

# Guilty Silences

## the DANIELI & C. S.P.A. case

*OPACITY OF A MULTINATIONAL CO. AND DEFICIENCIES OF ITALIAN INSTITUTIONS.*

*The twenty-year collaboration with the Burmese military.*



**31.5.2023**, General Min Aung Hlaing, head of the military junta, donate a present to DANIELI technicians.

This Report was prepared by the Association  
ITALIA-BIRMANIA.INSIEME APS, with the determinant  
contribution of the Pa-O Youth Organization (PYO) and the  
Confederation of Trade Unions of Myanmar (CTUM), with the  
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The Report highlights the reprehensible political choice made by the DANIELI & Co S.P. group. A (hereinafter DANIELI) to continue doing business in a country under violent dictatorship, accused of war crimes and crimes against humanity and the possible profound and repeated violation of international human rights, including the UN Principles on Business and Rights Humans, the OECD Guidelines on Multinationals 2011, the ILO Tripartite Declaration on Multinational Enterprises and the restrictive measures of the EU. The Report also questions the role of the Italian authorities, who would have allowed, over the years, DANIELI, but also other companies to continue doing business with the previous dictatorship and with the current one.

DANIELI is an Italian company, world leader in the production of steel plants and with technologically innovative projects, with headquarters in Buttrio (Udine). According to the results of the 2022/2023 financial year, DANIELI had "operating revenues of 4.1 billion, up 13% compared to the previous financial year, net profit of 243.6 million euros, +11%, operating margin gross to 423.9 million, improved by 18% and order book increased from 5 to 6.2 billion euros" with a total of 9,732. employees.

## THE SITUATION IN BURMA/MYANMAR

As is known, Burma/Myanmar was subject to a very harsh military dictatorship from 1962 to 2011, sanctioned on an international and European level for profound violations of human rights, forced labor, land confiscation, forced recruitment of minors, rapes, killings, arrests and torture of dissidents. From 1991 to 2021, 31 UN General Assembly resolutions have been approved: and due to the veto of China and Russia only one UN Security Council Resolution of 12.21.2022. the ILO adopted a very important resolution in 2000 which asked its constituents (governments, entrepreneurs and workers) to review their relations with the dictatorship of the time. A series of European restrictive measures illustrated in the Report have also been adopted.

From the coup d'état of February 1, 2021 to today, a campaign of terror has been underway and the consequent continuous dizzying increase in the violation of human rights, labor and environmental rights by the Burmese military junta and the Burmese military companies with which DANIELI has been working for years, despite the severity of human rights violations being known, which increased exponentially following the coup d'état on February 1, 2021: war crimes and crimes against humanity reported by the UN.

From April 2022 to July 2023, the UN reports 1,427 aerial bombings, (in August 2023, warplanes conducted more than 100 bombings).<sup>1</sup>

1,355 villages; over 75,000 buildings; 200 religious' buildings, including food storage facilities, seed banks and livestock have been destroyed, leading to the ongoing displacement crisis, and dramatically increasing

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<sup>1</sup> Peace Research Institute Oslo. <https://reliefweb.int/report/myanmar/counting-myanmars-dead-reported-civilian-casualties-2021-military-coup>

humanitarian and protection needs, including for those at particular risk such as women, children, elderly people and people with disabilities. This follows the "burn all, kill all" operation.

According to the UN High Commissioner for Human Rights Volker Turk:

*"The increasing use of air power, along with heavy weapons and other material, can only be purchased from foreign sources. The military relies on access to foreign exchange to purchase military materials, support services and aviation fuel. In this context, I welcome the recent measures imposed specifically to limit the purchase of aviation fuel for military purposes. Ground operations resulted in 22 documented incidents of mass killings of 10 or more individuals."*

The Peace Research Institute Oslo (PRIO) report declares that from February 1, 2021 to September 2022 in the first 20 months after the coup, over 6,337 civilians were killed and 2,164 injured for political reasons. 24,777 civilians were arrested. 2,000,000 internally displaced people, 5 million children in need. While over US\$2.7 billion has been allocated in the military budget for the fiscal year 2023-24, (equal to 28% of the national budget).

What is reported in this Report shows how the DANIELI group, for over 30 years, has worked and continues to work with military companies, with the MEC, (Myanmar Economic Corporation) a conglomerate under the direct control of the Ministry of Defense, with the Ministry industry, whose ministers are part of the current Burmese military junta (SAC), in violation of the contents of the OECD Guidelines on Multinationals, the UN Guiding Principles on Business and Human Rights and the ILO Tripartite Declaration on Multinationals and very probably of the EU restrictive measures.

The framework of UN reports denouncing war crimes and crimes against humanity perpetrated by the military junta is vast.

Some of these reports are cited in this document.

It should be reiterated that a proceeding is open at the International Court of Justice for the violation of the UN Convention on crimes of genocide, while an investigation for genocide crimes against the Rohingya has been open since 2019 at the International Criminal Court.

Nicholas Koumjian, Head of the Independent Investigative Mechanism for Myanmar, established in 2018 by the UN Human Rights Council, said at the fifty-fourth Ordinary Session of the Council on 11 September 2023<sup>2</sup>:

*"Over the past year we have witnessed the most brazen and indiscriminate aerial bombings, resulting in the deaths of innocent civilians, including children. We have also seen an increase in executions of captured fighters and civilians and intentional burning of homes and villages. There has also been an increase in the number of arrests without due process and we have gathered credible evidence that some detainees have been subjected to torture, sexual violence and other serious ill-treatment".*

It seems rather strange that, despite the historical business relations, over the last decades, with the Burmese military juntas, these relations never emerge in any official document of the group and, much less, in the map of DANIELI's presence in Asia, nor in the activities of DANIELI Far East nor that the Italian Ministry of Foreign Affairs and Cooperation has any knowledge of DANIELI's activities in Burma/Myanmar, especially after the military coup.

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<sup>2</sup><https://iimm.un.org/statement-to-the-human-rights-council-by-mr-nicholas-koumjian-head-of-the-independent-investigative-mechanism-for-myanmar-at-the-54th-regular-session-of-the-human-rights-council/>:

Many of DANIELI's activities violate several chapters of the OECD Guidelines on Multinationals, starting from those relating to human rights, environmental impacts, transparency, involvement of interested parties, as well as the Guiding Principles on Business and Human Rights, in relation to which DANIELI does not has taken any measures to mitigate the impacts of such violations. Even the restrictive measures approved by the EU during the previous dictatorship and since the coup d'état of February 2021 may have been violated or there may have been exemptions by the Italian authorities, which allowed DANIELI to continue to operate in Myanmar with companies property of the military junta.

DANIELI's presence may have directly and indirectly endorsed, and therefore may have contributed to producing, negative impacts on workers, local populations, the environment, to strengthen the impunity and corruption of military companies and to consolidate power and strategies of the military, responsible for war crimes and crimes against humanity.

## THE MYANMAR ECONOMIC CORPORATION (MEC)

Founded in 1997, with the stated objectives of contributing to the economy of Myanmar, meeting the needs of the Tatmadaw (the Burmese military), reducing defense spending and ensuring the well-being of military personnel. MEC is wholly owned and controlled by the Ministry of Defense and is a



direct source of revenue for the Tatmadaw. The MEC is controlled by the Office of the Quartermaster General. The MEC is led by General Min Aung Hlaing, head of the military junta.

MEC also has a wholly owned private subsidiary: MEC Limited. The board of directors of MEC Limited also includes individuals accused of the most serious crimes according to international standards: Chiefs of Staff of the

Army, Navy and Air Force, the Permanent Secretary of Defense, and the Directors of the Supply and Transport Directorates, Intelligence Signal, electrical and mechanical engineers. Khin Maung Soe, sanctioned by the European Union, the United States, the United Kingdom and Australia, serves as director of the MEC. (Governance Structure of MEHL and MEC – Ohchr).

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*SOME OF ITS COMPANIES ARE SANCTIONED BY THE EU SINCE 25.10.2004.*

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The MEC was formed to promote the establishment of heavy industries that could generate profits, but also for strategic reasons. That is, to ensure that the military has access to supplies of important materials such as steel, cement and rubber.

In the framework of European sanctions, the EU Regulation of 22.5.2000 included Col Ye Htut of the Myanmar Economic Corporation among the sanctioned subjects.

Annex IV of EU Regulation no. 1853/2004 of 10.25.2004 listed the Burmese state enterprises subject to restrictive measures, including some enterprises of the Myanmar Economic Holding. Among these, Myanmar Posco Steel co ltd, Myanmar Nuveau Steel Co. Lt, of the MYANMAR ECONOMIC CORPORATION, MEC STEEL MILLS HHAW B1/PYI/Y WAMA, MEC Ship Breaking Service, Thilawa, which DANIELI contributed to build.

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*The members of the junta are under restrictive measures by the EU as well as the MEC and are being investigated by the International Court of Justice for genocide, war crimes and crimes against humanity against the Rohingya population.*

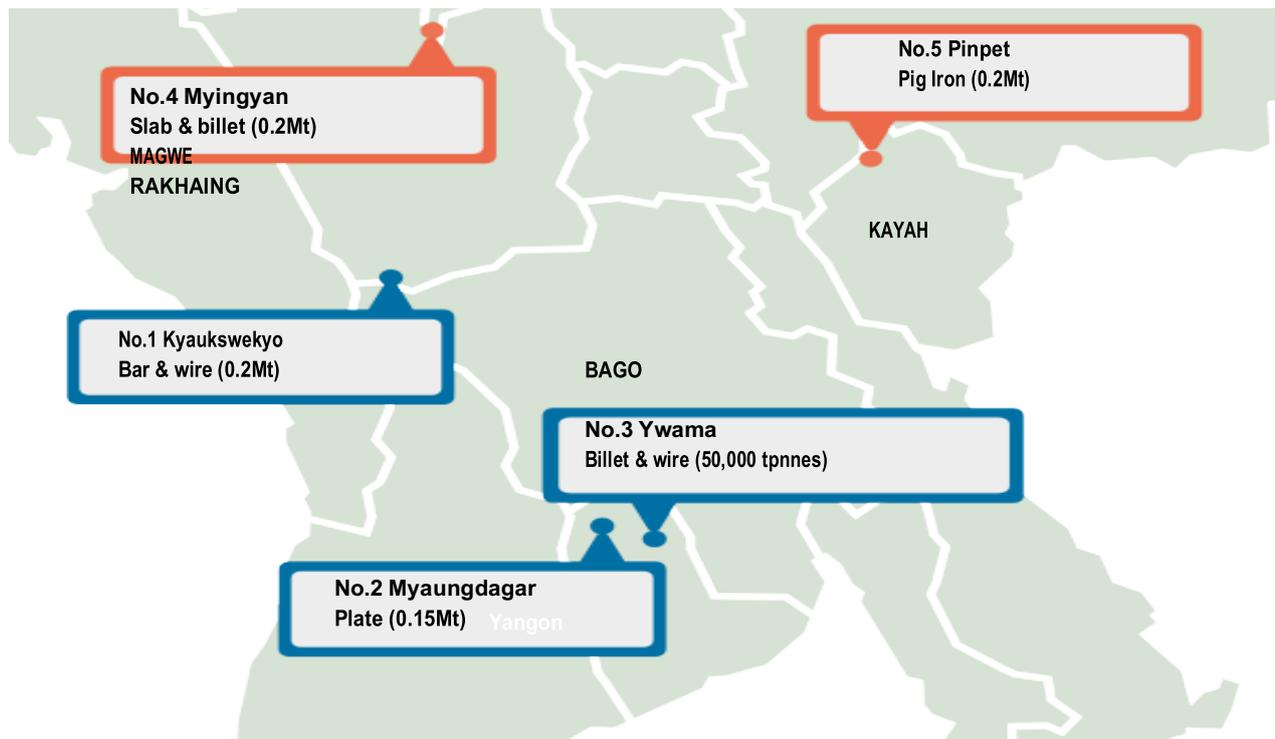
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The UN Independent International Fact-Finding Mission (IIFFM), in its investigation: “The economic interests of the Myanmar military”, published by the 42nd Session of the UN Human Rights Council in September 2019, identified 106 companies that are reasonably owned by MEHL and MEC, and 27 other companies that for reasonable reasons, are closely connected with MEHL and MEC through corporate structures.

