



## FINAL STATEMENT

Complaint submitted by Justice For Myanmar against Nordic Aviation Capital

2 February 2026

### ABOUT NCP DENMARK AND THE OECD GUIDELINES

The [OECD Guidelines for Multinational Enterprises on Responsible Business Conduct](#) (hereafter the Guidelines) set standards for responsible business conduct globally. NCP Denmark is the Danish National Contact Point to the Guidelines. NCP Denmark is an independent non-judicial grievance mechanism established by law\*. NCP Denmark is mandated to inform about the Guidelines and handle complaints about whether Danish companies, authorities, and public and private organisations observe the Guidelines.

As NCPs are not judicial bodies, NCP Denmark cannot directly order compensation nor compel parties to participate in a conciliation or mediation process. Instead, NCP Denmark can investigate whether the OECD Guidelines have been observed and can provide recommendations on implementation of the Guidelines. NCP Denmark's investigation of a complaint is concluded with a published final statement.

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\*) The Danish Act no 546 of 18 June 2012 on a Mediation and Complaints-Handling Institution for Responsible Business Conduct (the NCP Act).

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## 1 Executive summary

This final statement concludes NCP Denmark's investigation of a complaint received on 5 June 2024, from the group of covert activists, Justice For Myanmar (JFM). The complaint was submitted against the aircraft leasing company Nordic Aviation Capital (NAC) and related to NAC's business relationships in Myanmar.

### **The complaint and proceedings**

The complaint concerns financing, sale and leasing of ATR-aircraft from NAC to commercial airlines in Myanmar, either directly or via intermediaries, since 2013. In the complaint, JFM asserts that four of these aircraft have subsequently been used by the Myanmar military. Therefore, JFM believes, that some of the aircraft contribute to adverse human rights impacts caused by the Myanmar military during the armed conflict in Myanmar. JFM argues that the risk of diversion of ATR-aircraft and spare parts to the military in Myanmar is publicly known, and that NAC should have conducted heightened human rights due diligence for their business relationships in Myanmar considering the armed conflict.

NAC finds the allegations raised by JFM without merit and unsubstantiated. NAC maintains that it had suitable and industry-standard due diligence processes in place at all relevant times. NAC denies that the group did not carry out sufficient and appropriate due diligence in connection with its ongoing operations, including with respect to business relationships in Myanmar.

As NAC was headquartered in Ireland, at the time the complaint was submitted, NCP Denmark coordinated with NCP Ireland. NCP Denmark has decided to limit the investigation to NAC's business relationship with Air Kanbawza (Air KBZ, now Mingalar Aviation Services) and focus on the alleged impacts related to the use of four ATR-aircraft.

## **Conclusions on NAC's approach to responsible business conduct**

NCP Denmark concludes that NAC was expected to conduct risk-based due diligence for responsible business conduct (RBC) on their downstream business relationships, including lessees and buyers in Myanmar such as Air KBZ.

NCP Denmark also finds that although NAC had conducted customer and transactional due diligence, NAC did not demonstrate, neither in its policies nor its practices, that it had identified and addressed actual and potential adverse impacts on people, the environment and society associated with its own operations and business relationships.

Furthermore, NCP Denmark observes that NAC did not sufficiently prioritise engaging with local stakeholders in Myanmar to observe the recommendations in the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (hereafter the Guidelines).

## **Conclusions on NAC's approach to respect human rights and human rights due diligence**

NCP Denmark has not found the claim, that aircraft sold by NAC to buyers in Myanmar have come into possession of the Myanmar military and are used by the military for human rights violations, sufficiently substantiated.

NCP Denmark has examined NAC's approach to respecting human rights in their operations, products, services and business relationships and finds that NAC did not observe the Guidelines' recommendation that enterprises should have a publicly available policy commitment to respect human rights.

NCP Denmark has also examined the context of doing business in Myanmar from 2013 to 2024 and finds that NAC did not sufficiently react to contextual developments when operating in an area of armed conflict such as Myanmar. Consequently, NCP Denmark finds that NAC did not observe the expectations in the Guidelines to carry out human rights due diligence as appropriate to the severity of the risks of adverse human rights impacts in Myanmar.

Additionally, NCP Denmark has examined the measures taken by NAC to prevent adverse impacts linked to ATR-aircraft financed, sold and leased to buyers in Myanmar. NCP Denmark finds that NAC did not, in relation to the business relationship with Air KBZ, sufficiently observe the recommendation to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if the enterprise does not contribute to those impacts.

## **General recommendations**

During the case proceedings, NAC was fully acquired by Dubai Aerospace Enterprise (DAE). As a result, NCP Denmark does not provide direct recommendations to neither NAC nor DAE. However,

NCP Denmark issues three general recommendations for enterprises operating under similar circumstances and seeking to conduct business responsibly:

1. NCP Denmark recommends enterprises to consult the OECD Due Diligence Guidance for Responsible Business Conduct (2018) for support and practical advice to implement risk-based due diligence for RBC and to understand, that due diligence for RBC focuses on identifying, preventing, and mitigating adverse impacts on people, the environment, and society, while customer and transactional due diligence assess risks to the enterprise itself, such as financial, reputational, or operational risks.
2. NCP Denmark highlights that where adverse impacts are directly linked to an enterprise's operations, products or services, the enterprise should seek to use its leverage to effect change. This is also the case in leasing relationships, where the lessor is encouraged to carry out risk-based due diligence for RBC during the leasing period and use its leverage, which is higher prior to entering leasing agreements, to respond to risks associated with business relationships.
3. NCP Denmark emphasizes that enterprises operating in areas of armed conflict are expected to carry out enhanced due diligence to address the heightened risks of adverse impacts on human rights and society. NCP Denmark recommends that enterprises operating in Myanmar pay special attention to adverse impacts on human rights in their risk-based due diligence for RBC.

Finally, NCP Denmark issues an encouragement towards governments and authorities to support enterprises to respect human rights in conflict affected areas. NCP Denmark recommends that governments and authorities use their high level of information to provide clear, ongoing and up to date guidance to enterprises on how to conduct business responsibly in conflict-affected areas, informing enterprises of relevant changes.

## 2 Substance of the submission

On 5 June 2024 NCP Denmark received a complaint from the group of covert activists called Justice For Myanmar (JFM). The complaint was submitted against the aircraft leasing company Nordic Aviation Capital (NAC). NAC was established in Denmark in 1990 and specialised in sale, purchasing and financing of commercial turboprop and jet aircraft with leasing agreements worldwide.<sup>1</sup> The complaint concerns financing, sale and leasing of ATR-aircraft<sup>2</sup> from NAC to buyers in Myanmar. JFM is of the opinion that NAC failed to fulfil its obligations to carry out risk-based due diligence for responsible business conduct (RBC) under the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (hereafter the Guidelines) in relation to sale, leasing and financing of ATR-aircraft directly or via intermediaries to commercial airlines, including Air Kanbawza (Air KBZ) (now Mingalar Aviation Services<sup>3</sup>) since 2013.

According to JFM, any sale, financing, lease, or service of aircraft to buyers in Myanmar constitute a risk of being diverted and used by the Myanmar military and hereby contribute to serious and repeated human rights violations committed. In light of this, JFM claims that NAC should have conducted enhanced due diligence, on all their business activities in Myanmar - including implementing measures to monitor de facto end-use of aircraft and ensure that they are not used by the Myanmar military - but has failed to do so. JFM claims that four aircraft financed, sold or leased by NAC to commercial entities have subsequently been used by the Myanmar military. JFM claims that these aircraft have been used or are at risk of being used for activities contributing to human rights violations by the Myanmar military.

