

Civil society calls on Thales to put an end to suspected indirect support to the Myanmar junta

Paris, November 30, 2021 – Info Birmanie, Justice For Myanmar, Reporters Without Borders (RSF) and Sherpa denounce exports of military technology carried out by Thales to an Indian intermediary partner of the Myanmar military junta, which could allegedly be carried out in violation of the restrictive measures imposed by the European Union (EU), after the February 2021 attempted coup in Myanmar. The organisations call on Thales to stop these exports, and ask the French authorities to take the necessary measures to put an end to this partnership and adopt a law making it possible to penalise violations of arms embargoes.

A Justice For Myanmar investigation published last spring revealed that one of Thales' long-time partners, the Indian company Bharat Electronics Limited (BEL), has a particularly close relationship with the Myanmar junta, and exports military technology to it. On the basis of these revelations, InfoBirmanie, RSF and Sherpa wrote a letter to Thales on November 26, 2021, calling on the French company to put an end to any transfer of its technologies to the junta in Myanmar, and more generally to definitively end its business relationship with BEL and with any other partner of the Myanmar junta.

Justice For Myanmar's investigations outline BEL's close ties to the junta and demonstrate the supply of equipment to the military, which BEL confirms in its 2020-2021 annual report. According to the information gathered, BEL has carried out at least seven exports of radars and equipment for the benefit of the Myanmar junta since the attempted coup of February 1, 2021, even though international sanctions were taken against Myanmar and that States and companies were called upon to take all necessary measures to avoid fuelling the junta's human rights abuses. BEL also reportedly exported a remote-controlled weapons system, partly managed by executives of the BEL-Thales Systems Limited (BTSL) joint venture created between BEL and Thales Systems Limited.

In view of this information, it is likely that the technology shared by Thales to BEL, and re-exported by BEL in its equipment, is therefore directly transmitted to the Myanmar military junta, and potentially used to perpetrate its atrocities. These exports could then constitute a violation of the European restrictive measures and the UN Guiding Principles on Business and Human Rights.

Info Birmanie coordinator Sophie Brondel states, *"this case confirms the urgent need for a global arms embargo in Myanmar, as 136 organizations around the world called for in February, including Justice For Myanmar and Info Birmanie."*

"Thales must put an end to its business relations which benefit the Myanmar junta," declares the legal officer of Reporters Without Borders (RSF), Paul Coppin. *"Business as usual" is no*

longer possible with a country like Myanmar, whose ruling junta fiercely represses journalists and destroys civil society. "

Yadanar Maung of Justice For Myanmar insists that *"more than 1,290 people have been killed by the military junta since its attempted coup, including children. The military is now stepping up its campaign of terror through indiscriminate airstrikes, destruction of homes and villages, killings and rape. This is the context in which Thales' partner, Bharat Electronics Ltd, continues to do business, supplying equipment to the military junta with knowledge of the crimes being committed. Thales must sever its relations with Bharat Electronics, stop transferring technology and end all direct and indirect support to the military, who are terrorists."*

Laura Bourgeois, litigation and advocacy officer at Sherpa, believes that *"French companies which directly or indirectly supply armed groups and thus support their actions are not sufficiently worried or held accountable: the existing rules to sanction them are special rules too scattered and restricted to be dissuasive. It is time for French legislators to create an offense punishing violations of embargoes. "*

The Member States of the EU, and therefore the French State, have the responsibility to take all necessary measures to guarantee the scope and effectiveness of EU law, notably of the restrictive measures, and to put in place sanctions at the national level that are effective, proportionate and dissuasive. The four signatory organisations do not exclude taking legal action on these revelations, and mobilizing civil society and the competent authorities so that they make the best use of the rules applicable to the violation of EU restrictive measures.

Legal background

European Council Decision 2013/184 / CFSP renewed until April 30, 2022 by Council Decision (CFSP) 2021/711 of April 29, 2021 prohibits *"the sale and supply in Myanmar, as well as the transfer and export to that country, by nationals of the Member States or from the territory of the Member States (...) of equipment liable to be used for internal repression, whether or not it comes from their territory"*.

Article 3a of Council Regulation 401/2013 concerning restrictive measures imposed due to the situation in Myanmar / Burma as amended by Council Regulation 2021/479 of March 22, 2021 prohibits *"the sale, supply, transfer or export, directly or indirectly, dual-use items and technologies listed in Annex I to Council Regulation (EC) No 428/2009 (...) to any entity or body in Myanmar or for the purposes for use in that country, if these goods and technologies are or may be intended, in whole or in part, for military use, for a military end user (...) "being specified that" when the end user is the Myanmar Army, any dual-use good and technology supplied to it is considered to have military use. "*

Principle 13 of the UN Guiding Principles on Business and Human Rights provides that: *"The responsibility to respect human rights requires companies to: (a) They avoid causing or contributing to negative human rights impacts through their own activities, and address such impacts when they occur; (b) They endeavour to prevent or mitigate adverse human rights impacts that are directly related to their activities, products or services through their commercial relationships, even if they have not contributed to these incidences."* The Court of Justice of the European Community ruled in its time, on September 21, 1989, that *"it should be noted that, when a Community regulation does not contain any specific provision providing for a sanction in the event of violation or refers to this in relation to national laws, regulations and administrative provisions, Article 5 of the Treaty requires Member States to take all appropriate measures to guarantee the scope and effectiveness of Community law."* (Case 68/88, Comm. V. Greece, §23).

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