As of the date of publication of the IFFM report (2018), the financial statements of MEHL and MEC had never been made available to the public through the Directorate of Investment and Company Administration (DICA). The IIFFM report states in paragraph 5 of the conclusions n. 1717:

*“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, in particular the Tatmadaw, or any enterprise owned or controlled by them or their individual members, until and unless they are re-structured and transformed as recommended by the Mission”.*

## State and placed of state owned plants



Source: Myanmar POSCO, POSCO Research Institut

## HISTORY OF DANIELI PRESENCE IN BURMA/MYANMAR

DANIELI has been present in Burma/Myanmar for decades, and as will be highlighted below, in some periods, working with extremely opaque military companies, in probable violation of the OECD Guidelines on Multinationals, of the ILO International Conventions, of the ILO Tripartite Declaration on Multinationals, the UN Guiding Principles on Business and Human Rights and probably also the EU restrictive measures.

Already in the years of the previous dictatorship, DANIELI had continued to make agreements and work with the military junta of the time. In 1979, he had collaborated with General Ne Win's military regime to build Burma's first steel plant at Anisakharn, near Pyin Oo Lwin, to produce iron and steel, including an arc furnace and steel casting, made turnkey by DANIELI, in the early 1980s after signing a contract with the Mining Company N. 3.

In 1996 DANIELI had supplied all the machinery and collaborated with the SPDC regime for the construction of the rolling mill: Steel Rolling Mill of Kyauk Swae Kyo, owned by the Myanmar Economic Corporation, in Aunglan, in the Magwe region. The Myanmar military later said the conglomerate had been privatized, but continued to be owned by the Quartermaster's Office Generale<sup>3</sup>, key unit of the Myanmar military that oversees major military business interests and is responsible for purchasing weapons and other equipment.

<sup>3</sup> Special Advisory Council Report

In the volume published by the OECD, in 2001: Development in Steelmaking Capacity of Non-OECD Countries, it is mentioned: “A new wire rod production line at the Myanmar Economic Corp (MEC) has reportedly produced its first coils. The line, one of the two production outlets of the new 350,000 tpa flexible round bar mill, supplied by DANIELI Morgandshammer, started at the beginning of 1999”.



In 2004, DANIELI contributed to the construction and supply of machinery for the Thilawa Ship Breaking Yard, OWNED BY MEC AND SANCTIONED BY THE EU SINCE 10.25.2004, in the Township of Kyauk Tan, near Yangon. The materials that are recovered from ship dismantling operations, equal to approximately 50,000 tons of iron per year, are destined for steelworks no. 4 by Myingyan.



In 2009, a report by the Pa-O Youth Organization: Rubbing the future indicated that DANIELI had contributed to the realization of the Pinpet steel mill project, at the base of Mount Pinpet, in the Shan State.

Mount Pinpet 1,400 meters high above sea level, has the second largest deposit of iron ore, after the site near Hpakant, (Kachin State). But it is also rich in other minerals, including copper, limestone, tungsten, tin and is also suspected in uranium.



A project that had seen very strong opposition from the local populations due to the enormous environmental damage and the land confiscation carried out by the military. The report had published, among other things, a site map highlighting the area of military and Russian residences and Italian offices, known as the "Italian section". Constructions of much larger dimensions than the Russian ones.

A Belarusian company, Aquaecology (ALC), was also involved in the construction of the plant, together with another Belarusian company: Belnienergoprom”, responsible

for the design of the plant's cycle circulation systems, i.e. the heat recovery, the Romelt main production shop, the Oxygen Plant Station, and the plant's fire suppression system piping.

The Pa-O Youth Organization reported that, since 2004 Russian and Burmese companies have been excavating the country's second largest iron ore deposit, and building an iron processing plant and a cement factory on a total of 4,450 hectares of land. “An Italian company is also believed to be involved in the process,” the report said.



The Pinpet plant, shown in the accompanying photo, would have been Myanmar's second iron processing plant, after the Anisakharn plant.

In 2007 DANIELI confirmed that it operated in Myanmar in the steel sector, but denied having any connection with military companies and that it was not supplying products for armaments. .

The ore smelted at Anisakhan was sourced from an open-pit mine in Kyat-win-ye, about 40 km to the southeast, near the border with Shan State.

The Pinpet and Myingyan steel plant projects were realized through an agreement signed in 2004, between Russian state-owned Tyazhpromexport and MEC. The Russian company, by agreement, would

have supplied machinery for 150 million USD. The actual construction began in 2006.

In 2004, during the previous dictatorship, DANIELI carried out the modernization of the No. 3 Steel Mill in Ywama in the Township of Insein (Yangon)<sup>4</sup> owned by the Myanmar Economic Corporation and sanctioned by the EU since 25.10.2004.

Italian Customs data from 2008 record - most likely in violation of EU restrictive measures, or following exemptions by the Italian authorities - the export, in the months of January, February, March, April and October 2008, of products by DANIELI to Burma, for a total of €673,817<sup>5</sup>. It is recalled that in 2008, following the repression of the Saffron Revolution, the EU had adopted very strong trade restrictive measures.

According to the [AIDDATA](#), On July 14, 2010, the China Development Bank (CDB), the Myanmar Economic Corporation (MEC) and the Myanmar Foreign Trade Bank (MFTB) signed a loan agreement for the implementation of Phase 2 of the construction project of the Steel mill no. 1 by Myingyan. The precise face values of the 2010 and 2011 loans are not known. However, according to a general statistical report of the Government of Myanmar and a report of the Mandalay Regional Auditor General (covering the period from April to September 2018), the total public debt for this project amounted to 1,042,340,000 euros (566.97 million euros when the steelworks was under construction).

The aim of the project was to build a steel mill - with the capacity to produce 400,000 tonnes per year of steel, steel products, building materials and machinery materials - near Sar Khar village within Myingyan Municipality and in the Mandalay Region. The project was implemented in three phases..

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<sup>4</sup> <https://www.mecwebsite.com/no-3-steel-mill-ywama/>

<sup>5</sup> denuncia CISL del 2009

Phase 1 entered in operation in March 2010. Responsibility for the steel mill was transferred from the MEC to the Ministry of Industry of Myanmar on 1 October 2012. The steel mill was subsequently closed on 17 February 2017 because it was consistently loss-making. In 2020, Mandalay's interim prime minister said the project's total debt, including interest, exceeded 1.615 billion euros. As a result, the Myanmar government found itself having to pay 500 million Kyat (US\$345,000) per day to the CDB to service a loan taken out by an army-backed conglomerate (MEC) for a steel mill that was no longer operational. This project is also known as the 200,000 Ton Per Year Special Equipment Export Steel Mill Project, or Myanmar Steel Corporation (No.4) (Myingyan)<sup>6</sup>.



employees<sup>7</sup>. The press release states:

On **21.3.2010**, in the midst of military dictatorship and, under heavy EU sanctions, DANIELI participated to the inauguration of the steel plant No. 4 in Myingyan, owned by the MEC under the control of the Ministry of Defence. The plant area occupies 321 hectares with 84 buildings, 18 of which are industrial and 354

*“The ceremony was attended by General Tha Aye of the Ministry of Defense and President of the Mandalay Division Commander of the Central Command Major General Tin Ngwe, ministers, deputy ministers senior officials of the ministry of defense, heads of departments. Secretary no. 1. The Commander, Minister for Mines, Brigadier General Ohn Myint formally inaugurated the plant. Secretary #1 and the Executive Director presented gifts to Mr. Giacomo Mareschi DANIELI, of DANIELI Co.”<sup>8</sup>*



<sup>6</sup> <http://www.taunggyitimes.com/2010/03/no-4-steel-plant-myingyan-of-myanmar.html>

<sup>7</sup> [chromeextension://efaidnbmnnnibpcajpcglclefindmkaj/https://industry.gov.mm/announcements/get\\_document/343/1637162684.pdf](chromeextension://efaidnbmnnnibpcajpcglclefindmkaj/https://industry.gov.mm/announcements/get_document/343/1637162684.pdf)

<sup>8</sup> <http://www.taunggyitimes.com/2010/03/no-4-steel-plant-myingyan-of-myanmar.html>

Il “Transformation of State Owned Factories: Strategic Profiles”<sup>9</sup>, document of the Ministry of Industry of the State Administration Council (SAC), published in November 2021 mentions:

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*“The factory was created with the collaboration of the DANIELI company (using Italian technology) to produce steel billets and slabs. Phase I of the equipment installation was completed in 2010. Equipment purchased for subsequent phases is stored at the site”.*

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Among the main characteristics the paper declares: **“THE FACTORY IS AN INTEGRATED STEEL MILL, PURCHASED AND PARTIALLY INSTALLED BY THE DANIELI COMPANY, ITALY”.**

On **6.18.2019**, in an article by Mauro Romano, published on Class, the information platform dedicated to companies and promoted by Class publishers and Xinhua (Xinhua News Agency), the largest multimedia group directly controlled by the Chinese State, the role of Cassa Depositi e Prestiti in Burma/Myanmar, and the presence of DANIELI in the country:

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*“At the moment (2019) the Italian presence is limited to a few large companies, which have solid financial backs to carry on their business. The main one is Eni, which is working on four research blocks, two offshore and two onshore, while DANIELI is setting up a national steelworks project for the government, an investment of 800 million euros.”*

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On **January 24, 2020** DANIELI organized a seminar in Mandalay: “For Emerging Myanmar Economy for Steel & Metal Industry”<sup>10</sup>

Since the 2021 coup, there has been a constant presence of DANIELI in Burma/Myanmar and its close collaboration with companies owned by the army and the junta, both sanctioned by the EU. The acceleration, decided by the military junta in the modernization of the Burmese steel plants arises from the fear that further sanctions could affect the supply of armaments, spare parts and raw materials arrived to date, also through a series of steps and triangulations (see example the ammunition of the Italian-French company Cheddite used by the Burmese security forces to repress demonstrations against the military coup). The military junta thus began the restructuring and relaunch of the Myingyan steel plant (Mandalay) and plant no. 2 of Pinpet, blocked by the NLD government due to low productivity and cost, being a debt trap towards

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<sup>9</sup> [efaidnbnmnnibpcajpcgclcfindmkaj/https://industry.gov.mm/announcements/get\\_document/343/1637162684.pdf](https://industry.gov.mm/announcements/get_document/343/1637162684.pdf)

<sup>10</sup> <https://www.facebook.com/photo/?fbid=1929000910577962&set=pcb.1929001770577876>

China. The plant was built on 2072 hectares with 114 buildings, 248 employees.



According to the state-run New Light of Myanmar newspaper, five months after the coup, in June 2021, the junta's Ministry of Industry and the Russian ambassador met and discussed in Naypyidaw the recommissioning of the Pinpet steel mill. After the meeting, it was reported that the steel mill was expected to reopen in 2023.

