

# Responsible investment in Myanmar

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Responsible Business Conduct

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## *Introduction: responsible investment*

- Ministers, excellencies, ladies and gentlemen,
- Thank you very much for having me talk here about responsible investment in Myanmar
- I would like to stress that investment and RBC should go hand in hand. They really are two sides of the same coin. That also goes for the coins in Myanmar! Investments that are not responsible are reducing the support for investment. For countries – like Myanmar – it is therefore imperative to attract responsible investments.
- The collaboration between OECD and Myanmar to support the establishment of a national framework that attracts foreign investment is based in this concept. Part of the recent Investment Policy Review focusses on the current RBC situation in Myanmar. You can find a summary on this RBC chapter in the back of this room.
- The research highlights that Myanmar has made significant process with respect to RBC. After a situation of over 50 years of military conflict, the UN special Rapporteur now notes improvements in Myanmar's human rights protection. Also, an increasing engagement in the reform process of civil society, political parties and other stakeholders is noted.
- I am very glad that the Myanmar government and the President himself have emphasized its expectation of foreign investments being of a responsible nature and that it established the Myanmar National Human Rights Commission. Furthermore, there has been made real progress in adopting various laws to protect workers' rights, such as the Labour Organisation Law and the Minimum Wage Law.
- However, there are still serious challenges to overcome. A particularly severe issue is land grabbing. The many land clearances and compulsory resettlements – mainly in the context of large projects – without adequate compensation involve serious human rights abuses. Furthermore, they aggravate the situation of landlessness and increase poverty among those affected.
- Hence, there is still room for improvement. It is for this reason that I am very happy to note that the government of Myanmar has demonstrated a willingness to promote sustainable and inclusive growth, as the primary responsibility for human rights protection rests with the government of Myanmar.

## *1. Introduction: the OECD Guidelines for MNEs*

- The OECD Guidelines for MNEs are the most comprehensive set of guidelines for RBC and they cover all areas of corporate responsibility, ranging from labour and human rights to

environment and corruption. Currently, 46 countries adhere to the Guidelines and more non-OECD members are in the process of adherence.

- The Guidelines are a binding commitment for governments (and non-binding for MNEs). They include the UNGPs for Human Rights and Business and the ILO Tripartite Declaration on MNE's
- A unique feature of the OECD Guidelines forms the grievance mechanism. National Contact Points (NCPs') provide good offices to solve RBC problems of multinationals.
- It is important to note here that the Guidelines do not only concern investments but also cover almost all global supply chains. Since so many supply chains of companies based in the 46 adhering country originate from South-East Asia, working with these countries forms a very important part of our efforts.
- MNEs can contribute by acting responsibly and by taking into account the international standards of behaviour beyond what is required by the host government. I would like to show you a couple of substantive provisions of the Guidelines that have a particular relevance for investments in Myanmar.

## *2. The Guidelines' relevance for Myanmar*

- First of all, since 2011, the Guidelines covers not only investments but also supply chains. Hence, even if a particular MNE does not actively invest or operate in Myanmar itself, but part of its supply chain does originate there, it should nonetheless act in a responsible manner. Also with regards to Myanmar.
- Like former Secretary of State Ms Hillary Clinton said at the adoption of the revision of the OECD Guidelines:
- "They will be helping us determine how supply chains can be changed so they can begin to prevent and eliminate abuses and violence."

And

- "Due diligence is, while not always easy, absolutely essential"
- This includes carrying out risk-based due diligence. This means the MNE should try to identify, prevent and mitigate actual and potential adverse impacts. And they should account for how these impacts are addressed.
- I believe this central provision is very important since it extends the responsibility of companies beyond those that actually set up a joint venture in Myanmar.
- Furthermore, enterprises can have an impact on virtually the entire spectrum of internationally recognised human rights. As such, it is important that they meet their responsibilities. These are described in the Human Rights chapter of the Guidelines.
- As I said before: Myanmar is moving in the right direction. However there are still serious CSR Risks: land rights, ethnic conflicts, labour practices, lack of privacy and freedom of information and corruption. The Guidelines recommend in situations of high CSR risks that multinationals should do a more robust due diligence.

### 3. Specifics: land issues

- This provision is relevant for the landgrabbing issue.
- Companies should take the interests of local communities into account and actively engage with them: this is especially relevant for foreign investors in extractive sectors in Myanmar, which have had substantial criticism regarding land grabbing. A couple of issues have emerged regarding mines and pipelines. An old NCP case was also regarding this topic.
- More specifically, provision 14 of chapter II General Policies states that 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.”
- Many companies now implement the principle of ‘Free Prior and Informed Consent’ as they believe it is the right thing to do and it is in the long run cheaper than having to close a mine because of community problems! So there is a good business case to be made.

### 4. Specifics: labour issues

- Another example of how the Guidelines are relevant for MNEs with activities in Myanmar is the chapter on Employment and Industrial Relations. As I said before, Myanmar has proven to be serious about reforming its labour practices by adopting various laws accordingly. Nonetheless, evidence of labour rights violations still surface and the Trade Unions Congress (2013) argues that the newly set up dispute settlement mechanisms do not adequately address worker discrimination for union activity.
- These examples illustrate that MNEs should still actively strive to take into account important recommendations on for instance living wages, safety, complaints mechanisms and child labour and forced labour.

### 5. Specifics: reporting

- The Guidelines recommend (in Para 45 Cmty) that HR Due diligence also requires communicating how impacts are addressed.
- One way of doing so is if Italian and other multinationals follow the example of US companies that are now obliged to report about their due diligence for their business in Myanmar.
- It is not only knowing, but it is ‘knowing and showing’ that a company is not involved in human rights breaches or other adverse impacts.

## 6. OECD-Italy-Myanmar project

- I hope I demonstrated today how the OECD guidelines for MNEs are very relevant for adhering governments and their MNEs, and also for Myanmar and their domestic enterprises.
- Within the framework of Italy's adherence to the OECD Guidelines and commitment to have them implemented by businesses, the Italian Government is funding an OECD project on raising awareness of the OECD Guidelines among Italian investors and in Myanmar.
- This conference today is the first step of this project and the high level attendance demonstrates the shared interest of both governments, investors and civil society to support and engage in responsible investments.
- The Italian-OECD project will move forward, also in light of the discussions here in Rome, to organize 1 or 2 workshops in Myanmar. These will focus on topics of the Guidelines that are of particular interest for foreign investors and for Myanmar [*such as labour provisions.*]
- For the project to be of concrete interest for all actors concerned by responsible investments in Myanmar, Italy and OECD are strongly encouraging the involvement in the preparation of the events of: other governments that adhere to the OECD Guidelines, international initiatives, such as the Myanmar Centre for Responsible Business, investors in Myanmar, and most important, the Myanmar government, local firms and civil society.

## Conclusion

- As a final remark, I would like to stress again that investment and RBC should go hand in hand in Myanmar. They really are two sides of the same coin. And I hope a lot of responsible coins are going to flow to Myanmar!
- Thank you.