Concept Note

UN Business and Human Rights Forum Discussion of the US Responsible Investment Reporting Requirements for New Investments in Burma

Concept Summary – Burma has taken important steps to liberalize its economy, open up its political process, and negotiate preliminary ceasefires with ethnic minority groups. In response to these positive steps and in the hopes of incentivizing future reforms still needed, many governments have lifted sanctions on investment in Burma.  However, the challenges faced by investors and business enterprises in Burma remain significant and there is substantial risk that new investments could create or exacerbate existing human rights and environmental challenges.  Recognizing both the important role that new investment can play and the remaining challenges that exist in Burma, when the United States eased sanctions on investment in Burma, it simultaneously established the “[Responsible Investment Reporting Requirements](http://www.humanrights.gov/wp-content/uploads/2013/05/Responsible-Investment-Reporting-Requirements-Final.pdf)” (the Reporting Requirements) – an innovative approach to encouraging responsible investment in Burma.  Companies, civil society organizations, and governments have expressed great interest in learning more about the Reporting Requirements.  The U.S. Government will discuss the motivations for and implementation to date of the Reporting Requirement.  The objectives of this event are inform interested actors about the Reporting Requirements, and examine the potential for this particular initiative and similar transparency-related efforts to support responsible business conduct and investment, and encourage effective due diligence in Burma.

Background – Guiding Principle #2 holds that “States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.”  Other relevant provisions of the Guiding Principles further elaborate that States should “Encourage, and where appropriate, require, business enterprises to communicate how they address their human rights impacts” (#3d) and, especially in conflict-affected areas, “Engag[e] at the earliest stage possible with business enterprises to help them identify, prevent and mitigate the human rights-related risks of their activities and business relationships” (#7a).

Pursuant to the authorities of the International Emergency Economic Powers Act, the United States issued General License No. 17 (GL-17) on July 11, 2012, authorizing new investment in Burma by U.S. persons subject to certain limitations and requirements.  Among those are the Reporting Requirements, which consist of two separate obligations.  First, any U.S. person undertaking a new investment with the Myanma Oil and Gas Enterprise must notify the Department of State within 60 days.  Second, any U.S. person investing more than $500,000 in Burma must submit two reports: a public report providing an overview of their investment and report on related property acquisitions, security arrangements, payments to the Burmese government, and human rights, worker rights, anti-corruption, and environmental policies and procedures related to operations and supply chains in Burma; and a U.S. government report detailing communications with the military and armed groups and risk mitigation and prevention policies and procedures.