Reports presented by the Special Rapporteur on Human Rights in Myanmar, Tom Andrews, show how a number of international companies have continued to supply spare parts and raw materials for the country's weapons construction. In particular, the report: *The Billion Dollar Death Trade: The International Arms Networks that Enable Human Rights Violations in Myanmar*<sup>11</sup> denounces:

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“the Myanmar's military has imported at least \$1 billion in weapons, dual-use goods, equipment and raw materials to make weapons since the military coup in February 2021”.

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The paper further states: “The findings of this paper demonstrate the imperative for member states to impose coordinated sanctions that target the Burmese junta's finances and arms supply networks. Arms traffickers have easily been able to evade sanctions imposed by the United States, European Union, United Kingdom, and Canada by using front companies and creating new companies to evade them. Through case studies, the Special Rapporteur shows that while arms trading entities have been sanctioned, their broader networks (many of which are identified in this document) have not been”.

The report of the Special Advisory Council - Myanmar (SAC -M) of 16 January 2023: “Fatal Business: supplying the Myanmar Military's Weapon Production”<sup>12</sup> identifies weapons production companies managed by the Department of Defense Industry (DDI) nicknamed KaPaSa in Burmese. The document highlights that some production appears to take place under license (including expired licences), through technology transfer agreements and turnkey plants, including by state-owned enterprises, including Italian companies which, however, are not mentioned.

Since mid-October 2022, excavation of the coal mine in Ke See municipality has begun, to fuel the blast furnaces of the Pinpet plant, which will produce iron for the Myingyan steel mill, for the realization of the

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<sup>11</sup>

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*extension://efaidnbmnnnibpcajpcgiclfindmkaj/https://www.ohchr.org/sites/default/files/documents/countries/myanmar/crp-sr-myanmar-2023-05-17.pdf*

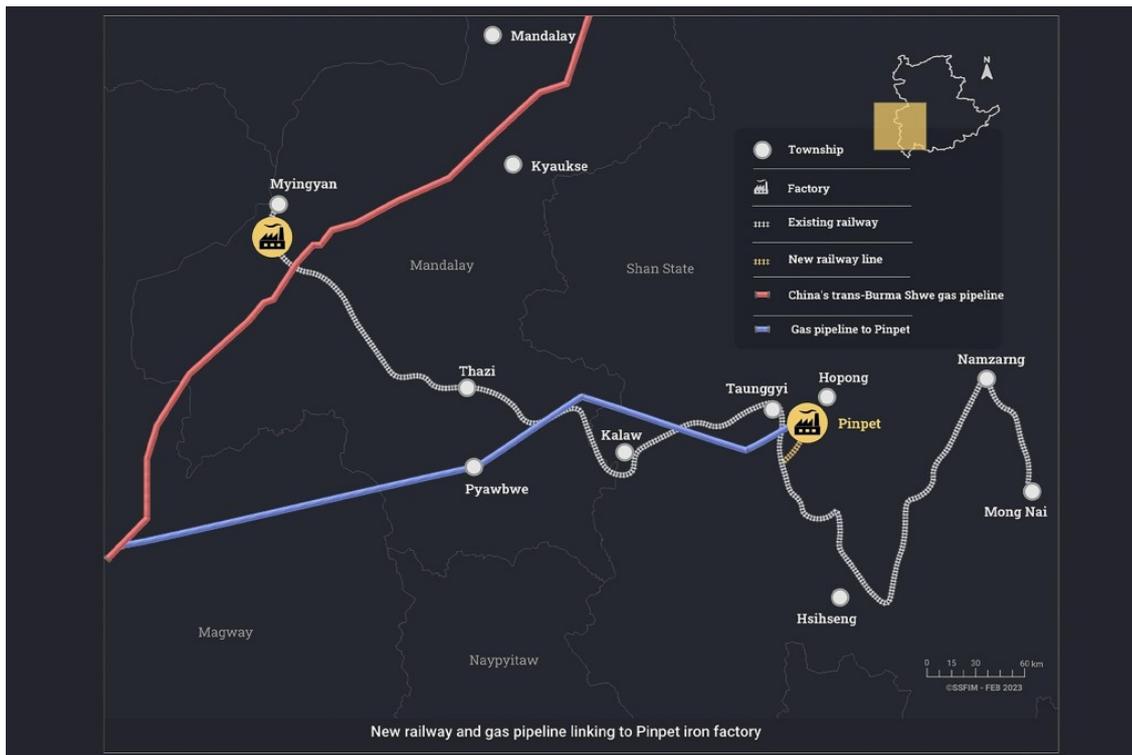
<sup>12</sup> <https://specialadvisorycouncil.org/fatal-business/report/>

Burmese army's long-term plans, aimed at increasing local steel production and strengthening the defense industry.



In particular, DANIELI's collaboration in the construction of the Myingyan and Pinpet plants, which began under the previous SPDC regime in 2004, and reactivated in 2021, after the suspension decided in 2017 by the then semi-civilian NLD government, part of a joint iron mining, coal and steelmaking project between the military-owned Myanmar Economic Corporation and Russian state company Tyazhpromexport. This is an organic project, which includes the exploitation of the coal mines of Ke See, and Tigyit and the iron mine of Pinpet for the supply of steel plants.

*Transport connection for the iron and steel production in the Pinpet and Myingyan plants. (Shan Frontline Investment Monitor)*



Railway and gas pipeline supplying the Pinpet and Myingyan plants. (Shan Frontline Investment Monitor)

## EUROPEAN UNION RESTRICTIVE MEASURES

The sanctions adopted by the EU against Burma/Myanmar were first imposed in 1990 and were reiterated on 28 October 1996 (common position 96/635/CFSP) by the EU Council, concerned about the lack of progress towards democratization and the persistence of human rights violations in Burma/Myanmar. Said restrictive measures against the country adopted with common position 1996/635/CFSP, were subsequently extended and modified with Common Position 2000/346/CFSP, repealed and replaced by common position 2003/297/CFSP, then extended by position common position 2004/423/CFSP, strengthened by common position 2004/730/CFSP, amended again by common position 2005/149/CFSP and, extended and modified by common position 2005/340/CFSP. The Council then adopted common position 2006/318/CFSP, taking into account the political situation in Burma/Myanmar<sup>13</sup>.

Such restrictive measures included the arms embargo, the ban on technical assistance, financing and financial assistance in relation to military activities, the ban on the export of materials that could be used for internal repression, the freezing of funds and economic resources belonging to members of the Government of Burma/Myanmar and to natural or legal persons, entities or bodies related to them, a travel ban on such natural persons and, a prohibition on making financial loans or credits available to Burmese state-owned enterprises and on acquiring or increasing a stake in such companies.”

<sup>13</sup> “La posizione comune 2006/318/PESC stabiliva pertanto che fossero mantenute le misure restrittive nei confronti del regime militare nella Birmania/Myanmar, di coloro che traggono i maggiori vantaggi dal suo malgoverno e, di coloro che si adoperano per vanificare il processo di riconciliazione nazionale, di rispetto dei diritti umani e di democrazia”.

Some of the restrictive measures instituted against Burma/Myanmar have been implemented at community level by Regulation (EC) No. 817/2006 of the EU Council, of 29 May 2006, which repealed Regulation (EC) no. 798/2004.

These measures were subsequently expanded and more far-reaching trade sanctions were imposed, as well as targeted economic sanctions, because the EU was highly concerned "about the lack of progress towards democratization and the continued violation of human rights in Burma/ Myanmar".

In particular, following the repression of the so-called "Saffron Revolution" of September 2007, Regulation (EC) no. 194/2008 of the Council (25 February 2008), had extended and intensified the restrictive measures against Burma/Myanmar and repealed Regulation (EC) no. 817/2006, providing, for a series of sectors, restrictive measures that limited imports, exports, investments and direct or indirect supply and technical assistance connected with military activities.

Regulation no. 194/2008 prohibited the art. 5, among other things, to "sell, supply, transfer or export, directly or indirectly, goods or technologies referred to in Annex III."

**Among the forbidden products there were the following:**

- ✓ Converters, ladles, ingot moulds and casting machines, of a kind used in metallurgy or in metal foundries
- ✓ Metal-rolling mills and rolls therefore
- ✓ Machining centres, unit construction machines (single station) and multi-station transfer machines, for working metal:
- ✓ Machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; and part therefore
- ✓ Moulding boxes for metal foundry
- ✓ Mould bases
- ✓ Moulds for metal or metal carbides
- ✓ Moulds for mineral materials

***Among the sanctioned companies there were the Myanmar Economic Corporation, sanctioned since 25.10.2004, the MEC Steel Mill of Hmaw and the MEC Ship Breaking Service of Thilawa.***

Among the banned products, some are closely connected to the steel sector.

At the time of EU Regulation no. 194/2008, DANIELI collaborated with the military junta of the time, for the construction of the Pinpet and Myingyan steel plants.

It is not explained how DANIELI was able to continue working with the Myanmar Economic Corporation and exporting the sanctioned products, if not following exemptions from the Italian authorities responsible for monitoring and complying with European standards.

Any export of goods listed in Regulation (EC) no. 194/08 was subject to prior authorisation, to be requested from the Ministry of Economic Development, General Directorate for Commercial Policy, and the MAECI.

Subsequently, by Council Decision 2013/184/CFSP of 22 April 2013 in response to positive developments and, as a means of encouraging continued changes, the EU lifted all restrictive measures against Myanmar on 22 April 2013/ Burma, with the exception of the embargo on weapons and equipment that could be used for internal repression. Council Regulation no. 401/2013 of 2.5.2013 prohibited, among other things, the:

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*provide, directly or indirectly, technical assistance relevant to military activities as well as to the supply, manufacture, maintenance and use of armaments and related material of any kind, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and parts thereof of replacement, to any natural or legal person, entity or body in Burma/Myanmar of to be used in Burma/Myanmar.*

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After the **2013**, with the opening to the democratic transition, international sanctions were gradually relaxed, (except for those related to trade in arms and dual-use products) to reflect the implementation of political reforms in Burma/Myanmar and the measures to remedy certain human rights violations.

But on **26 February 2018**, EU Foreign Ministers adopted conclusions condemning the widespread, systematic and serious human rights violations committed by the Burmese military and security forces, (particularly in Kachin, Shan and Rakhine States (against the Rohingya). Thus, EU Regulation 2018/647 of 26 April 2018 was approved, which amended Regulation (EU) No. 401/2013.

#### **Measures foreseen by EU Regulation 2018/647 of 26 April 2018:**

##### 4. It shall be prohibited:

- (a) to provide technical assistance, brokering services or other services related to goods and technology referred to in paragraph 1 and to the provision, manufacture, maintenance and use of these goods and technology, directly or indirectly to any military end-user, the Border Guard Police or for military use in Myanmar/Burma;
- (b) to provide financing or financial assistance related to goods and technology referred to in paragraph 1, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of these goods and technology, or for the provision of related technical assistance, brokering services or other services, directly or indirectly to any military end-user, the Border Guard Police or for military use in Myanmar/Burma.

On 23 March 2021, in response to the military coup of 1 February 2021, the EU imposed a number of further restrictive measures (EU Council Regulation (EU) 2021/479) against a number of Burmese officials believed to be responsible for the coup and military-linked economic and commercial entities, including the Myanmar Economic Corporation (MEC), Myanmar Economic Holding Limited (MEH), and Myanmar Oil and Gas Enterprise (MOGE).

