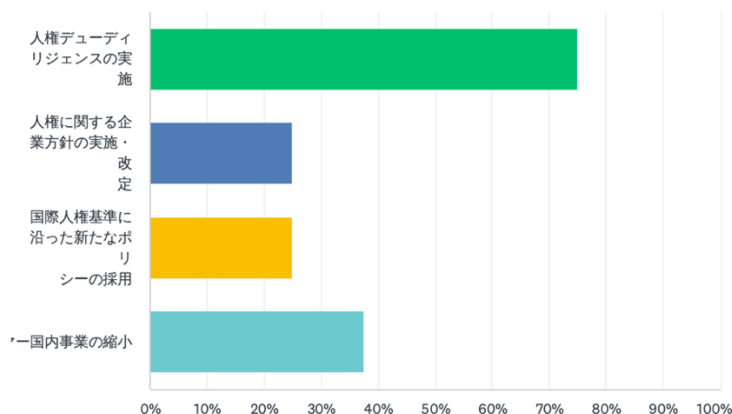
Surprisingly, only a very small majority of companies said that they conducted HRDD in the context of Myanmar, despite universally acknowledging that the military coup posed significant challenges to their operations there. This is particularly the case because at least some of them chose to adopt new BHR standards in line with international standards such as the UNGPs.

Q: Has the political situation in Myanmar since February 1, 2021, prompted your company to adopt new measures to mitigate the human rights impacts of your corporate activities? (Answered: 18)



If so, which new measures did your company adopt? (select all that apply) (Answered: 8)

- a. Implementation of human rights due diligence
- b. Implementation/revision of company human rights policy
- c. Adoption of new policies in line with international human rights standards
- d. Scale-back of in-country operations



Analysis

Based upon the questions above, the survey found that only about half of Japanese companies adopted new standards on business & human rights in direct response to the coup. Among the activities adopted by companies were the implementation of human rights due diligence, revisions to their corporate human rights policies, and the adoption of similar policies in line with the UNGPs and other international BHR standards. About a third of companies also chose to significantly scale-back their operations in Myanmar. An interesting point to note is that companies which scaled-backed their operations were significantly more likely to have made a commitment to adhere to or been knowledgeable about the UNGPs or other international BHR standards.

Summary of Key Findings

While the survey found that Japanese companies, by-and-large, intended to retain their current operations in Myanmar, it revealed that the February 1, 2021 military coup did significantly impact their in-country operations, making it more difficult for almost all companies to continue or carry-out their existing activities.

Based upon these findings, it seems that Japanese companies were noticeably less concerned with the human rights impacts of the coup on their employees and staff than their Western counterparts. Surprisingly, most surveyed companies also had not consulted with a third-party organization to assess the viability of their sustained economic presence in Myanmar, which is interesting given pressure from civil society groups and the media about unsavory economic links to military conglomerates and other problematic investments widespread in the media.

Another key insight of the survey was the discrepancy between Japanese companies who claimed to have heard of the UNGPs but not of the corporate practice of HRDD, despite HRDD being a key component of the UNGPs. The survey thus revealed a lack of understanding about business and human rights among Japanese companies' writ large, including the need to establish access to remedy for workers and implement heightened human rights due diligence in sensitive contexts such as Myanmar that are heavily impacted by armed conflict.

Lastly, only about half of Japanese companies surveyed adopted new standards on business & human rights in direct response to the military coup. Nevertheless, some companies have ostensibly implemented new activities to address outstanding BHR issues and vulnerabilities, such as the institution of human rights due diligence procedures, revisions to corporate human rights policies, and the adoption of similar policies in line with the UNGPs and other international BHR standards such as the OECD Guidelines.

Conclusion and Recommendations

Conclusion

Based upon the evidence collected in this report including (i) the survey of Japanese companies invested in Myanmar, (ii) interviews with Japanese policy officials, company representatives, and other stakeholders, and (iii) a desk review of associated media reports and academic literature, it is clear that the February 1, 2021 military coup greatly impacted both Japan's commercial and political relations with Myanmar.

