

Ralph A. J. G. Hamers
Group Chief Executive Officer
UBS
ralph.hamers@ubs.com

Nyon, 28 July 2021

UBS's investments in companies with commercial ties to Myanmar's junta

Dear Mr Hamers,

We are writing on behalf of UNI Global Union, which represents 20 million workers in the skills and services sectors in 150 different countries, including finance and insurance workers as part of UNI Finance.

We are writing to you to express our concern regarding UBS's investments in companies with commercial ties to Myanmar's junta, and request that the bank undertake necessary due diligence over these investments.

On 1 February 2021, the Myanmar military carried out a [coup d'état](#) against the country's democratically elected government. The military's increasingly repressive crackdown against pro-democracy protesters has [led](#) to hundreds of deaths, including summary executions, and thousands more detained, tortured, and injured. The UN General Assembly condemned the coup in a [resolution](#) passed on 18 June 2021 demanding they end the five-month-old military takeover, stop killing opponents and free imprisoned civilian leaders.

UNI Global Union's Management Committee adopted a [statement](#) on 21 May 2021, which "condemns the military coup in Myanmar in the strongest possible terms." In this statement, UNI "pledges to do everything possible to support the fight for rights and democracy in Myanmar."

The statement calls on international companies operating in Myanmar to:

"end any direct or indirect business relationships or financial ties to military-owned businesses and to use their leverage to secure the release of detainees, restore democratic institutions, and guarantee the human and labour rights of all Myanmar workers. This must include international companies providing support to workers where operations are curtailed, including protection to workers protesting the coup."

In that light, we were concerned to read the recent report of BankTrack and Justice for Myanmar, which names UBS as a shareholder with a total of \$3.466 billion in shareholdings in companies that have either direct and longstanding commercial ties to Myanmar's military to or state entities that the military is controlling as a result of the coup.

There is increasing international pressure from States, multilateral institutions, and civil society organizations for businesses to act, including an increasing number of targeted sanctions against military officials and military-affiliated entities, the freezing of these individuals' and corporate assets, and international protest and condemnation. On 25 March 2021, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) [sanctioned](#) the military's two largest conglomerates, Myanmar Economic Holdings Public Company Limited (MEHL) and Myanmar Economic Corporation Limited (MEC), and the European Union [followed suit](#) on 20 April 2021, [adding](#) further individuals and 3 economic entities on 21 June

2021. These actions succeeded US sanctions against military officials and the state-owned gem and timber companies. The United Kingdom, Canada, Australia and New Zealand have also taken similar actions.

Responsibility of banks

Under the United Nations Guiding Principles (UNGPs) and OECD Guidelines, all business enterprises, including investors, should take the necessary steps to cease, prevent, or mitigate adverse human rights impacts which they cause, contribute, or are directly linked to through their business relationships. As clarified in the OECD's [guidance](#) on *Responsible Business conduct for institutional investors*, minority shareholders such as banks or other institutional investors have human rights' responsibilities for the human rights' impacts of their investee companies.

We note that UBS commits in its [human rights statement](#) to: "respecting human rights, as set out in the UN Guiding Principles on Business and Human Rights (UNGPs), in our business activities." We also note that in UBS's 2020 [Stewardship Annual Report](#), the company considers the UNGPs and the OECD Responsible Business Conduct Principles framework.

A growing number of institutional investors have acted upon this responsibility regarding the risks of their investments in Myanmar. For example, 77 institutional investors with \$4 trillion in assets under management have signed on to an [investor statement](#) which outlines steps for companies with operations linked to Myanmar. Other investors have taken the step to divest from companies over an unacceptable risk of supporting the regime, such as the recent [decision](#) of KLP to divest from Adani Ports.

In the current situation following the coup in Myanmar, urgent and heightened due diligence activities are needed by all companies with business relationships in the country given the severity of the human rights' impacts.

Actions needed

BankTrack's report found that UBS is a shareholder in seven of eight companies identified with long-standing ties to the military junta: Adani Ports and Special Economic Zone Ltd, Daiwa House Industry Co Ltd, Hilton Worldwide Holdings Inc, Posco, Shangri-Las Asia Ltd, Sinotruk Hong Kong Ltd, and Tokyo Tatemono Co Ltd. Furthermore, they also report UBS shareholdings in all ten companies identified with direct commercial relationships with enterprises that came under military control: Chevron Corp, Eneos Holdings Inc, Eni SpA, GAIL (India) Ltd, Oil and Natural Gas Corporation Ltd, KDDI Corp, PTT Exploration and Productions PCL, Royal Dutch Shell Plc, Sumitomo Corp, and Total SE.

The report notes that for banks with investments in the eight companies named with long-standing ties to the military junta, using leverage as shareholders to prevent or mitigate human rights' impacts is no longer the appropriate course of action. Rather, they call upon banks and other investors to divest immediately from these eight companies.

This approach is needed in line with the OECD Guidelines given the unfeasibility of mitigation and severity of the impact. As noted by the OECD Guidance for institutional investors: "an appropriate response once adverse impacts have been identified may include divestment after failed attempts at mitigation, where the investor deems mitigation unfeasible, where the investor policy dictates exclusion, or simply because of the severity of the adverse impact."

For the ten companies identified with a direct commercial relationship with enterprises that came under military control following the coup, BankTrack notes that "banks and other

investors have a responsibility to conduct meaningful, timebound engagement with these ten companies to insist that they immediately take the specific steps outlined in order to bring themselves into compliance with the international standards. If the companies do not indicate that they are willing to take these steps and at least initiate a process to begin doing so, the banks should divest their shares of the companies until the companies are in compliance with the OECD Guidelines and UNGPs.”

We call upon UBS to take the necessary steps of divesting from Adani Ports and Special Economic Zone Ltd, Daiwa House Industry Co Ltd, Hilton Worldwide Holdings Inc, Posco, Shangri-Las Asia Ltd, Sinotruk Hong Kong Ltd, and Tokyo Tatemono Co Ltd and begin robust engagement with Chevron Corp, Eneos Holdings Inc, Eni SpA, GAIL (India) Ltd, Oil and Natural Gas Corporation Ltd, KDDI Corp, PTT Exploration and Productions PCL, Royal Dutch Shell Plc, Sumitomo Corp, and Total SE. While we note that these investments were likely made prior to the coup, in light of the current situation, action is now needed to end financial support that enables the regime’s brutal crackdown.

Thank you for your attention to this matter. We look forward to your response, and are available to provide further information or discuss this further. Please send your response to UNI Finance Head of Department Angelo Di Cristo: angelo.dicristo@uniglobalunion.org.

Yours sincerely,

A handwritten signature in black ink that reads 'Christy Hoffman'.

Christy Hoffman
General Secretary
UNI Global Union

A handwritten signature in blue ink that reads 'Angelo Di Cristo'.

Angelo Di Cristo
Head of Department
UNI Finance