According to JFM, some of the aircraft have after resale from Air KBZ to the Myanmar military, been leased from the Myanmar military back to Air KBZ. Thus, JFM claims that NAC, through the sale of aircraft to Air KBZ, has also enabled income generation for the Myanmar military and thereby enabled the military to carry out activities that violate human rights and humanitarian law.

According to JFM, the risk of military diversion of aircraft was publicly known. According to JFM, publicly available information describes close ties between NAC's customers, including Air KBZ, and the Myanmar military. JFM also claims that publicly available information shows that aircraft sold by NAC have been transferred to the military upon arrival in Myanmar. According to JFM, if NAC had carried out risk-based due diligence for RBC, the enterprise would have been informed about these risks for adverse impacts on human rights and therefore should have engaged with Air KBZ about

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<sup>1</sup> In May 2025, Dubai Aerospace Enterprise (DAE) completed the full acquisition of NAC and its consolidated subsidiaries from NAC Holdings Limited ([dubaiaerospace.com](http://dubaiaerospace.com))

<sup>2</sup> ATR is a French/Italian aircraft manufacturer specialising in turboprop aircraft, suitable for regional flights and remote locations ([www.atr-aircraft.com](http://www.atr-aircraft.com))

<sup>3</sup> Following the purchase of Air KBZ by 24 Hour Group the airline was in 2024 renamed as Mingalar Aviation Services or Mingalar

the use of the aircraft. If NAC could not prevent these risks through engagement with Air KBZ, NAC should not have entered new contracts with Air KBZ but should instead have terminated existing lease arrangements and repossessed the aircraft.

## 2.1 Response from NAC

NAC's general view is that the allegations raised by JFM are without merit and unsubstantiated.

NAC confirms that they have sold and leased aircraft with Air KBZ in Myanmar as the intended end-user. NAC maintains that it had suitable and industry-standard due diligence processes in place at all relevant times.

NAC rejects that the group did not carry out sufficient and appropriate due diligence in connection with its ongoing operations, including with respect to customers in Myanmar. NAC claims that they complied with industry standard due diligence at the time of the relevant sales and leases in 2013, and that NAC gradually changed its policies and introduced new policies over time (see section 4.3 for further details).

NAC argues that JFM has not provided evidence showing the allegations against KBZ Group and Air KBZ were publicly known before August 2019, when KBZ Group was first named in a UN report regarding human rights violations in Myanmar. By that time, NAC states, all its sale- and lease agreements with Air KBZ had already been entered.

During NCP Denmark's handling of the complaint, NAC has been acquired by Dubai Aerospace Enterprise (DAE). The acquisition was completed on 7 May 2025. DAE has informed NCP Denmark that DAE has taken over all NAC activities, including contracts, and that all current activities are subject to DAE's policies and procedures from the moment of acquisition. Following the acquisition, DAE has therefore acted as the respondent in the case since May 2025. When the parties were invited to submit comments on a draft final statement, DAE submitted its view that the Guidelines did not apply to DAE - and consequently not to NAC- because DAE is a Dubai-headquartered company.

## 3 Proceedings

The following is a summary of the proceedings. See the annex for a detailed overview of activities.

NCP Denmark received a letter from JFM on 29 April 2024 and a submission of a complaint on 5 June 2024. As NAC was headquartered in Ireland, at the time the complaint was submitted, NCP Denmark coordinated with NCP Ireland. It was decided that NCP Denmark would lead the case and consult NCP Ireland as appropriate throughout the proceedings and prior to the publication of any

statements related to the case. On 19 August 2024 NCP Denmark completed the initial assessment and accepted the complaint for further processing.

JFM did not wish to reveal the identities of its members due to security concerns and risk of reprisal in Myanmar. As part of the initial assessment, JFM was deemed a legitimate submitter and to be acting in good faith, despite not disclosing the identities of the specific individuals behind organisation. This assessment was made based on consultation with the Danish Embassy in Myanmar and in accordance with provisions in the Danish NCP Act and the Guidelines. According to NCP Denmark's case handling procedures, a submitter can be anonymised, if there are concerns about reprisals. In accordance with the Guidelines and the NCP Act and in agreement with JFM, NCP Denmark assigned and paid for a representative for JFM, Jonas Christoffersen, attorney-at-law. NCP Denmark has not met in-person or in video meetings with JFM but has engaged in spoken and written form with JFM and through their representative.

NAC has been represented by their own legal counsel, and NCP Denmark has not met directly with NAC but instead with legal representatives of NAC, Kromann Reumert in Denmark, and Clifford Chance from the UK.

After the initial assessment, the parties were invited to carry out bilateral dialogue without the NCP's involvement, which JFM rejected, as they had previously contacted the NAC with no response. As a result, NCP Denmark initiated the third procedural step of the case-handling procedure: a preliminary investigation, where the parties were requested to share additional information.

In the preliminary investigation, NCP Denmark could not dismiss that non-observance of the Guidelines took place in the following aspects:

- regarding the allegation that NAC did not conduct risk-based due diligence for RBC in accordance with the Guidelines in the period in question.
- regarding the allegation of the military use of aircraft sold by NAC to buyers in Myanmar and Air KBZ/KBZ Group's involvement with the military.

Consequently, NCP Denmark accepted the complaint for further consideration and decided to offer mediation to the parties. Shortly after the conclusion of the preliminary investigation, the acquisition of NAC by DAE was completed. NCP Denmark therefore held an information meeting with DAE, who took over the role as the respondent in the case. The offer of mediation was declined by DAE, and NCP Denmark initiated an actual investigation of the complaint.

The results of the investigation are described in this Final Statement. The entire body of documentation submitted by the parties – confidential as well as non-confidential – along with NCP Denmark's desk research and consultation of experts constitutes the basis for NCP Denmark's

investigation and Final Statement. Both parties have been given the opportunity to submit comments regarding the interpretation of the facts in the investigation.

## 4 NCP Denmark's examination

In the submission, JFM argues that all activity by NAC in Myanmar should be examined in the NCP investigation. NCP Denmark has considered all the claims in the submission and decided to limit the investigation to NAC's business relationship with Air KBZ and focus on the alleged impacts related to the use of four aircraft sold and leased directly or via intermediaries to Air KBZ. This scope falls within the statute of limitations<sup>4</sup> for NCP Denmark's case-handling, is sufficiently substantiated, and furthers the effective implementation of the Guidelines.

Based on the issues raised by JFM, NCP Denmark assesses that the complaint concerns Chapter II General Policies para. 11 and 13, 14 and 15 and Chapter IV Human Rights para. 3 and 5 of the Guidelines (2023). As this investigation relates to NAC's practices from 2013 until 2024, both the 2011-version and the 2023-version of the Guidelines are applicable to respective parts of this investigation. NCP Denmark's assessment is therefore based on the version of the Guidelines that are relevant at the given time.

To assess whether NAC observed the Guidelines in their business relationship with Air KBZ, NCP Denmark has divided the examination into the following four sections:

1. The recommendations to enterprises set forth in Chapter II and IV of the Guidelines
2. The context for doing business in Myanmar 2013-2024
3. NAC's approach to responsible business conduct and due diligence
4. The risk of adverse human rights impacts from the use of aircraft sold and leased by NAC to buyers and lessees in Myanmar

NCP Denmark has performed desk research and has consulted various experts to inform the understanding of the context for doing business in Myanmar and specifically the risk of adverse human rights impacts from the use of ATR aircraft. These experts were identified by NCP Denmark in consultation with the Ministry of Foreign Affairs of Denmark and the Delegation of the European Union to Myanmar.

