Burma: US Backtracks on Responsible Investment Pledge
By Reuters
11 July 2012

The new United States government policy allowing business activity in Burma's controversial oil sector with reporting requirements will not adequately prevent new investments from fueling abuses and undermining reform.

(Washington DC) - The new United States government policy allowing business activity in Burma's controversial oil sector with reporting requirements will not adequately prevent new investments from fueling abuses and undermining reform, Human Rights Watch said today.

The Obama administration announced that it will waive longstanding US sanctions on investment and financial services in Burma. The decision was timed to coincide with a trip by US Secretary of State Hillary Clinton to attend the Association of Southeast Asian Nations (ASEAN) summit in Cambodia.

"The US government should have insisted that good governance and human rights reform be essential operating principles for new investments in Burma," said Arvind Ganesan, business and human rights director at Human Rights Watch. "By allowing deals with Burma's state-owned oil company, the US looks like it caved to industry pressure and undercut Aung San Suu Kyi and others in Burma who are promoting government accountability."

The US issued general licenses to allow companies to operate in Burma while still keeping sanctions laws on the books. The new policy does not restrict US companies from partnering with Myanma Oil and Gas Enterprise (MOGE), Burma's state-owned oil company and the main source of revenue for the previous military government, and instead only requires that they inform the US government within 60 days of new deals. In June, Aung San Suu Kyi called on governments to block investments with MOGE until it meets international standards designed to ensure that public funds are managed in a transparent and accountable manner.

But the US oil and gas industry pressed the Obama administration for a wholesale removal of the investment ban without any limits on partnering with MOGE, citing potentially lucrative investment opportunities when Burma opens up additional oil and gas blocks for exploration later this year. At present, Chevron is the main US company active in the country, where it is a partner with MOGE and two other companies in the Yadana natural gas project.

The new policy, initially billed as a "framework for responsible investment," permits American companies to invest in all sectors of Burma's economy - but not to directly partner with the military or those on the Treasury Department sanction's list. President Barack Obama authorized the widening of the sanctions list to cover those who impede reform or contribute to human rights abuses, ethnic conflict, or military trade with North Korea, and added two names to the sanctions list.

The Obama administration also said that all businesses investing more than US$500,000 will be required to disclose information on their activities in Burma, including their payments to the Burmese government and their policies and procedures to address human rights, labor, corruption, and environmental risks associated with their projects or supply chains, as well as any arrangements they make for security or to acquire land. Some information is to be disclosed confidentially to the US government but companies are also to provide a public version.

The statement by Obama noted concerns about "the lack of transparency in Burma's investment environment and the military's role in the economy."

Human Rights Watch and others have expressed concern that it was premature for the US to open up across-the-board investment in Burma and had sought much stronger preconditions, including an updated sanctions list and binding prohibitions on investment in the country's problematic oil and gas industry.

There are still serious human rights-related risks when investing in Burma, Human Rights Watch said. These include weak rule of law, poor regulation and enforcement of labor and environmental standards, and the lack of an independent judiciary. Another highly problematic issue is military's extensive involvement in the economy as well as its use of forced labor and other abusive practices linked to providing security for business operations. Government corruption and mismanagement is widespread and has not been adequately addressed. The Burmese government remains dominated by the military, which under Burma's 2008 constitution enjoys legal supremacy over civilian authorities.

Serious government abuses in Burma's Arakan State, including mass arrests, incommunicado detention, and killings of Muslim Rohingya, make the US announcement particularly ill-timed, Human Rights Watch said.

Approximately 90,000 Rohingya and ethnic Arakan have been displaced since sectarian violence began in June, and hundreds of Rohingya have fled by boat to Bangladesh through Burmese waters pegged for natural gas exploration. Arakan State is one of the principle areas into which foreign investment is flowing into the country.

Senior US State Department officials will participate in a business delegation traveling to Burma to promote "economic and business engagement with government officials," according to an official statement. The focus on advancing business ties in Burma reflects a reversal of US government priorities, Human Rights Watch said, noting that for some 20 years the US led international efforts to pressure Burma to undertake democratic reforms.

The European Union similarly disregarded concerns about human rights risks when it suspended all business-related sanctions on Burma in April 2012, Human Rights Watch said. The EU did not place any requirements on companies.

"The Obama administration promised to replace sanctions with responsible investment in Burma but instead has opened up every sector without adequate measures to ensure that companies act responsibly," Ganesan said. "Public reporting is useful, but it is not a deterrent to prevent businesses from becoming involved in human rights abuses or corruption in a country with such a poor track record as Burma."