Subsequently, further restrictive EU Regulations were adopted until the regulation of 20.2.2023 which sanctioned not only some subjects, but also some companies in the military sector. In this context, the European Commission Notice of 11.5.2021 3361 is considered extremely significant final. This notice answers questions that may arise in the implementation of financial sanctions under this sanctions regime. It includes information on the scope of the financial restrictions contained therein and their application. It also explains in detail the responsibilities of those who must comply with the regulation, covering notions such as ownership and control and how exemptions work.

The objective is to provide indications on some provisions of the Regulation in order to guarantee its uniform implementation by EU operators and competent national authorities.

**COMMISSION GUIDANCE NOTE ON THE IMPLEMENTATION OF CERTAIN PROVISIONS OF COUNCIL REGULATION (EU) No 401/2013 concerning restrictive measures against Myanmar/Burma, that cancel the EU regulation n. 194/2008, that at points 5, 6 e 12 declares:**

**5. WHAT DOES THE PROHIBITION TO MAKE FUNDS AND ECONOMIC RESOURCES AVAILABLE MEAN?**

This measure prohibits EU operators from putting any funds or economic resources at the disposal of Listed Persons directly or indirectly, whether by gift, sale, barter or any other means, including the return of the Listed Person's own resources. In principle, and for example, an EU business is not allowed to sell or deliver products or services to a Listed Person, even if in exchange for adequate payment; an EU citizen is not allowed to work for a listed company; and a third-country citizen is not allowed to make donations, from the territory of a Member State to a Listed Person.

**6. ARE THERE ANY FURTHER OBLIGATIONS THAT EU OPERATORS MUST COMPLY WITH?**

i) Non-circumvention (Article 4g of the Regulation)

EU operators are prohibited from knowingly and intentionally taking part in any activity that evades sanctions. Such activities may include, for example, acting as a front company for a Sanctioned Entity or conducting transactions in the EU at the management of a Sanctioned Person.

**12. WHAT HAPPENS IF THE REGULATION IS NOT RESPECTED BY EU OPERATORS?**

Article 8 of the Regulation requires Member States to establish the applicable sanctions and ensure their enforcement. These sanctions, which must be effective, proportionate, and dissuasive, usually relate to the areas of criminal law and/or administrative law.

The diagram below shows DANIELI's prolonged industrial collaboration with military-owned companies during both the previous dictatorship, even after the adoption of the strong restrictive measures imposed in 2008, and after the 2021 coup.

DANIELI and the Burmese counterparts			
Year	Project type	place	ownership
1979-1984	turnkey steel plant: Anisakhan, MELTSHOP and DRI (direct reduced Iron) Plant	Anisakharn (Pyin Oo Lwin)	Mining Company n. 3/ MEC
1996-1999	n. 1 Steel Rolling Mill (Kyauk Swae Kyoe)	Aunglan, Magwe	SPDC/MEC
2003	Machine installation Ship Breaking Thilawa	Kyauk Tan, Yangon	MEC
2004	n. 3 Ywama Steel Mill	Ywama, Yangon	MEC
2009	n. 5 Steel Plant Pinpet	Pinpet	MEC/ Min. Industry
2010/2023	n. 4 Steel Plant Myingyan	Myingyan	MEC/Min. Industry

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*Therefore, DANIELI may have repeatedly violated the sanctions imposed by the European Union during the previous and current dictatorship, or it may have been authorized by the Italian authorities, in derogation of the restrictive measures.*

*If this were the case, this would indicate that the Italian authorities, who have the obligation not only to monitor the correct implementation of the restrictive measures, but also to adopt the relevant, specific sanctioning measures in case of violation of EU rules, have chosen to favor the interests of a company over the objective of helping to bring down the Burmese military junta*

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## VIOLATION OF THE OECD GUIDELINES ON MULTINATIONALS

Given the secrecy with which the companies owned and under the control of the Burmese military authorities operate, the fact that in most cases, even before the coup, there were restrictive measures on the freedom of trade union organization, as well as the very serious political situation, following the coup d'état, following which the military junta imposed a state of emergency, martial law in all industrial areas and overall in over 55 townships, given that the production objectives of the Burmese steel companies were known, and by analyzing the various chapters of the OECD guidelines updated in 2011, it is considered necessary to verify the violation of the following chapters of the OECD Guidelines on multinationals:

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*As underlined by the OECD Guidelines on Multinational Corporations, businesses should contribute to sustainable development and respect for human rights, refrain from any undue interference in local political activities and refrain from retaliation against workers who report practices that violate the law, the Guidelines Guide or policies of the company. Companies should carry out due diligence to avoid being involved in negative impacts on the issues covered by the Guidelines, including in supply chains and commercial relationships, and address such impacts when they occur, using their influence in dealings with trading partners so that they intervene on negative impacts.*

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### CHAPTER 11: GENERAL POLICIES

**Due diligence** procedures are necessary to honor company responsibility to avoid and address:

- negative impacts on issues covered by the Guidelines.
- negative impacts on human rights.

This involves introducing a risk management process that gathers the information needed to assess the risk of negative impacts occurring, identifying actual negative impacts and accounting for how those risks have been addressed.

The fifth report of the Independent Investigative Mechanism for Myanmar, (IIMM) published on 8 August 2023 underlines<sup>14</sup> :

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*“There is clear evidence that the Myanmar military and affiliated militias have committed three types of combat-related war crimes with increasing frequency and brazenness: (A) indiscriminate or disproportionate targeting of civilians using bombs; (B) killings of civilians or detained combatants during operations; and (C) intentional, large-scale burning of civilian homes and other civilian buildings. These war crimes include indiscriminate or disproportionate attacks against civilians resulting from aerial bombing, such as the military airstrike in Sagaing in April 2023 that reportedly killed more than 155 people. There has also been an increase in mass executions of detained civilians and combatants, as well as large-scale, intentional burning of homes and civilian buildings, in some cases leading to the destruction of entire villages.”*

*“The Mechanism also collected eyewitness accounts of mass executions of civilians or hors de combat fighters in the custody of Myanmar military forces or their affiliates that occurred during the reporting period.... These events occurred in several areas, notably in Sagaing, Magway, Chin, Kayin and Kayah, and typically involve civilian structures such as shops, places of worship and civilian vehicles. In some cases, entire villages were royed....Sono state raccolte prove attendibili di altri crimini di guerra, come stupro, omicidio, mutilazione e trattamenti crudeli. There is also clear evidence that crimes against humanity, including rape in custody; persecutions; forced disappearances; and during detention, the issuing of sentences and executions without respecting the fundamental rights of due process and judicial guarantees.”*

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On **24.9.2021**, DANIELI, despite knowing well of the impacts of the coup on the country, registered in Burma/Myanmar, in the list of DICA (Directorate of Investments and Company Administration) as DANIELI Co LTD (Myanmar Branch), Jurisdiction of incorporation THA. Company type (Overseas Company). Registration number 130809022. Registration date 24.9.2021. The names of the directors are also highlighted in the registration paper: Alessandro Menocci, Alessandro Brussi; Boonnarg Mockmongkonkul (Thailand Director), Domenico Ambrosino; Giacomo Mareschi; and an authorized rep. Myint Swe.

The renewed registration in Burma/Myanmar derives from the obligation imposed by the SAC (State Administrative Council) on all companies that want to continue working in the country to re-register.

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<sup>14</sup> <https://iimm.un.org/annual-reports/>

On June 1, 2023, an article published by MITV (media under the control of the junta): underlines that General Min Aung Hlaing, (head of the military junta, investigated by the International Court of Justice and the ICC), visited the plant Steel Plant No.1 of Myingyan Township.

As part of that visit, the head of the SAC honored the DANIELI technicians, who were wearing protective clothing and uniforms with the DANIELI logo, with a fruit basket. The same image is found on the Myanmar Now website<sup>15</sup>.



General Min Aung Hlaing visits the Myingyan steel plant and , offer a present to the Danileli technicians

The photos were taken in front of a wall that identifies the place as Steelworks No. 1, under the control of the SAC Ministry of Industry, located in the vicinity of Sar Khar village in Myingyan township. Next to the writing: No.1 Steel Mill (Myingyan), the DANIELI logo stands out. At the end of March, foundry no. 1, a facility where iron and scrap metal are melted down and turned into steel, had once again been declared partially operational.

As indicated by the MITV article: “When the project was suspended on March 15, 2017, the investment had reached over MMK 403,932 million and the project completion was at 66.52%. The steel industry is essential for the state. If the iron and steel production projects are successfully completed, it will reduce imports of iron and steel from abroad and such products will be used at a lower price than the import price”.

The article published by the Special Advisory Council - Myanmar, on 16 June 2023 underlines:<sup>16</sup>:

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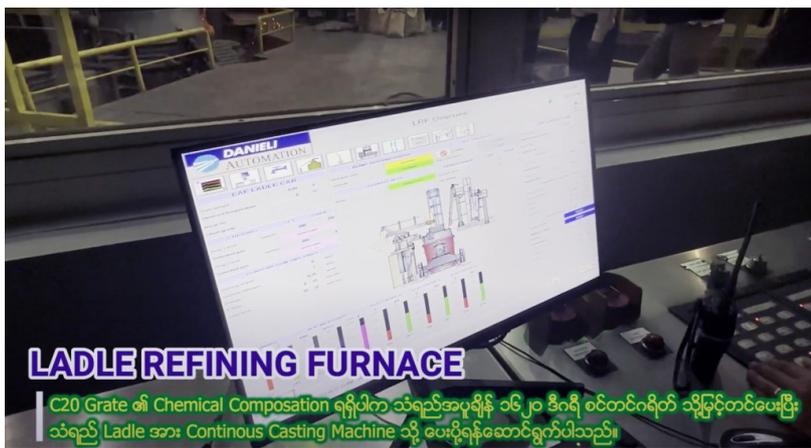
*“The company, (DANIELI) which does not publicly list Myanmar among the countries in which it operates, despite having an office there, was condemned earlier this year by the grassroots network: Shan State Frontline Investment Monitor (SSFIM), for his alleged collaboration in the junta's Myingyan project, and for "a history of collaboration with successive Burmese military regimes”.*

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<sup>15</sup> <https://myanmar-now.org/en/news/myanmar-juntas-steel-industry-aided-by-secretive-italian-firm-DANIELI/>

<sup>16</sup> <https://specialadvisorycouncil.org/2023/06/myanmar-junta-steel-DANIELI/>

DANIELI's significant contributions to the Myingyan establishment were fully visible less than two years later. On April 26, 2023, after the reopening of the plant in March, a little-known documentary, but uploaded to YouTube: [https://www.youtube.com/watch?v=\\_L9cybo8njQ](https://www.youtube.com/watch?v=_L9cybo8njQ) documented the manufacturing process of Myingyan Melt Shop 1, for melting scrap metal to forge steel billets. The machinery featured in the 13-minute video all bears the DANIELI brand, including a scrap loading bucket, electric arc refining furnaces and ladle and a continuous casting machine.



Myingyan Steel Plant. DANIELI software that operates a ladle refining furnace, which further heats the molten iron, changes its chemical composition and prepares it to enter a continuous casting machine. YouTube, April 26, 2023

*DANIELI scrap bucket for steel production in Myingyan steel mill. April 26, 2023 (YouTube)*

This means that DANIELI has worked and is working in the plant for a long time and should have carried out the necessary due diligence, especially since SAC's investments in the steel sector raise serious questions about the final use of the steel, given that the military junta is trying to start producing weapons and ammunition in the country, necessary to continue the very heavy military attacks against civilian populations, with bombings causing uncontrolled destruction throughout the country since the start of the coup d'état in February 2021. To date, according to the data published by the UN over 75,000 homes, churches, monasteries, hospitals, schools have been destroyed by bombings and ground attacks with machine guns. Over 1,300 villages have been completely destroyed.