### 4.1 The recommendations set forth in the Guidelines

This section describes the expectations set forth in the 2011-version and the 2023-version of the Guidelines regarding risk-based due diligence for RBC in downstream activities, meaningful

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<sup>4</sup> The Danish NCP Act includes a statute of limitations stating that NCP Denmark may only accept complaints that are brought to its attention no later than five years after the act or omission in question has ceased.

stakeholder engagement, the respect for human rights and due-diligence in situations of armed conflict. To provide more practical descriptions, this section also draws on explanations from the 2018 OECD Due Diligence Guidance for Responsible Business Conduct (hereafter "the Guidance").

#### **4.1.1 Risk-based due diligence for RBC in downstream activities**

The expectation to conduct risk-based due diligence for RBC was introduced in the 2011-revision of the Guidelines and thus covers the entire timeframe of the complaint. According to the Guidelines (2011, Chap. II, para. 10-12 and comm. 14-15), risk-based due diligence for RBC helps enterprises identify, prevent, mitigate and account for how they address actual and potential adverse impacts in their own operations, their supply chain and other business relationships. The purpose of conducting risk-based due diligence for RBC is to avoid causing or contributing to adverse impacts on RBC issues covered by the Guidelines and to seek to prevent adverse impacts directly linked to operations, products or services through business relationships (the Guidance, p. 16).

As explained in the Guidance, the Guidelines adopt an "outward-facing approach to risk" and refer to "the likelihood of adverse impacts on people, the environment and society that enterprises cause, contribute to, or to which they are directly linked". It is an on-going and responsive exercise, recognising that risks may change over time as the enterprise's operations and operating context evolve (the Guidelines 2011, Chap. IV, para.5).

The Guidelines differentiate the enterprise's involvement with the actual or potential adverse impacts between "causing", "contributing" and "directly linked". For this case, the latter is relevant. The Guidance (p. 71) defines directly linked as "the relationship between the adverse impact and the enterprise's products, services or operations through another entity".

The Guidelines (2011) recommend enterprises to prevent or mitigate adverse impacts that are directly linked to their operations. To meet these expectations, enterprises should act as appropriate to use their leverage to influence the entity causing the adverse impact. Leverage is considered to exist, where the enterprise has the ability to effect change in the wrongful practices of the entity that causes the harm (Chap. II, comm.19-20). Enterprises can use or increase leverage in a number of ways to influence entities with which it has business relationships, for example, through engagement to urge them to prevent and/or mitigate impacts; building expectations around responsible business conduct and due diligence specifically into commercial contracts; engaging with regulators and policymakers on responsible business conduct issues and more (Chap. II, comm. 23).

The Guidelines (2011) define business relationships as "relationships with business partners, entities in the supply chain and any other non-State or State entities directly linked to its business operations, products or services" (Chap. II, comm. 14). In the 2023 version, the term business

relationships was further clarified to explicitly "include relationships with business partners, sub-contractors, franchisees, investee companies, clients, and joint venture partners, entities in the supply chain which supply products or services that contribute to the enterprise's own operations, products or services or which receive, license, buy or use products or services from the enterprise, and any other non-State or State entities directly linked to its operations, products or services" (Chap. II, comm. 17). Since 2011, the Guidelines' due diligence expectations have applied broadly to businesses' value chain, including both upstream suppliers and downstream relationships.

The Guidelines do not differentiate between the responsibilities in sales and leasing respectively, but risk-based due diligence for RBC should always be conducted. In the 2023-version of the Guidelines, it is acknowledged that there are practical limitations on the degree of leverage enterprises may have, especially after a sale or resale. In such situations, companies are encouraged to identify actual and potential impacts and take preventive or mitigating actions prior to and at the point of sale. (Chap. II, comm. 24). According to the 2023-version of the Guidelines, risk-based due diligence for RBC related to an enterprise's products or services should take into account known or reasonably foreseeable circumstances related to the use of the product or service in accordance with its intended purpose, or under conditions of reasonably foreseeable improper use or misuse, which may give rise to adverse impacts (Chap. II comm. 20).

Meaningful stakeholder engagement is a key component of the RBC due diligence process. According to the Guidelines, enterprises should "engage with relevant stakeholders in order to provide meaningful opportunities for their views to be taken into account in relation to planning and decision making for projects or other activities that may significantly impact local communities" (2011, Chap. II para. 14). The Guidance further elaborates on the importance to consult stakeholders and rightsholders to bridge gaps in information, when identifying and assessing risks and developing actions to cease, prevent, and mitigate adverse impacts and provide remediation (p. 27).

Relevant stakeholders are persons or groups, or their legitimate representatives, who have rights or interests related to the matters covered by the Guidelines, that are or could be affected by adverse impacts associated with the enterprise's operations, products or services. Stakeholder engagement involves interactive processes of engagement with relevant stakeholders, through for example, meetings, hearings or consultation proceedings. (Guidelines 2011, Chap. II comm. 25).

#### **4.1.2 Human rights**

The Guidelines' Chapter IV on Human Rights recognises that States have the duty to protect human rights, and that enterprises, regardless of their size, sector, operational context, ownership and structure should respect the human rights wherever they operate. The fact that a state may act contrary to international human rights' obligations does not diminish the expectation that enterprises respect human rights (2011, Chap. IV comm. 38).

The Guidelines (2011) also provide that enterprises should "seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relations" (Chap. IV, para 3), "have a policy commitment to respect human rights" (Chap IV, para. 4), and "carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts" (Chap IV, para. 5).

#### **4.1.3 Enhanced due diligence in situations of armed conflict**

Risk-based due diligence for RBC is context specific. The Guidelines (2011) explain that "The nature and extent of due diligence, such as the specific steps to be taken, appropriate to a particular situation will be affected by factors such as the (...) context of [the enterprise's] operations (...) and the severity of its adverse impacts." (Chap. II, Commentary 15). This means that the appropriate steps in due diligence for RBC will change if situations of armed conflict evolve.

The Guidelines (2011) elaborate that "some human rights may be at greater risk than others in particular industries or contexts, and therefore will be the focus of heightened attention" and highlights that "in situations of armed conflict, enterprises should respect the standards of international humanitarian law, which can help enterprises avoid the risks of causing or contributing to adverse impacts when operating in such difficult environments" (Chap. IV comm. 40). In the 2023 version of the Guidelines, this is further elaborated with an expectation that "In the context of armed conflict or heightened risk of gross abuses, enterprises should conduct enhanced due diligence in relation to adverse impacts (Chap. IV comm. 45).

As the issues raised in this complaint concerns adverse impacts in the ongoing armed conflict in Myanmar, it is relevant for the investigation to examine whether the enterprise carried out due diligence appropriate to the context in this case.

### **4.2 The context for doing business in Myanmar 2013-2024**

As shown in subsection 4.1.3, the nature and the extent of RBC due diligence, appropriate to a particular situation is affected by several factors including the context of operations. The complaint concerns alleged adverse impacts related to the ongoing armed conflict in Myanmar and JFM alleges that NAC did not carry out due diligence for RBC appropriate to the context. Therefore, NCP Denmark finds that it is necessary to clarify the context of the developing conflict in Myanmar, to determine the appropriateness of NAC's approach to responsible business conduct in the business relationship with Air KBZ.