The sudden and abrupt transition from pseudo-civilian rule to a military dictatorship on February 1, 2021 significantly complicated Japan's political relations with Myanmar, paving the way for the subtle emergence of a new foreign policy approach in Tokyo after a "special relationship" between the two countries defined the nature of their bilateral ties for more than 60 years. Although Tokyo's initial response to the coup mirrored the approach it took after the collapse of the Ne Win regime in 1988, steps taken in midst of the coup's aftermath could mean the emergence of a new approach may possible be the horizon.

Since the coup, the Japanese government has announced the suspension of training sessions for Myanmar military cadets at the National Defense Academy in Tokyo, Foreign Minister Yoshimasa Hayashi has excluded the junta from government meetings with other ASEAN officials, and the government has permitted the National Unity Government (NUG) to establish a new Representative Office in Tokyo, while continuing to engage informally with prominent representatives of the parallel government.

While economic sanctions remain un-imposed and ODA projects initiated before the coup remain active (and arguably continue to support the SAC), interviews with key stakeholders indicated that the current situation in Myanmar, where protracted conflict continues to expand and a so-called 'election' proposed by junta authorities remains elusive, a longer-term shift in the Japanese foreign policy approach could be forthcoming, but not guaranteed, in view of heightened pressure from the United States.

From the perspective of the private sector, events that unfolded after February 1, 2021 created a dilemma for a significant number of Japanese companies, many of which had been operating in the country for the much of the decade preceding the military coup. The rush of the Japanese government to facilitate private sector investment in the Myanmar economy through vehicles such as the Thilawa SEZ, and joint ventures between the government and local conglomerates following the country's political reopening in 2011 significantly complicated the situation and exacerbated the exposure of such companies to political, reputational, and human rights risks.

Following the coup, the Japan-Myanmar Association, the lobbying group largely responsible for steering the trajectory of Japan's economic policy towards Myanmar over the past decade, while still highly influential, continues to lose influence due to its overt support of military leaders and caution among Japanese companies about the reputational damage associated with conducting irresponsible business in Myanmar.

To that end, the failure of many Japanese companies to conduct human rights due diligence or otherwise account for the adverse human rights impacts of their business operations in Myanmar created several unprecedented political, reputational, and human rights challenges for some of the largest and most successful Japanese companies invested in the economy. The lack of both general awareness and preparedness among

Japanese companies to address both potential and actual human rights risks within their supply and value chains, especially in the face of pressure from human rights activists, civil society organizations, and other groups resisting military rule further shined a spotlight on the inherent business & human rights and operational challenges facing Japanese companies in Myanmar.

Although the results of the survey commissioned for this report indicated that many Japanese companies continue to take a “wait and see” approach towards their sustained economic presence in the country, waiting to see when it may be appropriate to resume operations temporarily suspended due to the coup, such a position may become untenable in the near future. With the advent of new standards on business & human rights adopted by Japanese government (see Annex II), continued pressure from civil society and human rights organizations, and an increasing exodus of international companies from the Myanmar economy, Japanese companies may soon follow suit.

Recommendations

Below are recommendations provided to both the Government of Japan and private Japanese companies invested in Myanmar. The section primarily provides suggestions and recommendations for these actors in relation to post-coup business & human rights issues.

For the Government of Japan:

Recommendation #1: Provide funding to train Japanese companies in Myanmar on how to properly conduct human rights due diligence to mitigate adverse human rights impacts on local communities and reputational risks to companies facilitated by the military coup

Rationale: According to the survey results, Japanese companies invested in Myanmar demonstrated only a cursory understanding of their human rights responsibilities under the UNGPs, even among those that supposedly adhere to the principles. By providing additional funding and training to Japanese companies remaining in Myanmar, the Japanese private sector will become better equipped to handle future shocks to the political and investment environment.

