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General Comment

See attached file(s)

Attachments

FFP Response to Burma Reporting Requirements

Comments on the Reporting Requirements on Responsible Investment in Burma
Submitted by The Fund for Peace
October 4, 2012

The Fund for Peace welcomes the opportunity to comment on the Reporting Requirements that have been proposed for U.S. investors into Burma. As per our previous submission on the suspension of sanctions, we believe that responsible U.S. investment can be an important resource for a country in the critical stages of transitioning from political isolation and conflict.

The Fund for Peace is an independent, nonpartisan, 501(c)(3) non-profit research and educational organization that works to prevent violent conflict and promote sustainable security. Through our Failed States Index, we have been ranking countries globally in terms of their ability to protect their citizens' security and interests for the past eight years. Fundamentally, we believe that countries are sustainable in the long term only when they have strong state institutions to manage their economic, security, political, and environmental interests themselves, without external intervention.

Ideally, countries will have governments that are sovereign in their management of relations with foreign investors, including corporate investors and development agencies. Though when fragile countries are transitioning from political isolation, conflict, or both, there is a time when it can be considered appropriate for external oversight to be exercised by foreign governments whose own companies are entering such a market. This is well and good, but only to a point. At the end of the day, the investment of organizations into another country's development should ultimately be under the purview of the country receiving the investment. In a perfect world, every country receiving such investment would have laws and regulations in place to protect their citizens, safeguard and improve human rights and promote development and growth. Where these frameworks do not exist, foreign governments should focus less on a policing role and more on assisting the receiving country’s own internal reforms. As reporting requirements -- like those proposed for Burma -- are created in the U.S. for American companies, they should be created on the basis of being temporary in nature and scope. Otherwise, we are fostering an environment within which we are creating a neocolonial system of oversight and interference in sovereign nations’ affairs.

Thus, the paternal aspects of “regulatory imperialism” should be avoided. If we really want to create enduring stability in countries, such that their citizens are protected and their long-term livelihoods promoted, we need to focus more on supporting the development of strong internal state institutions and less on further expansion of international regulatory regimes -- and certainly less on using our own domestic law as a solution for other countries’ real or perceived deficiencies.

In a country like Burma, The Fund for Peace does see a role for the U.S. Government in ensuring that development efforts and investments from American organizations -- including but not limited to private companies -- are responsible and transparent. This is especially so when a country such as Burma is just beginning to develop policies and systems of its own to oversee foreign aid and investment. But the adoption of such a role presents a major issue: How will the U.S. Government determine when countries are able to manage their own affairs (and should have that sovereign right), a key underpinning of a strong social contract with their own population and the basis of a strong democracy?

Development, which is key to building strong state institutions and eventually sustainable societies, relies in large part on private sector investment. The private sector should be viewed as part of the solution and not treated as a sector that has to be regulated to death, but rather regulated commensurate with its impact. Other interventions, such as the delivery of foreign aid by donors and NGOs, also have significant impacts and should be regulated and overseen no differently. Transition of the type that is so desperately needed in Burma requires all sectors. Foreign aid, NGO programs, and corporate investments alike should be scrutinized equally to ensure the impacts will promote stronger state institutions and stronger local civil society.

National governments must be given the capacity to be able to develop proper laws, regulations and enforcement mechanisms. As these are developed, there is certainly an appropriate time during this transition period (and the rebuilding or building of state institutions, and the fostering of a nascent private sector and civil society) when the international community should play a greater role. This role should take the form of dialogue, including international actors, local stakeholders and government. This partnership between all sectors is critical for building sovereign governments and strong institutions that are responsible to the needs of the population, and all investors contributing to development should be held equally accountable and be part of that dialogue. Underlining all of these considerations however, must be the understanding that, a country's dependence on other governments to serve as watchdogs for the activities of foreign companies and NGOs operating within their borders, is fundamentally unsustainable.