NCP Denmark has performed desk research and has consulted various experts to inform the understanding of the context for doing business in Myanmar. The experts consulted were from the following backgrounds: European businesses, Ministry of Foreign Affairs of Denmark, Delegation of

the European Union to Myanmar (EU Delegation in Myanmar), the Danish Institute for Human Rights (DIHR) and the Myanmar Centre for Responsible Business (MCRB)<sup>5</sup>.

Based on the interviews NCP Denmark identified three distinct time periods relevant to the complaint, each defining different contexts in Myanmar: the period from 2013 to 2016 defined by the lifting of sanctions, the period from 2017 to 2021 where widespread concerns of human rights abuse changed the conditions, and the period from 2021 until 2024 where the military coup dramatically changed the operating environment in Myanmar. In the following, each of these three time periods are explained in further detail.

#### **4.2.1 2013–2016 Transition and lift of sanctions**

In 2011, a political and economic transition process began under a transitional military government, with the first democratic elections held in 2015. In 2013, the EU lifted all sanctions, except for an arms embargo and the embargo on equipment which might be used for internal repression.<sup>6</sup> Both the EU and the Danish government actively encouraged European companies to establish business activities and increase European foreign direct investment in Myanmar, with the dual aim of supporting democratic and economic reform.<sup>7</sup>

DIHR highlighted that businesses operating in Myanmar were already in this period made aware of critical governance gaps and human rights risks as well as concerns over conflict areas and business connections with the military.<sup>8</sup> The fragile state of Myanmar called for guidance and promotion of responsible business standards among the businesses entering the field, resulting in the launch of the MCRB in 2013.<sup>9</sup> Experts from DIHR and MCRB whom NCP Denmark consulted noted that any connection to military entities or military-affiliated businesses warranted investigation and assessment by companies in their risk-based RBC due diligence.

#### **4.2.2 2017–2020 Rising concerns**

From 2017 onward, following widespread reports of serious human rights abuse, including the Rohingya crisis, due diligence for RBC expectations for enterprises operating in Myanmar shifted significantly. In March 2017, The United Nations Human Rights Council (UNHRC) decided to

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<sup>5</sup> MCRB was co-founded by DIHR

<sup>6</sup> European Council: <https://www.consilium.europa.eu/en/policies/sanctions-against-myanmar/>

<sup>7</sup> EU External Action Service [EU-Myanmar relations | EEAS](#) and interviews with EU Delegation in Myanmar, sources from European businesses, Ministry of Foreign Affairs in Denmark

<sup>8</sup> Interview with DIHR

<sup>9</sup> Social Terrain, *Evaluation of the Myanmar Centre for Responsible Business*, Final report, November 2018, [Evaluation of MCRB 2013–2018](#). MCRB was co-founded by DIHR

dispatch an Independent International Fact-Finding Mission on Myanmar (hereafter "The Fact-Finding Mission").<sup>10</sup>

From 2018, the EU adopted several conclusions regarding human rights violations committed by the Myanmar military including against the Rohingya people,<sup>11</sup> implemented targeted sanctions against responsible military officers<sup>12</sup> and ended training and exchange of military technology with the Myanmar military.<sup>13</sup>

The Fact-Finding Mission delivered several reports during 2019 on human rights abuse in Myanmar committed by the military. This included a report on "The economic interests of the Myanmar military" on 12 September 2019 (hereafter: Fact-Finding Mission 2019 report), which encouraged investors and business to refrain from conducting any kind of business with the Myanmar military, specifically the military conglomerates Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC), and any of their business relationships.<sup>14</sup> The report listed a range of companies as allegedly affiliated with the military. This list included the owners of Air KBZ at the time, KBZ Group.<sup>15</sup> Among other things, the report identified companies that had provided donations to the military. This method has, however, received some criticism. Expert sources from the EU delegation in Myanmar and MCRB say that donations to the government may be expected in the culture and are hard to refuse as a company.<sup>16</sup>

As a result of the changed conditions in Myanmar the Danish Government still welcomed investments but advised businesses operating in Myanmar to adopt heightened risk-based due diligence for RBC standards.<sup>17</sup>

According to sources from European businesses, all businesses could from 2019 be expected to be aware of the need to conduct enhanced RBC due diligence in relation to their operations in Myanmar and adopt strict measures to ensure their businesses did not contribute to the armed conflict or human rights abuses.

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<sup>10</sup> A/HRC/RES/34/22, Situation of human rights in Myanmar: Resolution/ Adopted by the Human Rights Council on 24 March 2017

<sup>11</sup> See timeline of sanctions here: [Timeline - EU sanctions against Myanmar - Consilium](#)

<sup>12</sup> Council Decision (CFSP) 2018/900 of 25 June 2018 amending Decision 2013/184/CFSP concerning restrictive measures against Myanmar/Burma

<sup>13</sup> Council Decision (CFSP) 2018/655 of 26 April 2018 amending Decision 2013/184/CFSP concerning restrictive measures against Myanmar/Burma

<sup>14</sup> A/HRC/42/CRP.3 available on: <https://www.ohchr.org/en/hr-bodies/hrc/myanmar-ffm/economic-interests-myanmar-military>

<sup>15</sup> KBZ Group owned Air KBZ until 2023 where it was sold to 24 Hour Group and renamed

<sup>16</sup> Based on interviews with experts

<sup>17</sup> Interview with Ministry of Foreign Affairs of Denmark

### 4.2.3 2021–2024 Post-coup

The military coup in February 2021 dramatically changed the operating environment in Myanmar. Comprehensive EU sanctions were reinstated, targeting ministers, high ranking military officials as well as the conglomerates MEHL and MEC.<sup>18</sup>

Since the coup, guidance from embassies and advisory groups is that heightened due diligence is necessary. All companies should consider the risks specific to their sector, the available risk mitigation measures and whether disengagement is necessary or would cause further risks, damages and adverse human rights impacts to vulnerable populations.<sup>19</sup> The EU Delegation is not advising European businesses to divest from Myanmar but is encouraging heightened risk-based due diligence to be adequately carried out. Given the intensified armed conflicts in Myanmar after 2021, European businesses are strongly encouraged by advisory groups to continuously conduct heightened due diligence to ensure their business operations do not contribute to the armed conflicts or human rights violations.<sup>20</sup>

According to MCRB, private companies connected to current or former military personnel or their families should be identified through due diligence, although it should be noted that such findings are not unusual, as many Myanmar men have served in the military, and family connections are not automatically a red flag.<sup>21</sup> Furthermore, the military also has governmental control and any company operating in Myanmar will need some indirect cooperation with the authorities in terms of paying taxes, applying for certification etc.<sup>22</sup> Information is often scantily available, meaning that businesses should solicit local knowledge such as stakeholders and legal advisors.<sup>23</sup>

## 4.3 NAC's approach to responsible business conduct and due diligence

This section presents NCP Denmark's findings on the policies and procedure in place at NAC, both at a general level and with relation to the business relationship with Air KBZ. The complaint against NAC covers a long timeframe from 2013 until 2024, and NCP Denmark has considered NAC's

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<sup>18</sup> See timeline of sanctions: <https://www.consilium.europa.eu/en/policies/sanctions-against-myanmar/timeline-sanctions-against-myanmar/>

<sup>19</sup> Based on interviews with experts and various online sources. See e.g. [IHRB article on 14 September 2021](#), and [ETI statement of 27 August 2021](#)

<sup>20</sup> Interview with sources from European businesses

<sup>21</sup> Interview with MCRB

<sup>22</sup> Interview with EU Delegation in Myanmar

<sup>23</sup> Interviews with sources from DIHR and European businesses

policies and procedures for the entire timeframe, including activities made after the receipt of the complaint.