Recommendation #2: Make new Guidelines on Responsible Supply Chains mandatory for Japanese companies operating in conflict-afflicted economies like Myanmar

Rationale: By legally compelling Japanese companies to account for relevant human rights risks within their supply chains while operating in high-risk settings such as Myanmar, the Japanese government can ensure that the private sector remains in compliance with international BHR standards and also mitigate possible reputational damage to Japanese companies who may otherwise choose to engage with SOEs or other military-backed companies. The Government of Japan’s new voluntary guidelines on Responsible Supply Chains provide a suitable vehicle for the government to promote understanding of and compliance with BHR standards.

Recommendation #3: Instruct a government agency such as METI, JETRO, or MOFA to commission regular surveys on the responsible business practices of Japanese companies

Rationale: While JETRO commissions an annual survey on the business activities of Japanese companies in different geographic regions, commissioning a more regular and targeted survey that assesses the BHR practices of Japanese companies in

individual countries could be a useful tool in better identifying gaps in BHR training programs and other private sector outreach related to RBC.

Recommendation #4: *Suspend existing ODA projects benefitting the Myanmar military*

Rationale: *While all new projects have theoretically been halted since the coup, companies such as Yokogawa Bridge Corporation continue to carry-out existing projects that provide revenues to military-backed companies. By suspending all outstanding ODA projects until the situation returns to normalcy, the Government of Japan can ensure that tax revenues do not end up in the wrong hands and create reputational risks for Japanese companies and their investors.*

For Japanese companies:

Recommendation #1: *Become familiar with steps for initiating a 'responsible exit' from Myanmar under the UNGPs and other international standards on responsible business conduct.*

Rationale: *While a complete withdrawal from the economy is oftentimes not the correct decision for both a company and its employees, contractors, and other workers impacted within its supply and value chains, companies should be knowledgeable about when to do so may be appropriate if it claims to endorse the UNGPs or adhere to international RBC standards.*

Recommendation #2: *Conduct human rights due diligence and avoid investments in companies with direct ties to the Myanmar military*

Rationale: *The survey revealed that a large number of Japanese companies still have not implemented new measures related to RBC or BHR since the coup, potentially exposing them to reputational and operational risks as conflict in the country expands and overall investment environment continues to deteriorate.*

Recommendation #3: *Engage with local civil society organizations in Myanmar to identify and assess human rights risks relevant to the human rights of worker.*

Rationale: *Not every CSO is an enemy of business. Becoming a company that proactively engages with relevant stakeholders including local civil society can be a useful tool in preemptively identifying and mitigating risks to both the company and the human rights of local communities and employees.*

Annex I – Survey Questions

This Annex includes the full list of questions included in survey sent to Japanese companies invested in Myanmar. The top line indicates the original question asked to respondents in Japanese, whereas the bottom line is a rough English language translation of the original text.

Q1: 御社の正式名称を教えてください。

Q1: What is the official name of your company?

Q2: このアンケートに回答する会社の担当者のお名前とメールアドレスを教えてください。
(任意回答)

Q2: What is the name and email address of the person in charge of your firm (optional answer)

Q3: 御社及び子会社に勤務する従業員数を教えてください。

Q3: How many employees work for your company and its subsidiaries?

Q4: 御社はどの業界に属しているとお考えですか？

Q4: Which industry do you consider your company to belong to?

Q5: 御社は現在、ミャンマーに進出していますか？

Q5: Does your company currently have a presence in Myanmar?

Q5a: 「はい」の場合、今後1年間、現在のミャンマーでの事業を拡大、維持、縮小する予定はありますか？

Q5a: If "yes," do you plan to expand, maintain, or reduce your current operations in Myanmar over the next year?

Option 1: 事業を拡大する

Option 1: Expand business

Option 2: 事業を維持する

Option 2: Maintain business

Option 3: 事業を縮小する

Option 3: Scale back business

Q5b: 「C」の場合、ミャンマー経済からの完全撤退を検討したことはありますか？

Q5b: If you selected Option "C", have you considered a complete exit from the Myanmar economy?