Myingyan steel mill staff observe molten iron being heated in a DANIELI ladle refining furnace, YouTube video April 26, 2023

The 16.6.2023 Myanmar Now article <sup>17</sup> underlines that:

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*“After the closure of the factories, DANIELI hosted several seminars on the emerging steel and iron market in Myanmar during the second half of the NLD administration. At one such event in Mandalay in May 2019, a DANIELI executive said the company's approach is to: “follow all phases” of the projects it is involved in and a commitment to technical support to “ensure an easy start and maintenance of the system”.*

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Despite widespread concern that steel produced in Myanmar could feed the national arms industry, which currently relies largely on the import of raw materials and the direct importation of armaments, DANIELI has continued to operate, necessarily, fully agreement with the council.

Reference is made here to the document: "The Billion Dollar Death Trade: The International Arms Networks that Enable Human Rights Violations in Myanmar", presented by the Special Rapporteur on human rights in Myanmar on 17 May 2023 to the UN Human Rights Council.

The report lists “steel products – including bars, sheets, wire and tubes – among the \$160 million in raw materials, machinery and equipment purchased since the coup by the Office of the Chief of Defense Industries (OCDI) of junta, the entity, which oversees the production of domestic weapons, formerly known as the Directorate of Defense Industries”.

The Special Rapporteur placed these transactions as part of a “deadly billion-dollar trade” by the military in the procurement and production of weapons.

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<sup>17</sup> *Myanmar junta's steel industry aided by secretive Italian firm DANIELI*

The Report follows a January 2023 report by the Special Advisory Council for Myanmar (SAC-M), an independent group of international experts former UN representatives, which concerns 25 major weapons production facilities of the OCDI (Office of the Chief of Defense Industries). The SAC-M highlighted foreign involvement in providing supplies and support to the sites, which have produced weapons used against civilians in the post-coup crackdown on dissent, as well as those deployed in previous Myanmar military offensives, in largely against ethnic populations.

It should be noted that DANIELI was not among the international entities identified in the SAC-M report as supporting the country's arms industry. When asked about the company, a SAC-M representative said it was "aware that DANIELI remains involved in Myanmar's steel industry and ongoing efforts to strengthen domestic production of quality steel." "This involvement raises questions about whether DANIELI's activities in Myanmar could also lead to the production of steel for weapons production."

The UN representative also noted that the OCDI is seeking to strengthen the production of "military steel". A highly classified January 2017 document leaked from the Ministry of Defense and seen by Myanmar Now outlined the military's intentions to "produce higher quality weapons" using what they called "special steel", or steel strengthened by the addition of specific ferroalloys to reduce corrosion. A ferroalloy is iron to which an additional element is also added, in this case chromium, titanium or tungsten, the latter is found in important deposits in south-eastern Myanmar.

These ferroalloys, among others, were listed as "to be tested" in Army factories to produce weapons and ammunition, as well as tank, vehicle and artillery parts, the Military Science and Technology Department report said:

"Myanmar does not have the technology to create ferroalloys, so we have to import them from other countries," he said. "If we could use raw materials from the domestic market to produce ferroalloys to produce 'special steel', we could reduce our dependence on imported goods."

As highlighted by the UN Special Rapporteur's document: 16% of trade "relates to the purchase of machinery, tools, equipment and critical raw materials - including steel, aluminium, copper, brass, lead, some chemicals and lubricants and rubber — by the Myanmar military's Directorate of Defense Industries (DDI), which oversees the production of weapons and ammunition within DDI weapons factories, known in Burmese as Karkweye Pyitsee Setyone, or "KaPaSa."

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DANIELI could not have been unaware that, since the coup d'état of February 1, 2021, the military junta has organically carried out war crimes and crimes against humanity against the civilian population throughout the country, and could not have been unaware of the repeated denunciations of the various UN bodies, including the UN Security Council Resolution of 21 December 2022.

In addition to the responsibility to respect the principles and standards of the OECD Guidelines on Multinationals, DANIELI has the general responsibility to avoid and counteract what are defined as "negative impacts" in relation to what is covered in the Guidelines. A responsibility that applies in this case to all chapters of the Guidelines except for those relating to Science and Technology (IX), Competition (X) and Taxation (XI).

DANIELI operates and has operated in the past in companies owned by the Myanmar Economic Corporation under the direct control of the Ministries of Defense and Industry, and has therefore not been able to avoid the negative impacts on human, labor and environmental rights deriving from the construction of the steel plants in which it has been and still is involved.

It does not appear that DANIELI has implemented any due diligence and, consequently, has not implemented any remedy with respect to the violations of the OECD Guidelines in the Burmese companies with which it operated and continues to operate and, despite the coup d'état, and the fact that it operates with internationally sanctioned individuals and entities, has decided not to interrupt its relationship with the client.

*According to the OECD Guidelines on Multinationals, companies should ensure that timely and reliable information on their business, structure and financial situation, performance, ownership and corporate governance is regularly and appropriately disclosed. This information should cover both the company as a whole and, where appropriate, individual business sectors or geographical areas. The disclosure policies of companies should be appropriate to the nature, size and location of the same, taking into account the costs and needs related to confidentiality and competition.*

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## CHAPTER III: INFORMATION DISCLOSURE

As highlighted by Comment no. 28 of the Guidelines:

*Clear and comprehensive information on companies is of considerable importance for a large number of users, from shareholders and the financial community to workers, local communities, special interest groups, governments and society in its whole.*

Nonetheless, DANIELI has always maintained a strategy of "secrecy" regarding its activities in Burma/Myanmar. It appears to be a ghost company. If we examine the annual reports, there are no public data regarding the objectives and agreements between DANIELI and the Burmese counterparts, the actions and results connected with its contracts, and even less in relation to the implementation of its code of ethics, the information connected with social and environmental reporting etc.

DANIELI's activities and the company's presence in Burma/Myanmar are not reported in any official company document. Nor has the company ever implemented the necessary disclosure of the processes adopted to ensure compliance with the OECD Guidelines on Multinationals.

It must be remembered that all military-owned plants and factories are considered sensitive sites and are operated in the utmost secrecy.

The Pa-O Youth Organization wrote **in 2009**:

*"The Pinpet facility is surrounded by double walls 3 meters high, heavily guarded and 43 meters apart; between the two walls there is a further fence. The 903 Ground Engineer Battalion, based in Hopone, the Yabaka (Eastern Command) based in Taunggyi and the Regional Commander's Central Training Battalion No. 3, based in Hopone have assumed responsibility for the safety of the factory. The number of soldiers varies depending on the situation. For example, when a General is visiting or in the event of clashes, such as the one that broke out in May 2009, more*

soldiers are mobilised. There is a security sentry box inside the walls and a residential military complex next to the factory (see map). Since 2007, the factory security soldiers have been in plain clothes".<sup>18</sup>

#### The Atlas of Environmental Conflicts, in relation to the project in the Mount Pinpet area stated:

The development of the project was characterized by secrecy and a lack of transparency. Militarization of the area surrounding Mount Pinpet (locally known as "Pine Mountain") has increased since 1991, when the first attempts were made to explore the mine. Since then, several military camps have been set up and in 2004, two military universities were founded. That same year, five Russian, Burmese and reportedly even one Italian companies began developing the iron ore deposit and building an ore processing plant and a cement factory. The following years were characterized by an increasing influx of external manpower and the arrival of high-ranking military generals and Russian personnel."

In 2014 four Burmese journalists and the chief editor of a newspaper: Unity Journal, were sentenced to 10 years in prison with forced labor (reduced to 7) for having "revealed a state secret" or for having published an article with photos of a factory, probably for the production of chemical weapons, owned by the military.

The government had charged the journalists under a rarely used colonial Official Secrets Act intended to safeguard military secrets, claiming they had leaked state secrets by publishing detailed descriptions and images of a military site. In 2017, two journalists from the Reuters agency were arrested on charges of violating the law on state secrecy regarding entry into prohibited areas, the management of documents deemed secret and communication with "foreign agents". The maximum sentence is 14 years' imprisonment. Leader Aung San Suu Kyi herself was sentenced to 33 years in prison for violating the Official Secrets Act, among other baseless charges.

In terms of freedom of information, the recent Freedom House report: "Freedom on the Net 2023" indicates Burma/Myanmar as the second country, after China, with the worst environment in the world for internet freedom. The report highlights that the regime and its informants have used Telegram groups to share information about dissidents, so that authorities can identify them, arrest them, and in some cases forcibly disappear them. From February 2022 to the end of April 2023, the junta took action against at least 1,050 accounts of users of Facebook, TikTok and Telegram and other social media platforms, which contained or shared information critical of the regime. Therefore, prominent figures from politics, civil society and the creative sector, as well as ordinary citizens from all over the country, were arrested.

## CHAPTER IV: HUMAN RIGHTS

The recommendations of the OECD Guidelines on respect for human rights by businesses are based on the UN Guiding Principles on Business and Human Rights: "Protect, Respect and Remedy", as well as the implementation of the ILO Tripartite Declaration on Principles for Multinational Enterprises and social policies. The OECD Guidelines define due diligence on human rights as a process that implies "assessing the actual and potential impact on human rights, integrating the results and acting accordingly, responses are monitored and the measures taken to counteract such impacts are made known." Furthermore, the level of due diligence should take into account the severity of actual or potential negative impacts; the nature and context of the

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<sup>18</sup> *Robbing the Future Pa-O Youth Organization 2009*

activities (country, region, industry or product); the size of the business. E Because the risks of adverse impacts change over time, due diligence should be an ongoing process.

DANIELI has not publicly made any commitment to respect human rights, both in the company and in the territory, it has not integrated this commitment into all the company's activities, it has not identified the negative and potential impacts. And consequently it did not implement the necessary corrective measures.

**Comment no. 38** of the OECD Guidelines clearly highlights how:

*"The failure of a State to enforce relevant national laws or implement international human rights obligations, or the fact that a State may act contrary to such laws or international obligations, does not detract from the responsibility of businesses to comply such human rights."*

**Comment no. 39** underlines:

*"In any case and whatever the country or the specific context of the companies' activities, it is necessary at least to refer to internationally recognized human rights, as expressed in the International Bill of Human Rights, which consists of the Universal Declaration of Human Rights and in the main instruments that codify it, namely the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and the principles concerning fundamental rights, established in 1998 in the Declaration on Principles and Rights".*

In an interview dated June 22, 2022 on The News Dept, in relation to the alleged collaboration between DANIELI and Russian companies in Ukraine, some statements by the Vice President and Financial Director of DANIELI, Alessandro Brussi, one of the administrators of the company's branch in Myanmar, appear to confirm the absence of due diligence mechanisms that guarantee that orders are not used for military purposes and in violation of international standards.