The appropriateness of NAC's approach to responsible business conduct in the business relationship with Air KBZ must be considered in relation to its context in Myanmar. Therefore, for clarity's purpose, the examination of NAC's approach to responsible business conduct and due diligence processes has been divided into three periods consistent with the three time-periods, that represent contextual changes in Myanmar (see section 4.2): the period from 2013 to 2016, the period from 2017 to 2021, and the period from 2021 until 2024.

NCP Denmark notes that some of the information/documentation has been shared in 2025 after the acquisition of NAC by DAE. DAE has informed NCP Denmark that from the period before 2022 none of the historic employees or management remain within NAC. Accordingly, the scope of information NAC/DAE could provide is limited and the responses set out below for the period of 2013 – 2022 are to the best of the knowledge and information currently available within NAC.

#### **4.3.1 The period from 2013 to 2016**

For this period, NCP Denmark has been presented with documentation of NACs customer due diligence<sup>24</sup> process, which includes Know Your Customer (KYC)<sup>25</sup> procedures. In 2013, NAC's customer due diligence included sanctions checks on customers and third parties by reviewing original documents to verify constitutional documents and the board resolutions approving the relevant transactions.

NCP Denmark has been presented with examples of the types of checks carried out on Air KBZ and has reviewed the sale and leasing agreements for the four aircraft alleged by JFM to be in the possession of the Myanmar military. The agreements include clauses on lawful operations and prohibited use, including prohibitions on dealing with and subleasing to persons or entities who are sanctions targets or are in violation of sanctions.

In 2016 NAC implemented an Anti-Corruption policy.

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<sup>24</sup> Customer due diligence looks at risks that could harm the business, its reputation, or its compliance with laws and regulations. The process involves verifying a customer's identity, assessing their risk (e.g. potential for money laundering and sanctions), and understanding their business activities or financial behaviour. Thus, customer due diligence differs in its scope and focus from risk-based due diligence for RBC (see section 6.1 for further explanation).

<sup>25</sup> Know Your Customer (KYC) is part of the customer due diligence process. KYC is used to verify and confirm the identity of the customer, using official documents like ID cards, passports, or company registration details, etc.

### **4.3.2 The period from 2017 to 2021**

According to NAC, more comprehensive compliance procedures were implemented in 2018. NCP Denmark has been presented with the 2018 compliance framework covering NAC and all NAC affiliates employees. The framework mentions risk-based compliance and describes it as "identification and mitigation of legal risk". The topics covered include anti-corruption, competition, data protection, anti-money laundering (AML), sanctions and exports. The framework mentions some groups of stakeholders.

At the same time, an AML Policy was introduced. This resulted in KYC checks for any lessees or purchasers of aircraft and spare parts requiring sign-off by the Group Legal Counsel. The policy was revised in 2020 and procedural guidance on risk assessments and KYC checks were provided.

NCP Denmark has been presented with an internal presentation about NACs risk assessment process for 2018/19, which describes the risks assessed for every customer including jurisdiction survey, KYC Check, Operator Audit and Deal Team Visit.

### **4.3.3 The period from 2021 to 2024**

NAC notes that knowledge and information about the processes and procedures in place post-2022 remains with employees still at NAC and is therefore more detailed and precise.

In 2022, NAC overhauled its compliance framework and introduced codes of conduct, compliance policies and procedures that were endorsed by the new senior management. NAC was a signatory to Aircraft Leasing Ireland Sustainability Charter of 2022, pledging to support 10 prioritised ESG-related issues to the aircraft leasing industry.

According to NAC, all employees were trained annually on NAC's Integrity Statement and Compliance Policies, including the Anti-Bribery and Corruption Policy, the AML Policy, Sanctions and Export Controls Policy, and the Whistleblowing Policy.

In this period, NAC undertook KYC procedures at the outset of a business relationship and perform periodic customer due diligence reviews including for Air KBZ. NAC has informed NCP Denmark that monitoring of customers would take place on an annual basis through KYC questionnaires and upon the occurrence of a trigger event such as a change in stakeholders or controlling parties. NCP Denmark has been presented with examples of KYC questionnaires for Air KBZ.

NAC explained that the enterprise would use Dow Jones' electronic tool to screen all potential customers according to sanctions, watchlist, adverse media and politically exposed people.

NCP Denmark has been presented with a Risk Rating assessment made by NAC for Air KBZ in 2023. In this assessment, Myanmar was identified as a high-risk area in terms of AML and Air KBZ was considered a high-risk customer and subject to enhanced due diligence for AML. According to

NAC, such enhanced due diligence involved a deeper investigation into the prospective or existing customer and the requirement for senior management approval. A high-risk rating would also require the Compliance team to run additional searches, including desktop searches on the prospective customer, to assess information available about the customer in the public domain.

In 2023, NAC commissioned an "Investigative due diligence report" from a third party to inform a potential asset transfer in Myanmar (selling one of its leased aircraft to Air KBZ). NCP Denmark has been presented with this report and observed that the purpose of the report is to "better understand risks relating to the background, reputation and connections" of Air KBZ and its main shareholders. According to the report, it was made based on consultation with a range of sources from the business community in Myanmar. The report found no concrete information to suggest that Air KBZ has direct links with the Myanmar military or its associated businesses. The report found that Air KBZ was not accused of enabling military procurement.

In November 2023, NAC introduced a Human Rights Policy for NAC Suppliers. The document describes NAC's commitment to upholding and respecting human rights throughout the supply chain. The document describes NAC's commitment to promoting and protecting human rights and ensuring that suppliers share in this responsibility. It has not been possible for NCP Denmark to get any information as to how this policy was shared with suppliers or whether it was publicly available.

According to NAC, the enterprise had monitored flight use of aircraft in Myanmar since July 2024. NCP Denmark has been presented with documentation that NAC Group Legal had conducted a check of Mingalar Aviation Services (previously Air KBZ) performance of flights with the three aircraft<sup>26</sup> leased at the time to Mingalar Aviation Services from NAC to see if there was any reason for suspicion of non-commercial flights. The emails describe two checks made on flightradar24.com in July and September 2024 and cross references to destinations published on Mingalar Aviation Services' website. NAC's conclusions from both checks were that generally no irregularities were found but a few flights were recorded with departure and destination airports missing.

#### **4.4 The risk of adverse human rights impacts from the use of aircraft sold and leased by NAC to buyers and lessees in Myanmar**

This section presents NCP Denmark's investigation into the claims of actual and potential adverse human rights impacts related to NAC's sale and leasing of ATR-aircraft to Air KBZ. The examination

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<sup>26</sup> None of these aircraft were part of the four aircraft allegedly in military possession. Those four aircraft were no longer owned by NAC at the time monitoring was introduced.

is based on submissions by JFM, desk research and consultation of experts from European businesses, EU Delegation in Myanmar, MCRB and the aircraft manufacturer ATR.

