

Mekong Watch

August 25, 2020

Mr. MAEDA Tadashi, Governor  
Japan Bank for International Cooperation

**Request for Explanation on the Flow of Funds and Human Rights Issues regarding  
the Real Estate Project in Myanmar (Commonly Known as the Y Complex Project)**

In December 2018, the Japan Bank for International Cooperation (JBIC) signed a loan agreement amounting up to approximately USD 47 million with Yangon Museum Development Pte. Ltd. (YMD), a Singaporean subsidiary of Tokyo Tatemono Co., Ltd. (Tokyo Tatemono), and Fujita Corporation (Fujita) that was jointly established with the Japan Overseas Infrastructure Investment Corporation for Transport & Urban Development (JOIN). This loan is provided as part of JBIC's Global Facility to Promote Quality Infrastructure Investment for Environmental Preservation and Sustainable Growth (QI-ESG). We understand that YMD is investing the funds in the development and operation of a real estate complex in Yangon, consisting of a hotel, service apartments and other facilities, through Y Complex Company Limited, a Myanmar corporation established by YMD jointly with a Myanmar company Yangon Technical and Trading Company Limited (YTT)<sup>1</sup>.

Regarding the project, Justice For Myanmar, a human rights organization in Myanmar, has pointed out that profits may flow to the Myanmar armed forces, but that such a flow of funds cannot be monitored or confirmed by third parties<sup>2</sup>. The group also claimed that, based on the contents of the land lease agreement obtained, YTT is paying land rent to the Quartermaster General's office of the armed forces<sup>3</sup>.

The online media outlet Myanmar Now reported in an article published on May 21, 2020, that it confirmed that the lessor is the vice quartermaster general of the Myanmar armed forces and, according to the lease agreement, rent is to be paid in Myanmar kyat or US dollars to an account named "Defence Account." According to the same article, a YTT director told Myanmar Now that the company is paying 2.18 million dollars a year in rent, and said that, although the company pays the annual rent to the Quartermaster's office, he is certain that the rent money goes to the general government budget and not the military<sup>4</sup>. However, Myanmar Now reported that it could not find explicit mention of that rent money in either the defence or general government budgets for the last fiscal year.

Furthermore, Myanmar Now's report on June 10 points to the problem that the present Myanmar law exempts the Ministry of Defence from the government's financial audit<sup>5</sup>. In other words, it is suggested that, under the current situation, even the Myanmar government is unable to confirm whether or not the rent and other payments are made to the armed forces in the projects financed by JBIC.

As you already know, in January 2020, the International Court of Justice (ICJ) imposed provisional measures on the Myanmar government to prevent genocide and the destruction of evidence in relation to the inhumane acts that are

believed to have been committed in Rakhine State mainly by the Myanmar armed forces<sup>6</sup>. There have been numerous reports of Myanmar armed forces perpetrating human rights violations in other ethnic minority communities in the past, and some areas remain in conflict to this day. The independent international fact-finding mission, appointed by the UN Human Rights Council, released a report in August 2019 recommending that foreign companies investing in Myanmar sever ties with businesses linked to the country's military<sup>7</sup>.

Amid great concerns over human rights violations by the Myanmar armed forces, we believe that JBIC is accountable for ensuring that it is not complicit in human rights violations in this project, and that it does not damage Japan's reputation internationally, if JBIC is to continue supporting the project. Specifically, in order to ensure the transparency of financial flow, it is necessary for JBIC to require the participating companies to publicly disclose the recipients of the rent money concerning the project. And if the recipients are related to the Ministry of Defence or the Myanmar armed forces, JBIC must publicly explain on its responsibility that the amount and usage of the rents can be confirmed by a third party. If the financial transparency cannot be ensured and JBIC is unable to fulfill its accountability, public funds should not be used to finance the project.

Even if JBIC judges that this issue is not subject to its obligation to confirm environmental and social considerations, provided under the JBIC Guidelines for Confirmation of Environmental and Social Considerations, JBIC still has responsibility since the issue relates to the rent of the leased land, which is essential to the project it supports. We hereby request JBIC to fulfill its accountability to explain how, in this Japanese public funded project, the risk is avoided for the related funds to be used for any military activities, including the purchase of arms and materials, that may lead to serious human rights violations in Myanmar.

Notes:

<sup>1</sup>JBIC, December 18, 2018, "Loan for Mixed Use Development Project by Japanese Company in Myanmar," <https://www.jbic.go.jp/en/information/press/press-2018/1218-011714.html>

<sup>2</sup> Justice For Myanmar, "The Luxury Japanese Business Development Secretly Funding Myanmar's Military," <https://www.justiceformyanmar.org/stories/y-complex>

<sup>3</sup> The land lease agreement obtained by Justice for Myanmar:

[https://uploads-ssl.webflow.com/5e691d0b7de02f1fd6919876/5ec6b2dc075fe31ea6b96843\\_y-complex-lease-agreement.pdf](https://uploads-ssl.webflow.com/5e691d0b7de02f1fd6919876/5ec6b2dc075fe31ea6b96843_y-complex-lease-agreement.pdf)

<sup>4</sup> Myanmar NOW, May 21, 2020, "Japan-backed luxury hotel and office complex will enrich military, says rights group," <https://myanmar-now.org/en/news/japan-backed-luxury-hotel-and-office-complex-will-enrich-military-says-rights-group>

<sup>5</sup> Myanmar NOW, June 10, 2020, "Junta-drafted law keeps auditor general from investigating military finances," <https://myanmar-now.org/en/news/junta-drafted-law-keeps-auditor-general-from-investigating-military-finances>

<sup>6</sup>Human Rights Watch, January 23, 2020, "World Court Rules Against Myanmar on Rohingya,"

<https://www.hrw.org/news/2020/01/23/world-court-rules-against-myanmar-rohingya>

International Court of Justice, January 23, 2020, Press release, <https://www.icj-cij.org/en/case/178>

<sup>7</sup> UNOHCHR, August 5, 2019, "UN Fact-Finding Mission on Myanmar exposes military business ties, calls for targeted sanctions and arms embargoes," <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24868&LangID=E>