

# ATROCITIES IN MYANMAR:

## USE OF SANCTIONS BY OTHER COUNTRIES COMPARED TO AUSTRALIA

June 2021

### SANCTIONS IN RESPONSE TO THE MYANMAR COUP\*

Individuals	US	UK	Canada	EU	Australia
Commander-in-Chief Min Aung Hlaing – SAC Member	●	●	●	●	
Deputy Commander-in-Chief Soe Win – SAC Member	●		●	●	
First VP and retired Lt Gen Myint Swe	●			●	
Lt Gen Sein Win	●		●	●	
Lt Gen Soe Htut	●	●	●		
Lt Gen Ye Aung	●		●		
General Mya Tun Oo – SAC Member	●	●	●	●	
Admiral Tin Aung San	●	●	●		
Lt Gen Ye Win Oo – SAC Member	●	●	●	●	
Lt Gen Aung Lin Dwe – SAC Member	●	●	●	●	
General Maung Maung Kyaw (SAC Member)	●	●	●	●	
Lt Gen Moe Myint Tun – SAC Member	●	●	●	●	
Deputy Minister for Home Affairs, Lt Gen Than Hlaing	●	●	●	●	
Aung Pyae Sone (Child of CiC)	●		●		
Khin Thiri Thet Mon (Child of CiC)	●		●		
Thein Soe	●		●	●	
Lt Gen Aung Soe	●				
Mahn Nyein Maung – SAC Member	●		●	●	
Thein Nyunt – SAC Member	●		●	●	
Khin Maung Swe – SAC Member	●		●	●	
Aye Nu Sein – SAC Member			●	●	
Jeng Phang Naw Htaung – SAC Member			●	●	
Maung Ha – SAC Member			●	●	
Sai Long Hseng – SAC Member	●		●	●	
Saw Daniel – SAC Member			●	●	
Dr Banyar Aung Moe – SAC Member			●	●	
U Chit Naing			●	●	

Individuals	US	UK	Canada	EU	Australia
Ko Ko Hlaing	●				
Tun Aung Myint	●				
Tun Tun Naung	●				
Than Nyein	●				
Pwint San	●				
Win Shein	●				
Thet Khaing Win	●				
Khin Maung Yi	●				
Hein Htet (Child of SAC Member)	●				
Kaung Htet (Child of SAC Member)	●				
Entities					
Myanmar Economic Corporation (MEC)	●	●		●	
Myanma Economic Holdings LTD (MEHL)	●	●		●	
Myanmar Ruby Enterprise	●				
Myanmar Imperial Jade Co. LTD	●				
Cancri Co., LTD	●		●		
A & M Mahar Company LTD	●		●		
Sky One Construction Company LTD	●		●		
The Yangon Restaurant	●		●		
The Yangon Gallery	●		●		
Everfit Company LTD	●		●		
Seventh Sense Company LTD	●		●		
33rd Light Infantry Division (33 LID)	●				
77th Light Infantry Division (77 LID)	●				
Myanma Gems Enterprise (MGE)	●	●	●		
Myanma Timber Enterprise (MTE)	●		●		
Myanmar Pearl Enterprise (MPE)	●		●		
State Administration Council (SAC)	●				

\*As at 24 May 2021

Since Myanmar's military illegally seized power and detained members of the democratically elected government on 1 February 2021, governments around the world have responded with a variety of measures to limit the junta's power and influence. Among the most effective of these are sanctions targeted at military leaders and their business interests. **The US, UK, Canada and the EU have leveraged their relevant Magnitsky legislation to sanction a total of 38 individuals and 17 entities.**

Sanctions imposed by the US, UK and EU are particularly effective as the majority of the world's financial institutions and banks are based in these jurisdictions, and shares are traded on their securities exchanges. **As a regional economic power, Australia has an important role to play in coordinating sanctions with like-minded governments to limit the power and influence of the Tatmadaw, supporting an end to violence and return of the democratically elected government.**



## How do the economic interests of the Tatmadaw help sustain their control over Myanmar?

Myanmar's military control a large part of the national economy, accumulating wealth through the state bureaucracy and operating monopolies in key sectors. The full extent of the Tatmadaw's secret business empire is unknown as little information is disclosed. Findings from a 2019 United Nations (UN) Fact Finding Mission Report strongly encouraged all foreign businesses to sever ties and cease all business dealings with Myanmar's military-controlled entities. The report highlighted two military conglomerates, Myanmar Economic Corporation (MEC) and Myanmar Economic Holdings Limited (MEHL), run by active and retired Tatmadaw leaders. MEC and MEHL own at least 120 businesses with at least 26 subsidiaries and hold licences for jade and ruby mining in Kachin and Shan states. These entities have been sanctioned by the EU, UK, Canada and US.