JFM claims to have identified four aircraft, which JFM believes are used by the Myanmar military. The four aircraft in question include three aircraft sold by NAC in 2013 and one aircraft, which was leased to Air KBZ in the beginning of 2013. This aircraft was leased as a finance lease, and the purchase was completed in 2023, where the aircraft was registered with the new owner Mingalar Aviation Services (formerly Air KBZ). NAC has presented NCP Denmark with contracts for the relevant aircraft for review, confirming the dates of transfer.

#### **4.4.1 Known risks of military diversion of ATR-aircraft**

JFM argues that publicly available information verifies a known risk of military diversion of ATR aircraft.

NCP Denmark has examined JFM's claim through consultation with experts on business in Myanmar to get sector-specific insights on the risks associated with the aviation sector. According to experts, there is no defining evidence that the commercial aviation sector in Myanmar is directly controlled by or structurally linked to the Myanmar military.<sup>27</sup> However, one expert source observed that risks of overlap and diversion to the military remain in any sector in Myanmar and that isolated incidents have been reported - such as the use of civilian aircraft for regional travels by military leaders.<sup>28</sup> In January 2024, the US Trade Representative updated their business advisory with sectors of concern to include aviation services, components and fuel due to the risk that parts and services could be diverted to military entities.<sup>29</sup> Experts consulted by NCP Denmark also pointed out, that the commercial aviation sector in Myanmar serves a critical function in the infrastructure, and that ongoing service of commercial ATR-aircraft is necessary.<sup>30</sup>

#### **4.4.2 Alleged military use of the four aircraft**

NCP Denmark has examined JFM's claim that four ATR-aircraft, during or after the lease or sale by NAC, have come in the possession and use of the Myanmar military.

JFM has presented a variety of documents, which are allegedly leaked from whistleblowers, in which military personnel or military aircraft registration numbers appear alongside information of one or several of the four ATR-aircraft. The documents include a contract between the intermediary

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<sup>27</sup> Based on interviews with EU Delegation in Myanmar, sources from European Businesses and MCRB

<sup>28</sup> Interview with a source from European businesses

<sup>29</sup> <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/january/supplemental-burma-business-advisory>

<sup>30</sup> Interview with EU Delegation in Myanmar and ATR

buyer and military personnel as well as several extracts of correspondence regarding purchase, service or repaint of the aircraft. Furthermore, JFM has made reference to online plane enthusiast websites which have logged two of the aircraft as in the possession of the Myanmar Air Force and a report from Myanmar Defense & Research Institute claiming that one of the relevant aircraft is now in the possession of the Myanmar military. According to JFM, these documents show, that the military has, through intermediaries, been able to purchase and service ATR-aircraft sold or leased by NAC to commercial buyers in Myanmar. JFM believes, that in combination with other sources of publicly available information such as photos, this confirms military use of the aircraft.

JFM has referred to online flight logs, where one of the aircraft does not have registered flights. According to JFM, "It is not uncommon for civilian-registered planes that are operated under military contracts (like surveillance or personnel transport) to fly "dark", meaning that no flight data is made available through subscription-based datasets". According to JFM, the lack of registered flights indicates that the aircraft are not used for commercial flights but are instead being used by the Myanmar military.

## 5 Conclusions

In the following, NCP Denmark's conclusions are presented in two sections. These sections determine NAC's observance of the Guidelines concerning the expectations to carry out due diligence for RBC, and the expectations to respect human rights and carry out human rights due diligence.

### 5.1 Conclusions on NAC's approach to responsible business conduct and due diligence

NCP Denmark has examined the due diligence for RBC expectations towards business relationships. The Guidelines define expectations for enterprises to carry out risk-based due diligence for RBC towards business relationship both upstream and downstream in the supply chain. Thus, in this specific case, NCP Denmark concludes that NAC was expected to conduct risk-based due diligence for RBC on their downstream business relationships, including lessees and buyers in Myanmar such as Air KBZ. This expectation is particularly important prior to the sale of the aircraft and the entry into leasing agreements as the ability to monitor impacts and exert or build leverage will often diminish once a service is rendered or a product is sold.

NCP Denmark has also examined NAC's approach to RBC and due diligence. NCP Denmark finds that NAC's risk management system is limited to legal compliance and financial and reputational

risks assessments. While NAC had conducted customer and transactional<sup>31</sup> due diligence, and NAC's more recent risk assessments address some of the RBC issues covered by the Guidelines, NAC did not demonstrate, neither in its policies nor its practices, that the enterprise had identified and addressed actual and potential adverse impacts associated with their own operations and their business relationships. As an example, NAC's risk rating of Air KBZ from 2023 only describes customer due diligence and "enhanced due diligence" in relation to AML. The risk ratings that NCP Denmark has been presented with do not include assessments on other risk factors (such as human rights) relevant for risk-based due diligence for RBC as per the Guidelines. Therefore, NCP Denmark finds that NAC did not observe the Guidelines (2011) recommendations in Chapter II para. 10 and para. 12 to carry out risk-based due diligence to identify, prevent and mitigate actual and potential adverse impacts directly linked to their operations, products or services by a business relationship as well as account for how these impacts are addressed.

Furthermore, NAC did not demonstrate that it encouraged its business relationship, Air KBZ, to apply principles of responsible business conduct by using its leverage. Therefore, NCP Denmark finds that NAC did not sufficiently observe the Guidelines (2011) Chapter II, para. 13 in relation to the business relationship with Air KBZ.

In addition, NCP Denmark has examined NAC's stakeholder engagement in the risk assessments undertaken in relation to their business relationships in Myanmar. NCP Denmark has been presented with documentation showing that NAC consulted stakeholders on one occasion in connection with an investigative report in 2023. Apart from this report, NCP Denmark has not been presented with any documentation that NAC engaged stakeholders in risk-assessments or decision-making in the period reviewed. Experts consulted by NCP Denmark explain that the lack of available information in Myanmar means that businesses must consult local sources. However, when JFM contacted NAC in 2024 with their concerns, NAC did not react to the stakeholder's concerns. NCP Denmark observes that NAC did not sufficiently prioritise engaging with local stakeholders in Myanmar to observe the recommendations in the Guidelines (2011) Chapter II para. 14 on meaningful stakeholder engagement.

## 5.2 Conclusions on NAC's approach to respect human rights and human rights due diligence

NCP Denmark has examined the claim that aircraft sold or leased by NAC to buyers and lessees in Myanmar, have been transferred to the Myanmar military, where the aircraft are alleged to have

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<sup>31</sup> Transactional due diligence is a comprehensive process used in business transactions to verify information and assess the financial, legal and operational risks before a business transaction is finalised. The focus is primarily on financial risks and impacts on the enterprise. Thus, transactional due diligence differs in its scope and focus from risk-based due diligence for RBC (see section 6.1 for further explanation).

been used by the Military for activities that entail human rights violations. While several sources and reports conclude that the Myanmar military has conducted human rights violations, there are different opinions among the experts interviewed by NCP Denmark, as to the risk, that aircraft that are owned by commercial flight operators are linked to human rights violations or abuse in Myanmar. JFM has presented documentation from several sources. These sources include whistleblower statements, leaked documents, and public materials related to four specific aircraft, that have been leased and sold by NAC to buyers in Myanmar. However, NCP Denmark is not able to independently verify this information. Therefore, based on the parties' submissions and expert interviews, NCP Denmark has not found the claim that aircraft sold by NAC to buyers in Myanmar have come into possession of the Myanmar military and have been used by the military for human rights violations, sufficiently substantiated.