*Interview by The News Dept. with the Vice President and Financial Director of DANIELI, Alessandro Brussi by The News Dept:*

*Question from The News Dept: DANIELI produces machines for steel processing. Can't your machines be used to produce tanks or submarines? Would they be resold by your customers to military companies?*

*Response from Dr. Brussi: "Our machines process steel which can then be used for the most varied jobs, from bodywork to tanks. We certainly have no control over which hands change once sold. What we can guarantee is that our customers do not belong to the lists of interlocutors prohibited by sanctions". We cover the entire process, from raw material to final product," he said in his presentation, streamed on social media.*

The principles of human rights appear to have been violated by DANIELI, which has also adopted a Code of Ethics devoid of any explicit reference to the most recent and important international standards, such as the UN Guiding Principles on Business and Human Rights, the OECD Guidelines on Multinationals, Fundamentals of ILO work and any reference, even vague, to freedom of trade union organization and collective bargaining. Furthermore, no due diligence on human rights appears to have been carried out, especially for the impacts linked to the activity, products or services that DANIELI has carried out and continues to carry out as part of its activities in the steel plants in which it has operated and continues to operate. In particular, the impacts on the surrounding area and local populations. (see Environment chapter).

## CHAPTER V: EMPLOYMENT AND INDUSTRIAL RELATIONS

The recommendations of the OECD Guidelines on Multinationals concern different categories of workers (employees, employed, workers employed by etc.).

According to the OECD Guidelines, multinational companies have the duty to respect the right of workers to form and join a trade union; Respect workers' right to collective bargaining; Provide the necessary means to facilitate the definition of effective collective agreements; Provide information necessary to carry out significant negotiations on employment conditions; Make public a company policy on human rights that includes a commitment to respect the right to form or join a union and the right to collective bargaining. Carry out a human rights due diligence process to avoid involvement in violations of workers' right to form or join a trade union and the right to collective bargaining, with the aim of counteracting such impacts where they occur, including in supply chain and other business relationships; Involve workers and trade unions in carrying out human rights due diligence; 84 Stop undue practices that cause or contribute to violations of trade union rights; Remediate actual violations of trade union rights, where the multinational has caused or contributed to such violations.

The “Robbing the Future 2009” report reported that between October and December 2006 the military had distributed job applications, declaring that those coming from the townships of Hopone and Hsi Hseng would have priority in hiring. Those interested in applying had to purchase the application form at a cost of MMK 500 if they went to the factory authorities in person or pay MMK 1,000 if they could not go in person to apply. Many people applied to be hired and the authorities collected thousands of MMK from selling applications and in the end only one woman from Hsi Hseng township was hired because she was a university graduate with a major in Russian language and two other people as a cook and housekeeper, while large numbers of mine workers and construction workers were brought from southern Burma. The arrival of many migrant workers and soldiers has also created problems of sexual harassment.

An additional **2011** report by the Pa-O Youth Organization on the negative impacts of the mine and the power plant that supplies electricity to the Pinpet plant stated that workers had no health or accident insurance. While they worked, they covered their nose and mouth with a simple cloth, but they had difficulty breathing and have since abandoned this practice. Workers are required to have their blood checked once a month and if a worker is found to have jaundice, he or she is immediately fired, and the company will hire another worker as a replacement. PYO also became aware of several injuries due to landslides at the mine since 2000. Five workers near the village of Phara Prain died, and seven people died east of the town of Naung Thara.<sup>19</sup>

In January 2023, SAC announced the hiring of 478 workers who would have to complete a hiring questionnaire and pay MMK 5,000. But hiring for the Pinpet plant has been postponed until March 2023.

DANIELI operates in companies controlled by the ministries of defense and industry, which even before the current dictatorship operated in total secrecy and lack of transparency. Today the military junta has canceled the freedom of association and collective bargaining, provided for by ILO Conventions 87 and 98. (Burma has only ratified ILO Conventions on Freedom of Association No. 87 on Forced Labor No. 29 and Convention No. 182 and the worst forms of child labor) and imposed martial law in 55 townships and industrial zones across the country.

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<sup>19</sup> *Poison Clouds. Lessons from Burma largest coal project at Tigyit. Pa-O Youth Organization 2011*

According to investigations carried out by multiple organizations, and by the ILO itself, with the return of the dictatorship, work has become forced, as company managements force workers into inhumane and underpaid working conditions and to work compulsorily unpaid overtime, often until late at night.

The climate of general and corporate repression, the checkpoints near factories, which carry out continuous searches and invasive checks on workers, create a generalized climate of fear.

The workers, who work in the companies in which DANIELI is involved, are damaged by the impossibility of protecting their working conditions, organizing trade unions, and promoting healthy industrial relations. Violence, threats, arbitrary dismissals of hundreds of thousands male and female workers and hundreds of arrests and disappearances of trade unionists, make it impossible for any company, especially if it operates on behalf of the subjects responsible for such crimes, to respect the fundamental principles defined by the OECD Guidelines on Multinationals, especially in owned and under the direct control of the military.

But the negative impacts on employment also affect workers outside the steel plants, in particular the farmers of the villages located around the plants. The new report from the Pa-O Youth Organization highlights the seriousness of the social, economic and health situation affecting local populations.

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*"Since our lands have been confiscated, we have nothing else to do and we don't know how to support ourselves. Day after day the lands are buried by the coal mine. I have no idea where to find land to cultivate, it all ended up under the pile of coal. Now I only have one job left to do: look for firewood east of the mountain and sell it. I can't find another job in my village because there is no work available".*

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It is underlined that land confiscation has always been considered a violation of ILO Convention 29 on forced labor. Hundreds of small farmers have lost their land and no longer know what to live on. The compensation, when given, is negligible and in any case does not solve the problem of loss of income.

Following the confiscation of land and the absence of alternative employment prospects, young people, even very young people under 18, are often forced to emigrate to Thailand, in risky conditions, given the state of emergency adopted by the military junta since 2021 in the country. Migrants are often arrested on the way to emigration. Many farmers refused to even pocket the paltry sum that was paid for the confiscation of their land and homes.

In January 2023, the military junta's industry minister visited the Pinpet plant and in the following days the plant manager communicated the need to hire 478 workers. For this purpose, each employment request should have been accompanied by the payment of 5,000 MMK. These hires were postponed until March 2023. In that month the SAC defense minister visited the plant. An environmental impact assessment began in 2022, presented by a company affiliated with the army and made up of retired former soldiers. But to date the results have not been adequately presented to the populations, much less the solutions.

Due to the Pinpet plant construction project, twenty-five villages, with a total of 7,000 inhabitants, were to be permanently displaced from their homes and agricultural lands, together with another 35,000 inhabitants, who depended on the Thabet stream, in the valley east of Mount Pinpet. The widespread excavation of the mountain would have caused an irrevocable change in the landscape and environment, and the pollution

caused by mining waste and the erosion of the mine piles would have threatened the main source of water in the Hopone Valley.

The activation of the mine and the construction of these plants, the absence of employment prospects, the forced displacement of thousands of inhabitants and the consequent confiscation of the lands, as well as the pollution of the river waters have produced structural damage throughout the area.



*Foto: Questa terra è di proprietà militare, non oltrepassare*

In 1996, the ICFTU (now ITUC) presented a substantial complaint to the ILO for the violation by the military junta of the time of the ILO Convention on forced labor.

In 2000, following the trade union complaint and the results of the ILO Commission of Inquiry, the ILO International Conference adopted a Resolution pursuant to Article 33 of the Constitution, which invited the members of the Organization to "review, in the light of the conclusions of the Commission of Inquiry, the relationships they may have with Myanmar and take appropriate measures to ensure that Myanmar cannot take advantage of these relationships to perpetuate or extend the system of forced or compulsory labor referred to by the Commission of Inquiry, and to contribute, as far as possible, to the implementation of its recommendations". A similar request was made to international organizations.

It should be remembered that both during the previous dictatorship and since the coup d'état of February 1, 2021, the military junta has outlawed 16 trade union organizations, canceled the passports of all trade union leaders in order to prevent them from fleeing abroad, and issued as many arrest warrants against them.

The junta, for the fourth time since the coup, reiterated the state of emergency and approved martial law in over 55 townships, and in all the most important industrial areas of the country; In June 2021 the ILO International Conference approved a Resolution condemning the military coup and the profound violation of fundamental labor rights.

The International Labor Organization (ILO) has also decided to establish a Commission of Inquiry into the violation of workers' rights in Myanmar. The Commission of Inquiry has completed its work and approved a

report, which will be discussed at the November 2023 Board of Directors and, when the Commission of Inquiry was established, it had noted "the escalation of large-scale lethal violence against civilians, including children" and called on the military to immediately put an end to such actions.

The conclusions of the ILO Commission of Inquiry published on 24 September 2023, were presented to the Burmese military junta by the Director General of the ILO, who at the end of the accompanying letter, underlines the seriousness of the situation by stating: "the Director General must be informed by three months, whether the recommendations contained in the report of the Commission of Inquiry are accepted or not and, if not, whether it is proposed to refer the matter to the International Court of Justice".

**Extract from the Conclusions of the ILO Commission of Inquiry:**

*".....that this persistent oppression of trade unionists – specifically targeting the leaders of the country's only trade union confederation and the main federations – has resulted in their incapacity to continue to engage in trade union activities and protect the interests of their members. Trade union leaders are unable to organize workers, register their unions, communicate between each other, represent workers in labour disputes, conduct training activities or meaningfully engage in any other union activities. The lack of access to rapid and independent remedies has further contributed to curtailing trade union activities.*

*In these circumstances, due to the serious and far-reaching restrictions on the basic civil liberties that are a sine qua non for the exercise of freedom of association, and the lack of available remedies, the rights set out in Convention No. 87 cannot be freely exercised in Myanmar.*

Accordingly, the Commission concluded **that measures that threaten and restrict the enjoyment of such fundamental civil liberties, adopted or ordered by the military authorities after their seizure of power in February 2021, violate Myanmar's obligations under the Convention."**

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Concerns about the social and employment impacts, which go beyond the perimeter of the plants, are devastating. No impact assessment was made available to the public, either at the construction or subsequent stages, and there was a complete lack of consultation or participation of local communities during the planning and implementation of the projects, the report says. Pa-O Youth Organization updated in subsequent years.

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In total, around 35,000 people who depend on the waters of Thabet Stream have been threatened by pollution caused by the project, the civil society report said. The ancient pagodas were damaged due to explosions caused by the construction of the mine. While local people were promised employment, most of the jobs were given to migrant workers. Furthermore, the influx of workers and soldiers from central Burma has reportedly led to sexual harassment of local women.

The working conditions of the migrant workers were dangerous, and several fatal injuries were documented. In 2007, for example, a rock-crushing machine killed seven people at once, the report said."

According to what was published by BNI on October 4, 2022 "The Military Council forcibly seized 28 acres of land to build a railway for the Pinpet Steel Factory" The Pa-O Youth Association called for the return of the

confiscated land to the original owners with force to implement the project and to provide fair compensation for the land that was confiscated.

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*“Most of the local farmers are very worried because there is no more land to cultivate. Even if they paid compensation, it would only be for a short time. We have lost almost everything and there is no way we can make a living in the next few years. That's why we are all worried about the future,” said a local farmer.*

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For all this, the Pa-O Youth Association has urged and recommended the closure of all large-scale investments and projects that are positive for the Military Council , but cause negative effects on residents.

## CHAPTER VI: ENVIRONMENT

As highlighted in this report, DANIELI has been operating in Myanmar for many decades and not only as a machinery supplier, but has had and continues to have a close collaborative relationship with the Myanmar Economic Corporation, the Ministry of Defense, the Ministry of Industry, body under the direct control of the military junta, the managements of the plants, and has contributed and contributes to the good functioning of the steel plants mentioned in this report, which without DANIELI's contribution could not operate correctly.

The iron extracted from the Pinpet mine is needed for the production of pig iron at the Pinpet plant, which is designed to use the Russian “Romelt” technology, thanks to which low-grade iron ore can be smelted in a single pass.