Myanma Oil and Gas Enterprise (MOGE), under the Ministry of Environment, is a joint venture partner in the four major offshore gas projects and collects revenue on behalf of Myanmar. The military now has control over all government bank accounts, including MOGE's accounts. Around 50 to 60 per cent of Myanmar's foreign exchange now comes from gas revenues, indicating a high likelihood that the military is relying on them.

Businesses affiliated with the military provide substantial financial support for the Tatmadaw's operations, including their wide array of international human rights and humanitarian law violations. Targeted and coordinated sanctions will damage the Tatmadaw's revenue streams, impacting on the resources they have available to sustain operations and ongoing military rule, including the purchasing of weapons. Governments that choose to maintain economic links with the Tatmadaw risk supporting and perpetuating actions of the de-facto regime.

Previous sanctions regimes played a significant role in the military's decision to start a reform process that led to national elections in 2015. The economic situation has changed since previous periods of military rule, and now most of the military's economic relationships are integrated into the global economy, where sanctions can be more effective.



## How is the Tatmadaw violating international laws?

Since ousting the democratically elected government, military armed forces have led a reign of terror on civilians across the country, killing over 810 people and illegally detaining over 5,300 (as at 24 May 2021). Of particular concern is the impact on children - over 50 children have been killed, hundreds injured, and around 1,000 children and young people have been arbitrarily detained at some point since the start of the coup. The military leadership behind the coup have a history of violence, and should be investigated for genocide in Rakhine state, crimes against humanity, and war crimes in Rakhine, Kachin and Shan States.

Different governments have different criteria for sanctionable offences. Examples of activities that governments have referenced in their reasons for sanctioning individuals and entities include: the undermining of democratic processes and the removal and illegal replacement of the elected government; the illegal detainment of civilians, including members of the democratically elected civilian government; the use of lethal force against civilians, including firing live rounds of ammunition into crowds; the suppression of the right to freedom of expression and freedom of assembly, and more.



## What existing sanctions has Australia placed on Tatmadaw leaders?

In response to a UN Fact Finding Mission, Australia sanctioned five Tatmadaw leaders in October 2018, through Section 6 of the *Autonomous Sanctions Regulations 2011*. While important, these sanctions fall drastically short of holding those responsible for the coup to account, and most notably do not include the Commander-in-Chief.

Myanmar's military officials continue to commit atrocities, while the businesses they own or are associated with continue to generate revenue that facilitates human rights abuses. Like the EU, UK, Canada, and US, Australia can impose sanctions against individuals and entities in a staggered way, allowing review for particularly complicated cases. As UN Special Rapporteur Tom Andrews pointed out, the Australian Government has not even sanctioned the Myanmar military's Commander-in-Chief, bringing into question what it will take for the Australian Government to act.



## How can Australia impose sanctions on Myanmar now?

Australia can immediately impose sanctions on individuals, including Myanmar's military leaders, through Section 6 of the *Autonomous Sanctions Regulations 2011*. Criteria for sanctioning individuals outlined in Section 6 includes, but is not limited to, person who is a business associate of the Tatmadaw, a current or former military officer of the rank Brigadier-General or higher, a senior official (and immediate family members) of a state or military owned enterprise, or a senior officer from the security or corrections agencies. Australia can also sanction entities, although it will take longer as it will require an amendment to the *Autonomous Sanctions Regulations 2011*.



## How the situation in Myanmar highlights the need for Australia to reform the sanction regime.

Alongside other steps in response to the coup in Myanmar, Australia should implement the recommendations from the recent Joint Standing Committee on Foreign Affairs, Defence and Trade report into targeted sanctions to address human rights abuses, by introducing new stand-alone Magnitsky style laws to address violations of human rights law, humanitarian law and acts of corruption.



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