In addition to investigating the specific claim, NCP Denmark has also examined NAC's approach to respecting human rights in their operations, products, services and business relationships. NCP Denmark has been presented with the Human Rights Policy for NAC Suppliers from 2023, which describes expectations for suppliers to uphold and respect human rights. The Human Rights Policy describes matters relevant to the Guidelines. However, NAC has not confirmed that this policy was made publicly available, nor whether or how it had been enforced and communicated to NAC's business relationships. Therefore, NCP Denmark finds that NAC did not observe the Guidelines (2023) Chapter IV para. 4, according to which enterprises should have a publicly available policy commitment to respect human rights.

NCP Denmark has examined NAC's approach to human rights due diligence when doing business in Myanmar. Drawing on desk research and expert interviews, NCP Denmark has examined the context of doing business in Myanmar from 2013 to 2024 (see section 4.2). Based on this analysis, NCP Denmark finds that developments in Myanmar during the period, warranted enterprises to carry out enhanced human rights due diligence. NCP Denmark finds that since 2017, there has been widespread public reports of serious human rights violations in Myanmar. Following the military coup in 2021, all experts and stakeholders consulted by NCP Denmark found, that risks of adverse human rights impacts warranted enhanced human rights due diligence.

NCP Denmark has not been presented with any documentation indicating that NAC reevaluated the presence in Myanmar or enhanced their efforts to prevent adverse human rights impacts in response to the change in circumstances in 2017 and 2021. According to documentation shared by NAC, the enterprise commissioned an investigation of Air KBZ and its owners in 2023. While the private investigation concluded that Air KBZ was not accused of enabling military procurement, the investigative report did not seek to identify risks of adverse human rights impacts, nor to assess how NAC might mitigate these. Therefore, NCP Denmark finds that NAC did not sufficiently react to contextual developments when operating in an area of armed conflict such as Myanmar. Consequently, NCP Denmark finds that NAC did not observe the expectations in the Guidelines

(2011) Chapter IV para. 5 to carry out human rights due diligence as appropriate to the severity of the risks of adverse human rights impacts in Myanmar.

NCP Denmark has examined the measures taken by NAC to prevent adverse impacts of aircraft sold and leased to Myanmar. Through several sales and long-term leasing agreements,<sup>32</sup> NAC had an ongoing relationship to Air KBZ during the entire period from 2013 to 2024. At certain times during this period, NAC was the only supplier of aircraft to Air KBZ. Therefore, NCP Denmark finds that NAC had significant opportunity to use and extend leverage towards Air KBZ, especially when negotiating new leasing agreements for aircraft. NCP Denmark has been presented with examples of documentation showing that NAC conducted two checks in 2024 to determine whether there was any basis for suspicions regarding non-commercial flights conducted with leased aircraft in Myanmar. However, NCP Denmark has not been presented with any documentation that NAC monitored their impacts prior to this or applied their leverage to effect change in behaviour with business relationships in Myanmar to prevent adverse human rights impacts from the use of aircraft. Therefore, NCP Denmark finds that NAC, in their business relationship with Air KBZ, did not sufficiently observe the recommendation outlined in the Guidelines (2011) Chapter IV para. 3, to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if the enterprise does not contribute to those impact.

## 6 General recommendations

As a rule, NCP Denmark provides recommendations in the final statement to suggest actions the parties can take to resolve the issues and, to suggest actions that the enterprise can undertake to help ensure better observance of the Guidelines.

In this case, NAC was fully acquired by DAE during the case proceedings. The findings of this investigation are solely based on policies and procedures that NAC had in place during the period under review from 2013 to 2024 and NCP Denmark has not considered whether DAE's policies and procedures are in observance of the Guidelines. Therefore, NCP Denmark does not provide direct recommendations to neither NAC nor DAE and consequently will not conduct a follow-up.

Yet, this specific instance concerns several aspects of responsible business conduct that are relevant to ensure a better observance of the Guidelines, especially in regard to leasing. Therefore, NCP Denmark issues general recommendations relevant for enterprises operating under similar circumstances and seeking to conduct business responsibly.

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<sup>32</sup> See section 4.3 for further details

## 6.1 Due diligence for RBC is outward facing

According to the Guidance, risk-based due diligence for RBC differs from customer- and transactional due diligence in its scope and focus. Due diligence for RBC focuses on identifying, preventing, and mitigating adverse impacts on people, the environment, and society, while customer and transactional due diligence assess risks to the enterprise itself, such as financial, reputational, or operational risks. Thus, due diligence for RBC adopts an outward-facing approach and aims to enable enterprises to address risks and remedy adverse impacts that they cause, contribute to, or are directly linked to through their own operations or business relationships.

While this distinction is particularly important for NCP Denmark to highlight, customer- and transactional due diligence and risk-based due diligence for RBC can co-exist. Risk-based due diligence for RBC should be embedded into the enterprise's risk management system and can build upon customer- and transactional due diligence processes (incl. KYC), while addressing broader risks on RBC issues.

The Guidelines provide enterprises with the flexibility to adapt the characteristics, specific measures and processes of risk-based due diligence for RBC to their own circumstances. NCP Denmark recommends that enterprises consult the Guidance for support and practical advice to understand and implement risk-based due diligence for RBC.

## 6.2 Leverage should also be used when entering leasing contracts

In cases, where adverse impacts are directly linked to an enterprise's operations, products or services, the enterprise should seek, to the extent possible, to use its leverage to effect change (the Guidance). This is also the case when carrying out risk-based due diligence for RBC in leasing relationships. As there are practical limitations to the degree of leverage after a sale or contract is made, a lessor should make efforts to identify actual and potential impacts and take preventive or mitigating actions prior to entering a long-term finance leasing contract while the enterprise still holds significant leverage to effect change with the lessee. A lessor can use leverage by setting clear RBC expectations, embedding these in contracts, linking incentives to compliance, collaborating with peers to amplify influence, and warning of disengagement if standards are not met (the Guidance).

It is also important to acknowledge that the due diligence process is not static, but ongoing, responsive and changing. Hence, the lessor is also encouraged to carry out risk-based due diligence for RBC during the leasing period and use its leverage to respond to risks associated with business relationships. The lessor may also engage with regulators and policy makers to use and build leverage to influence the lessee.

Measures to prevent misuse of products should be designed in engagement with stakeholders and may as an example include, establishing terms of use in contracts and ensuring that stakeholders may report misuse and adverse impacts.

## 6.3 Enhanced due diligence in areas of armed conflict

Enterprises operating in areas of armed conflict are expected to carry out enhanced due diligence to address the heightened risks of adverse impacts on human rights and society. NCP Denmark emphasizes that due diligence is an ongoing exercise that must adapt as contexts evolve. To effectively identify and address risks, companies should leverage information from local stakeholders, sector-specific, and regional guidance provided by organizations such as the OECD and public (multilateral) institutions. In conflict-affected areas like Myanmar, risks of causing, contributing and being directly linked to adverse human rights impacts are severe and the risks of doing business with the military or entities linked to the military should be acknowledged.

In such contexts, enterprises should take proactive and enhanced steps. Relevant measures include disclosing critical links in the supply chain, engaging with vulnerable and impacted groups, encouraging the use of grievance mechanisms to address issues, and implementing more proactive and regular reporting to ensure transparency in addressing risks in business relationships (the Guidance). There are available resources with practical advice for businesses to design and implement effective human rights due diligence measures in conflict-affected areas.<sup>33</sup>

NCP Denmark recommends that enterprises operating in Myanmar pay special attention to adverse impacts on human rights in their risk-based due diligence for RBC.