Option 1: Yes

Option 2: No

Q5c: 「はい」の場合、その理由を教えてください。

Q5c: If you selected Option A, 'yes', please explain why.

Q5d: 「いいえ」の場合、御社は以前、ミャンマーに進出していましたか。

Q5d: If no, did your company have a previous presence in Myanmar?

Q10: Since February 1, 2021, the political situation in Myanmar has worsened, making the business environment more difficult for many international companies. Do you think this situation has made it more difficult for your company to do business in Myanmar?

Q10: 2021年2月1日以降、ミャンマーの政情は悪化し、多くの国際企業にとってより厳しい事業環境となっています。このような状況により、御社がミャンマーで事業を行うことがより困難になったとお考えでしょうか？

Q10a: 「はい」の場合：これらの状況はミャンマーでの事業活動にどのような影響を及ぼしましたか？

Q10a: If "yes": How have these circumstances affected your business activities in Myanmar?

Option 1: 通常の事業活動を行うことがより困難になった

Option 1: It became more difficult to carry out normal business activities

Option 2: ミャンマー国内での事業拡大が難しくなった

Option 2: Expansion of business within Myanmar has become difficult.

Option 3: 従業員や地域住民の人権を尊重することが難しくなった

Option 3: Increased difficulty in respecting the human rights of employees and community members

Option 4: 自社の商品・製品・サービスに対する風評リスクが発生した

Option 4: Reputational risk to goods, products, or services has occurred

Q12: 2021年2月1日以降、御社はミャンマーにおける事業の実行可能性または持続的な経済的プレゼンスの適性を評価するために、第三者機関に相談したことはありますか？

Q12: Since February 1, 2021, has your company consulted any third-party organizations to assess the viability of your business or the suitability of a sustainable economic presence in Myanmar?

Q13: 御社は、2021年2月1日以降、人権団体等の第三者機関からミャンマーでの投資活動に関する問い合わせを受けたことがありますか？

Q13: Since February 1, 2021, has your company received any inquiries from third-party organizations such as human rights groups regarding your investment activities in Myanmar?

Q14: Are you familiar with the corporate practice of human rights due diligence?

Q14: 人権デューディリジェンスという企業慣行をご存知ですか？

Q15: 「国連ビジネスと人権に関する指導原則」(UNGPs)をご存知ですか？

Q15: Are you familiar with the United Nations Guiding Principles on Business and Human Rights (UNGPs)?

Q16: 御社は、UNGPsなどの国際基準に従って、人権デューディリジェンスを実施していますか？

Q16: Does your company conduct human rights due diligence in accordance with international standards such as the UNGPs?

Q16a: 「はい」の場合、御社はどのような国際基準を遵守していますか。

Q16a: If "yes," what international standards does your company adhere to? (select all that apply)

Option 1: 国連ビジネスと人権に関する指導原則

Option 1: UN Guiding Principles on Business and Human Rights

Option 2: OECD 多国籍企業ガイドライン

Option 2: OECD Guidelines for Multinational Enterprises

Option 3: ILO Declaration on Multinational Enterprises

Option 3: ILO 多国籍企業宣言

Q17: 御社は、ミャンマーにおいて人権デューデリジェンスを実施していますか？

Q17: Does your company conduct human rights due diligence in Myanmar?

Q18: 御社は、人権に関する公式的方針を持っていますか？

Q18: Does your company have a formal policy on human rights?

Q19: 御社には、人権に関する業務を管轄する部署がありますか？

Q19: Does your company have a department with jurisdiction over human rights affairs?

Q20: 御社は、御社が行った活動の結果として発生した人権侵害の救済措置の手続きを設けていますか？

Q20: Does your company have procedures in place to remedy human rights violations that occur as a result of activities conducted by your company?

Q21: 御社は、自社のサプライチェーンまたはサプライヤーの人権状況を把握していますか？

Q21: Does your company know the human rights status of your supply chain or suppliers?