This process requires a particular quality of coal available only in the Ke See area.

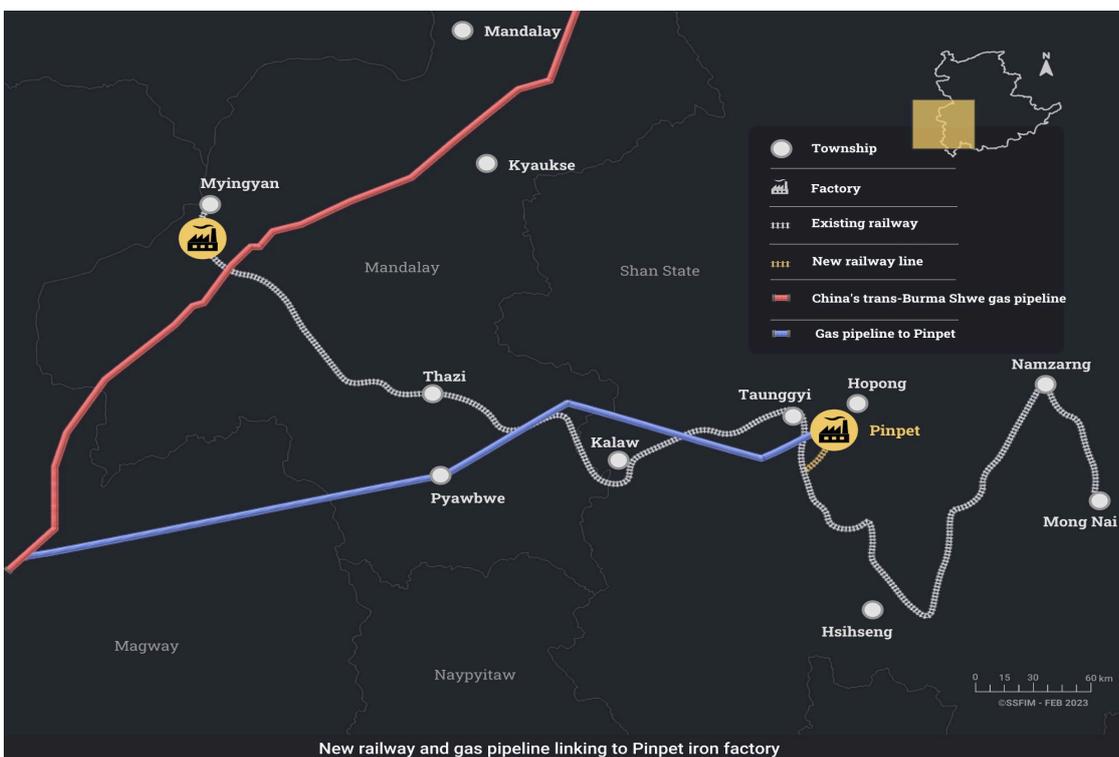
The pig iron produced in Pinpet is transported to the Myingyan steel plant, currently by truck and, as soon as the construction of a new 9.6 kilometer railway line is completed, which will start from the existing Nyaungshwe-Namzarng -Pinpet railway, it will connect the iron to the railway network, and the pig iron produced in Pinpet will be sent by rail directly to the Myingyan steel mill. The coal mined in Ke see and Tigyit, has started to be transported in large trucks from Ke See, through Pinpet, via Laikha, Loilem and Hopong and it is expected to transport 1,500 tonnes of coal along this road every day. For the construction of the new railway line, 116 hectares of land were confiscated. Farmers were forced to accept compensation of 5 million kyat per half a hectare and the sales value of crops grown on the land for three years.

The iron ore extraction program from the second largest iron deposit in Mount Pinpet began in 2003.



*Miniera di ferro di Pinpet.*

Now the military junta has signed an agreement with the Russian company Tyazhpromexport, a subsidiary of the Russian state consortium Rostec. Rostec, is owned by the Russian government, and is also a company that supplies weapons to the Myanmar military, along with the EU-sanctioned company, Sky Aviator, which, according to the report by UN Special Rapporteur Tom Andrews, facilitated the transfer of Euros in the country, for the relaunch of the Pinpet steel plant.



As highlighted by the 2009 “Rubbing the Future” Report and the most recent data collected by the Pa-O Youth Organization, the Pinpet plant, for the exploitation and processing of iron, and the mines associated with it, have produced a profound violation of the rights of local populations and a highly negative impact on the environment, on employment and transforming the area into the largest open-pit iron and coal mines in the country.

The Environmental Justice Atlas reports<sup>1</sup>:

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*“The development of the project was characterized by secrecy and a lack of transparency. Militarization of the areas surrounding Mount Pinpet (known locally as “Pine Tree Mountain”) has increased since 1991, when the first attempts to explore the mine were made. Since then, several military camps have been set up, and two military universities were established in 2004. In the same year, five Russian, Burmese and reportedly even one Italian companies began developing the iron ore deposit and building an ore processing plant and a cement factory. The following years were marked by an increasing influx of external workers and the arrival of high-ranking military and Russian personnel. In 2006, the Russian state company Tyazhpromexport Ltd. announced the supply of equipment for the project for 150 million dollars. In the same year, a road was built with underground tunnels abandoned from previous exploitation attempts”.*

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The iron ore mine was reportedly close to completion as early as 2010.



*Tyigit coal mine near Pinpet*

According to the Shan Herald Agency for News, March 6, 2021 “Mining companies are exploiting the civil unrest, which is erupting in Burma, as a diversion to mine coal in areas of southern Shan State, according to rice farmers affected by illegal operations , where they did not obtain licenses.” “The Tigyit open-pit coal mine has depleted the town's aquifers, causing widespread drought that has had negative effects on agriculture, the region's main livelihood. The 58 meter deep wells are now dry, forcing farmers to dig deeper or look for other sources of water to irrigate their crops.”



The Ke See Coal Mine began mining ore in 2022 to supply the Pinpet Steel Plant, for the production of iron used in the Myingyan Steel Plant.

Villagers around the mine are highly concerned about the pollution produced by the iron dust and mountains of accumulated residues, are not destroying large areas of agricultural land, pastures and forests, which also pollute the Nam Hen stream, which irrigates the agricultural lands of over 50 villages in Ke See Municipality and the Nam Hen which flows into the Pang River, the largest tributary of the Salween. Furthermore, the military junta has a number of military bases along the 200km road between the Ke See coal mine and the Pinpet plant. But, as the Shan State Frontline report underlines, the rural areas are controlled by allied militias or armed ethnic groups who had signed a ceasefire before the last dictatorship.

There has also been persistent speculation that the mine exploits not only iron and limestone, but also uranium. These fears were fueled by Rosatom's (Russia's atomic energy agency) announcement in 2007 that Russia would build a nuclear research center and reactor in Burma.

La Shan Human Rights Foundation, il 22.10.2018 riportava che gli abitanti del villaggio di Ke See avevano inviato una lettera al governo dello Stato e alle autorità della township per ribadire la loro opposizione alla confisca di 2210 ettari di terra per la miniera di ferro n. 2 di Pang Pak (Pinpet) e la acciaieria di Hopong. I terreni da trasferire comprendevano aree agricole, pascoli, laghi, foreste, bacini idrografici, templi, un cimitero, una scuola e una clinica<sup>20</sup>.

<sup>20</sup> <https://shanhumanrights.org/ke-see-villagers-send-letters-opposing-transfer-of-5459-acres-of-land-to-pinpet-iron-mine-and-steel-factory-2/>

“The disputed land was confiscated by the Burmese military in 1996, during a large-scale forced displacement campaign in central and southern Shan State, which displaced more than 300,000 villagers. Three battalions, including Light Infantry Battalion (LIB) 131, set up garrisons around the town of Ke See. In 2009, the LIB 131 Battalion obtained a coal mining permit from the military regime for 2,210 hectares of land in the Mong Gao tract. The coal deposits are located directly under a 6-kilometer stretch of Nam Hen Stream, which irrigates the agricultural lands of more than 50 villages in Ke See Municipality and is the main source of water for more than 18,000 people.”



*Ke See coal mine*

On October 6, 2022, the Pa-O Youth Organization (PYO) had once again called for the urgent closure of the Pinpet steel plant for environmental reasons <sup>21</sup>.

“Following a meeting between the Russian Foreign Minister and junta leader Min Aung Hlaing in Naypyidaw in August (2022), the regime forced residents of five nearby villages to relocate as it attempted to resume the project.”

"We are worried that we might lose our livelihoods if we are robbed of our farms." A resident of Nam See village said.

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<sup>21</sup> <https://www.bnionline.net/en/news/pa-o-organisation-calls-termination-russia-backed-steel-plant>

“Around 20,000 residents from more than 50 nearby villages have been forcibly relocated since the project was launched in 2004. Some activists calling for an end to the project due to its environmental impact have been arrested.

Nan Kyi, a PYO official, said: “After the project began, the land in nearby villages dried up and the waste discharged from the plant also caused water pollution in nearby rivers. And the activists who supported the termination of the project were arrested.”

The project dumped waste into Namtetbet Creek, the main source of drinking water for local residents. When mountain rocks were smashed by bulldozers to make way for the plant, arable land was damaged by stones falling on villages, environmentalists said. “The worst thing is that the plant dumped iron waste and other waste into Namtetbet Creek,” an environmentalist said.

The steel plant will impact the Hopong Plain, which is home to around 35,000 people from more than 100 villages along the Namtetbet Creek and the Thanlwin (Salween) River, said the PYO, which called for the project to be stopped as it serves only the interests of the regime, and not to the local inhabitants.”



The Pa-O Youth Organization had denounced: the diversion of waters and their pollution.

Water was diverted from the Thabet Stream to be used in cleaning and processing iron ore. The stream had already been polluted during the construction of the factory. The Thabet Stream is the main source of water for agriculture in the Hopone Valley on which 35,000 people depend. No plans for cleaning and releasing the water were published at the time of the plant's construction.

Downstream from the plant, where the stream is used for drinking and bathing, villagers have reported unusual stomach complaints. The following year five villagers died after using the stream. Despite the casualties, no agency has investigated the cause of the illnesses or deaths. This lack of monitoring and protection mechanisms will become more deadly, when iron processing begins in the factory, with the release and/or leakage of toxic substances.

The 250-mile pipeline that transfers natural gas from Magwe to the iron factory has destroyed residents' farmland along its route. Hundreds of farmers are suffering the negative effects of the Tyigit mine which will send coal to be burned in Pinpet for iron processing. Meanwhile, two villages have been relocated and several hundred acres of farmland have been confiscated.

The Tigyit coal-fired power plant 40 miles from the Pinpet project produces severe air and water pollution and local populations cannot access the energy produced by the plant, while it is sent to the Pinpet plant and other industrial projects .

The ash, a byproduct of burning coal, contains heavy metals, including mercury, arsenic and lead. If inhaled over a long period of time it can cause cancer and respiratory diseases. The Pa-Oh Youth Group says 50% of people in the 25 villages near the plant suffer from skin rashes.

Burmese army soldiers patrolling the project's security tortured and killed villagers, both in 2009 and February 2010. The Pinpet project is a joint project of Russian, Italian and Burmese companies. Pinpet will also import over 13,000 tonnes of coal per day for 75 years from the Kehsi Mahsam (Ke See) coal mine.