## 6.4 Governments should provide guidance to enterprises in conflict affected areas

The risk-based due diligence for RBC expected by the Guidelines builds on the due diligence process defined by the UN Guiding Principles on Business and Human Rights (UNGPs). According to Principle 3(c) of the UNGPs, states should clearly express their expectations that businesses are to respect human rights in all their operations. According to Principle 7, states should also support businesses to respect human rights in conflict affected areas.

NCP Denmark recommends that governments and authorities provide clear, ongoing and up to date guidance to enterprises regarding business conduct in conflict-affected areas. Governments and authorities possess the highest level of information and must therefore assume responsibility

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<sup>33</sup> As an example, The United Nations Development Programme in 2022 published the guidance: "[Heightened Human Rights Due Diligence for business in conflict-affected contexts: A Guide](#)"

for informing companies of relevant changes and up-to date guidance. This is particularly important when governments and authorities encourage enterprises to invest in areas affected by armed conflict - as was the case with the EU and the Danish government's encouragement of European investment in Myanmar in 2013. The importance of unambiguous guidance is also emphasized by parties and examiners in other NCP cases.<sup>34</sup>

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<sup>34</sup> Case handled by NCP Norway in 2013: [Fisheries and fish processing in Western Sahara](#) and case handled by NCP Australia in 2023: [Publish What You Pay Australia](#)

## Annex: Detailed overview of case proceedings

| Date                              | Activities  |
|-----------------------------------|---|
| <b>Step 1: Initial Assessment</b> |   |
| 29 April 2024                     | NCP Denmark received a letter from JFM. JFM did not officially submit a complaint.  |
| 8 May 2024                        | JFM withdrew the complaint for security reasons but asked for the NCP to independently examine the case.  |
| 4 June 2024                       | NCP Denmark informed NCP Ireland about the case to ensure coordination.   |
| 5 June 2024                       | JFM informed NCP Denmark that they wanted to participate as submitter in the complaint if the identities of the individuals behind the organisation could be kept anonymous in keeping with their security. |
| 11 June 2024                      | Meeting between NCP Denmark and NCP Ireland to decide that NCP Denmark would lead the case and NCP Ireland would be supporting NCP.   |
| 18 June 2024                      | Consultation with the Embassy of Denmark in Myanmar regarding the authenticity and interest of JFM.   |
| 8 July 2024                       | JFM informed NCP Denmark that its organisational name could be disclosed, and that NAC could be informed about the complaint. JFM attached further documentation on the case.                               |
| 22 July 2024                      | NAC was informed about the complaint and invited to provide comments on the complaint.  |
| 2 August 2024                     | Kromann Reumert informed NCP Denmark that the law firm would be NAC's legal representative. Deadline was extended.  |
| 16 August 2024                    | NAC sent comments on the complaint to NCP Denmark.  |
| 19 August 2024                    | A draft initial assessment was discussed and accepted at an NCP meeting, and NCP Denmark accepted the case for further examination.   |

| Step 2: The parties resolve the case on their own |  |
|---|--|
| 27 August 2024                                    | The parties were informed of NCP Denmark's acceptance of the case and the next procedural step.  |
| 29 August 2024                                    | JFM declined to engage in bilateral dialogue.  |
| 3 September 2024                                  | NCP Denmark informed NCP Ireland of the initial assessment.  |
| 11 September 2024                                 | NCP Denmark decided that the case should continue to preliminary investigation – next steps of the proceedings discussed.  |
| Step 3: Preliminary Investigation                 |  |
| 12 September 2024                                 | NCP Denmark offered JFM to be assigned a representative.   |
| 26 September 2024                                 | Information meeting with NAC's legal representative (JFM was not able to participate out of concerns for safety) to share information about the case- handling procedure of NCP Denmark.   |
| 27 September 2024                                 | Request for documentation (RFD) sent to NAC and JFM respectively, as well as written information about NCP-DK case-handling procedures.  |
| 15 October 2024                                   | NAC sent redacted versions of previous correspondence, which may be shared with JFM. NAC emphasised that they considered a large part of the content non-public information due to business sensitive concerns. NAC asserted that JFM had not provided sufficient documentation to document the complaint. |
| 21 October 2024                                   | JFM partially responded to the RFD. Documentation held by JFM was not attached, out of concern for personal safety of sources.   |
| 24 October 2024                                   | JFM was informed that documentation could be kept confidential during case proceedings for the sake of personal safety but would be subject to public requests for inspection by the end of the proceedings.   |
| 28 October 2024                                   | The proposed legal representative for JFM was appointed.   |
| 22 November 2024                                  | A letter was sent to NAC with an invitation for a meeting to present and discuss the shared documentation.   |

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|------------------------------|--|
| 25 November 2024             | A letter was sent to JFM with an invitation for a meeting to present and discuss the shared documentation.                                       |
| 10 December 2024             | JFM submitted further documentation to the complaint.  |
| 11 December 2024             | Meeting between NCP Denmark and JFM's legal representative, with JFM listening on a live feed, and answering via secure text.                    |
| 21 January 2025              | Meeting between NCP Denmark and NAC's legal representatives with presentation of NAC's positions on the complaint and some documentation.        |
| 29 January 2025              | NCP Denmark reviewed documentation at the office of NAC's legal representative due to business sensitivity concerns.                             |
| 11 February 2025             | NCP Denmark's secretariat reviewed remaining documentation at the office of NAC's legal representative due to business sensitivity concerns.     |
| 28 February 2025             | NCP Denmark shared a summary of NAC's documentation with JFM.  |
| 18 March 2025                | NCP Denmark consulted the parties as well as the supporting NCP on a draft partial procedural decision. Both parties submitted comments.         |
| 10 April 2025                | NCP Denmark issued a partial procedural decision and offered mediation to the parties. JFM accepted the offer.                                   |
| 12 May 2025                  | NCP Denmark held an information meeting with the new owners of NAC, following the acquisition by Dubai Aerospace Enterprise (DAE) on 7 May 2025. |
| 25 May 2025                  | DAE rejected the offer of mediation.   |
| 27 May 2025                  | NCP Denmark published a notice about the case and began the actual investigation.  |
| <b>Step 5: Investigation</b> |  |
| 4 June – 30 July 2025        | NCP Denmark interviewed and consulted with experts.  |

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|--------------------------|--|
| <b>25 June 2025</b>      | NCP Denmark sent letters to each party with information about the investigation and a request for further information. |
| <b>21 July 2025</b>      | NAC's legal representative sent a reply to the request for further information.  |
| <b>11 August 2025</b>    | JFM sent a reply to the request for further information.   |
| <b>8 September 2025</b>  | NCP Denmark reviewed documentation at the office of JFM's representative.  |
| <b>9 September 2025</b>  | NCP Denmark reviewed documentation at the office of NAC's legal representative.  |
| <b>19 September 2025</b> | NCP Denmark received further clarification of documentation from NAC's legal representative.                           |
| <b>8 October 2025</b>    | NCP Denmark received further clarification of documentation from JFM.  |
| <b>5 December 2025</b>   | NCP Denmark consulted the parties as well as the supporting NCP on a draft final statement.                            |
| <b>6 January 2026</b>    | The submitted comments to the draft final statement were considered at an NCP meeting.                                 |
| <b>26 January 2026</b>   | The final statement was approved by NCP Denmark.   |