Q22: 2021年2月1日以降のミャンマーの政治情勢を受け、御社は企業活動による人権への影響を緩和するための新たな対策を講じましたか？

Q22: Given the political situation in Myanmar after February 1, 2021, has your company taken any new measures to mitigate the human rights impacts of its corporate activities?

Q22a: 「はい」の場合、御社はどのような新たな対策を採用しましたか。

Q22a: If yes, what new measures has your company adopted?

Option 1: 人権デューデリジェンスの実施

Option 1: Conduct human rights due diligence

Option 2: 人権に関する企業方針の実施・改定

Option 2: Implementation and revision of corporate policy on human rights

Option 3: 国際人権基準に沿った新たなポリシーの採用

Option 3: Adoption of new policies in line with international human rights standards

Option 4: ミャンマー国内事業の縮小

Option 4: Downsizing of Myanmar domestic operations

Q23: 2021年2月1日以降の御社のミャンマーでの経済活動について、本調査の実施者との構造的インタビューへご協力していただいても宜しいでしょうか。

Q23: May we ask for your company's cooperation in a structured interview with the person conducting this survey regarding your company's economic activities in Myanmar after February 1, 2021?

Annex II –

Business & Human Rights Policy Developments in Japan

To better assist Japanese companies in tackling reputational and human rights challenges, the Japanese government has moved in recent years to adopt and promote responsible investment policies that incorporate the UNGPs and other international standards on responsible business conduct. The principal reasons for the Japanese government’s policy movements in this area are to: 1) mitigate the reputational risks for Japanese multinational companies, 2) increase the global competitiveness of Japanese companies, and 3) promote business respect human rights throughout the value and supply chains of Japanese companies invested primarily in developing economies.

In October 2020, the Government of Japan published its first National Action Plan (NAP) on Business and Human Rights to promote human rights and mitigate the adverse impacts of business activities carried out by Japanese companies domestically and overseas.²⁹⁴ Under the NAP, the government required Japanese enterprises, regardless of the size and sector, to respect fundamental rights as set out in the International Bill of Human Rights and ILO Declaration; introduce the process of human rights due diligence in line with UNGPs and relevant standards; and conduct dialogues with stakeholders including those that are part of their supply chains.²⁹⁵ Following the release of the NAP, and in response to a growing interest from the private sector for the government to formulate guidelines on respecting human rights in global supply chains, METI formed a study group in March 2022 to establish cross-industry guidelines for human rights due diligence. After a public consultation period with more than 700 comments from 131 organizations, the Japanese government unveiled the official guidelines entitled the “Guidelines on Respecting Human Rights in Responsible Supply Chains” in September 2022.²⁹⁶

Although voluntary in nature, the METI guidelines recommend that all businesses in Japan respect human rights throughout their entire supply and value chains. The Guidelines were developed to provide practical steps for businesses and also to help deepen the understanding of HRDD and promote the efforts of businesses to respect human rights in line with the UNGPs. The Guidelines were formulated partially in response to numerous NGO and research surveys that demonstrated Japanese companies were substantially behind other G7 economies in embracing business & human rights. For example, an independent study conducted by Business & Human Rights Resource Center revealed that more than 64% of assessed Japanese companies scored a ‘zero’ across all three HRDD indicators: identifying human rights impacts, assessing human rights impacts, and integrating action on human rights impacts.²⁹⁷

²⁹⁴ Inter-Ministerial Committee on Japan’s National Action Plan on Business and Human Rights, *National Action Plan on Business and Human Rights (2020-2025)*, October 2020, p.6.

²⁹⁵ Ibid, p.30.

²⁹⁶ METI, “Release of Japan’s Guidelines on Respecting Human Rights in Responsible Supply Chains,” September 13, 2022. https://www.meti.go.jp/english/press/2022/0913_001.html

²⁹⁷ Business and Human Rights Resource Center, “Evidence from Japanese companies’ assessment on Human Rights Due Diligence,” May 17, 2022. <https://www.business-humanrights.org/en/latest-news/evidence-from-japanese-companies-assessment-on-human-rights-due-diligence/>.

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