A BNI article dated 10.12.2021 denounces the problems arising from the reopening of the Pinpet project: "5,155 acres of land were expropriated in 2005 and another 100 acres of land in 2010. For the land expropriated in 2005, farmers were compensated with 5,000 Kyat (5 USD) per acre, and for another 100 acres, 500,000 Kyat (500 USD) per acre.

"If they reopen the factory again, the wastewater will be discharged into the stream that the villagers rely on for agriculture."

Furthermore, since the factory absorbs a lot of water, farmers fear that they will no longer have enough," Khun Kyaw Oo, who lives in the Pang Peg area, expressed his alarming voice if the plant were to operate again."

Even if steel mill no. 2 Pang Peg (Pinpet) was suspended in 2017, impacts on environmental habitats persist today. Deforestation, barren land, contaminated waterways, confiscation of land such as farms and cemeteries, and the extinction of wild lives are today's consequences.

Furthermore, the air pollution caused by the project could have a serious health effect especially for the elderly and young children. "

As recently as 2018, residents of the Mong Nim and Mong Gao tracts of Ke See Township sent appeals to municipal and state authorities opposing the transfer of an additional 5,459 acres of land to the No. Iron Mine. 2 in Pang Pak (Pinpet) and the steel factory in Ho Pong. On October 11, 2018, residents of Mong Nim and Mong Gao villages received a notification letter from the general administration department of Ke See Municipality on the land transfer stressing that any objections should be sent within fifteen days..."

Also according to the Shan State Frontline Investment Monitor: "South of Pinpet, Thabet Stream (called Tamhpak Stream in Shan) has a particular type of annual flooding. During the rainy season it floods its banks, forming an 8 km wide lake that extends for over 15 km. Over 10,000 people live in around 30 villages in this floodplain, called "Toong Pong" and rely on deep-sea rice cultivation and fishing.

Over the past decade, due to the construction and operation of the Pinpet plant, the nearby Shan Yoma cement factory and the Ngwe Kabar Kyaw antimony factory, as well as the expansion of antimony mining by the Ruby Dragon Mining Company , the residents of Toong Pong village are affected by the deterioration of the water quality of the Thabet stream. The water has become cloudy, causing skin irritation, fish stocks have declined and rice yields in deep water have declined."

In Tigyit, local communities have never seen any compensation for land confiscated by the previous dictatorship twenty years ago, for the construction of a coal-fired power plant and nearby coal mine. Furthermore, reforestation plans have not proved effective as the mine continues to expand. following the destruction of the forest, the area around Tigt was renamed "urban" and therefore not protected by the authorities.<sup>22</sup>

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<sup>22</sup> <https://news.mongabay.com/2021/07/ethnic-communities-in-myanmar-opposing-a-coal-plant-see-their-fight-get-harder/>

The Shan State Frontline Investment Monitor <sup>23</sup> underlines as follows:

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*“From mid-October 2022, large-scale coal mining also began in the Ke See municipality to fuel the Pinpet blast furnaces. This production chain will fulfill the Burmese military's long-term plans to increase local steel production and strengthen the defense industry. Both Pinpet and Myingyan projects will be finished in collaboration with the Russian Tyazhpromexport and the Italian company DANIELI”.*

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But the local populations of Ke See and those of Tigyt, next to the coal mines and the Pinpet plant, have opposed these settlements for years, due to the very serious environmental damage, the highly toxic coal deposits, the waste and from waste ashes, which are deposited even inside homes.

The report that has just been presented by the PA-O Youth Organization clearly indicates the heavy negative impacts on the health of local populations produced by investments in the steel sector and mining. According to the Ecologist, in 2011, the previous military regime declared that it had made a health worker available to the populations; in reality the healthcare available was very poor.<sup>24</sup>

A 2011 report by the Pa-O Youth Organization stated that coal production from the mine produced at least 100 tons of coal ash and waste, disposed of at a nearby coal-fired thermal power plant. The water flows into Burma's second largest lake, the famous Inle Lake, an Asean heritage site.



Once the Pinpet factory resumes at full capacity, the amount of wastewater released into the Thabet Stream will increase significantly and the residents of Toong Pong village fear much greater damage to the quality of the stream, putting their health and livelihood at risk. their livelihood.

Communities in Toong Pong face increasing pollution, caused by the Pinpet iron factory.

<sup>23</sup> <https://shanstatefrontline.com/large-scale-coal-mining-begins-in-central-shan-state-for-sac-regimes-new-pinpet-myingyan-steel-production-hub/>

<sup>24</sup> <https://theecologist.org/2011/jan/20/toxic-waste-burmas-largest-coal-project-could-displace-12000>

## CHAPTER VII, FIGHT AGAINST CORRUPTION, CORRUPTION AND BRIBRY

Even before the 2021 coup, corruption in Burma/Myanmar was endemic and posed high risks for businesses. Many economic operators consider corruption, the weak rule of law, and the opacity and complexity of licensing systems to be serious obstacles to investment and trade in Myanmar. The country suffered from high levels of corruption in all sectors<sup>25</sup>.

In 2018, the Burma National Risk Assessment concluded that corruption, including bribery, generated approximately 63% of the estimated \$15 billion in annual illicit proceeds in the country. Even excluding the country's criminal activities, the monopolization of resources and the regime's lack of transparency contribute to significant corruption risks within the country's economy<sup>26</sup>.

In June 2023, the Financial Action Task Force (FATF) through the FATF, which leads global action to counter money laundering, terrorism and proliferation financing, once again placed Burma/Myanmar on the so-called "list black" among the 3 highest risk jurisdictions in the world (the others are North Korea, Iran).

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*“High-risk jurisdictions have significant strategic deficiencies in their regimes to counter money laundering, terrorist financing and proliferation financing. For all countries identified as high risk, the FATF invites all members and urges all jurisdictions to apply enhanced due diligence and, in the most serious cases, countries are called upon to apply countermeasures to protect the international financial system from the risks of money laundering, terrorist financing and proliferation financing (ML/TF/PF) originating from the country. This list is often externally referred to as a "blacklist"<sup>27</sup>.*

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Infine, la Birmania/Myanmar è scesa di 17 posizioni nell'ultimo indice di percezione della corruzione di Transparency International, soppiantando la Cambogia come il peggior paese del sud-est asiatico per corruzione.

On 24 March 2021, the United Nations Human Rights Council unanimously passed a resolution on the human rights situation in Myanmar, which highlighted that:

*“No company active in Myanmar or with commercial links to Myanmar should do business with the military (also known as the Tatmadaw) or any of their business entities, until and unless such businesses are restructured and transformed”.*

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<sup>25</sup> <https://ganintegrity.com/country-profiles/myanmar/#judicial-system>

<sup>26</sup> <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/>

<sup>27</sup> <https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Call-for-action-June-2023.html>.

Being one of the most corrupt countries, and having been included among the three most at risk in the world for money laundering, terrorist financing and proliferation, and being the MEC, with which DANIELI has been collaborating for years, under the direct control of the Ministry of defense of the military junta, it is believed that DANIELI cannot be exempt from the risks posed by Chapter VII for the general conditions in which it operates in the country.

## CONCLUSIONS and RECOMMENDATIONS

The text of the 2011 OECD Guidelines on Multinationals, as well as those updated in June 2023 and the UN Principles on Business and Human Rights (UNGPR), clearly indicate that, even in the face of the lack of commitment by governments to respect international standards, companies must comply with the provisions of the OECD Guidelines on multinationals.

The data presented in this report shows how DANIELI, during his presence in Myanmar (presence, that started from the approval of the first Guidelines on Multinationals in 1976), having worked with military-owned companies, which were also sanctioned at European and international level, has never had transparent conduct in Myanmar, respectful of ILO international standards, international standards on human rights and the environment and, probably, has never respected the provisions of the restrictive measures approved by the European Union against the previous and of the current military dictatorship.

Nor has it ever implemented any of the principles of the 2011 OECD Guidelines on Multinationals, starting from those relating to transparency, nor those of the ILO Tripartite Declaration on Multinationals and the UN Principles on Business and Human Rights.

This contributed to producing serious negative effects on workers, local communities and the environment surrounding the plants where DANIELI worked.

DANIELI, apparently, from the available data, appears not to have respected the contents of the above rules, in relation to direct and indirect activities, i.e. the actions implemented by the Burmese companies with which DANIELI collaborated. that affect human rights, labor and the environment, has involved the interested parties and has not done its utmost to resolve the negative impacts on human, labor and environmental rights caused by the collaboration with the Myanmar Economic Corporation, the Ministries of Industry, defense and the managements of the Pinpet and Myingyan steel plants. Neither you nor you have exerted your influence towards your Burmese counterpart in order to overcome the negative impacts indicated in this report.

Finally, despite the many complaints in the Italian media, the requests of ITALIA-BIRMA.INSIEME APS, towards the previous governments and the current one, of the Ministry of Foreign Affairs and International Cooperation, of the Foreign Affairs Commissions of the Chamber of Deputies, of the Senate of the Republic, there were no measures aimed at ensuring that DANIELI adopted appropriate choices and respected the principles and regulations adopted at UN, ILO, OECD and EU levels.

## WE THEREFORE ASK :

✓ that DANIELI interrupts, as many multinational companies have done, relations with Burmese companies, in consideration of the seriousness of the worsening of the general situation in the country, in compliance with the EU restrictive measures and with the provisions of the OECD Guidelines for Businesses Multinationals on Responsible Business Conduct, approved in June 2023 at the OECD, regarding "disengagement from a business relationship either after failed attempts at mitigation, or where the enterprise deems mitigation not feasible, or because of the severity of the adverse impact".

✓ that DANIELI implements in the meantime, the due diligence criteria and procedures, and that it promptly, reliably, regularly and clearly, completely and accurately discloses all comparable information and actions to protect labor rights, human rights and environmental rights, by publishing accurate and understandable information for people, and in local languages on all significant aspects of its activities, including risk factors and actual or potential negative impacts of the enterprise on workers, the environment and society, and related due diligence processes, which may exist in the activities it is carrying out or may carry out in the future.

✓ that DANIELI adapts its Code of Ethics to comply with international standards on human rights, environment, transparency etc.

✓ that DANIELI, as required by the 2023 Guidelines on Multinational Enterprises and Responsible Business Conduct, commits itself, towards the Burmese military counterpart, and adopts measures to prevent retaliation against individuals, trade union organizations, and local communities or human rights defenders, who intervene against the negative impacts of past and future activities, related to the provisions of the OECD Guidelines on Multinationals 2023, and who may be at greater risk, due to marginalization, vulnerability or other circumstances, individually or as members of certain groups or populations, including ethnic populations.

✓ That DANIELI contributes to the repair and compensation of the adverse situations, which have been determined by the construction and operation of the plants indicated in this report, and to the compensation of workers, farmers, and communities, who have been affected by the land confiscation, by soil and water pollution, caused by the activities of mining projects and the polluting activities of the plants.

✓ That the Italian authorities promptly and transparently adopt all the necessary measures, so that Italian companies, starting with DANIELI, respect what has been approved by international and European institutions, to prevent these companies from contributing to the strengthening of a dictatorship, such as the Burmese one, guilty of brutal massacres, of the repression of all forms of dissent, in an attempt to impose a future dominated by the military on the Burmese people.

Italy, born from the resistance struggle of millions of women and men, who sacrificed their lives for the values of freedom and democracy, has the ethical and moral obligation to actively and urgently contribute to preventing the consolidation of another violent dictatorship and, has the political obligation to contribute to supporting civil society organizations, which after almost three years of violent repression, continue to fight to build a democratic and federal Burma and, to ensure that businesses Italian companies are consistent with these principles.