Responsible Investment in Myanmar’s Garment Sector

Summary of Meeting organized by
The Institute for Human Rights and Business (IHRB)

22 March 2013, International Labour Organisation, Geneva

Meeting Overview

As part of its developing activities to promote responsible business in Myanmar (Burma), the Institute for Human Rights and Business (IHRB) convened on 22 March 2013 a meeting of representatives from a number of Multi-Stakeholder Initiatives (MSIs) to focus on challenges and opportunities relating to Myanmar’s garment sector. The meeting was held at the International Labour Organisation (ILO) offices in Geneva and was hosted by the ILO’s Better Work initiative.

Sixteen individuals representing eight organizations attended the meeting. A list of participants and the meeting agenda can be found in the attached Annex. The meeting was conducted under the Chatham House Rule to ensure an open and frank discussion and was facilitated by Sean Ansett, Managing Partner, At Stake Advisors.

The meeting had the following objectives and expected outcomes.

Objective:

The overall objective of the meeting was to explore areas of common interest among MSIs in relation to Myanmar and consider possible collaboration over the months ahead.

Specific Objectives:

1. Sharing perspectives on the evolving nature of the garment industry in Myanmar.
2. Building greater understanding of the status of legal and human rights issues/frameworks in Myanmar.
3. Exploring the role of MSIs in approaches to the garment sector in country.

Expected Outcomes:

1. Greater understanding of the current landscape in Myanmar and the potential need for garment specific programmes.
2. Mapping of relevant initiatives and actors working on this issue.
3. Establishing ongoing dialogue and collaboration among the ILO, MSIs, IHRB and other actors on the issue of the garment sector in Myanmar.
Meeting Expectations

Prior to the Geneva meeting, IHRB conducted an open-ended survey in which those invited to participate in the meeting cited the following desired outcomes of the session:

- Establish platforms for ongoing dialogue and collaboration among different stakeholders related to the Myanmar garment industry.
- Help create consensus that certain conditions have to be in place before companies can claim to be investing responsibly, including commitment by the Myanmar government to ratify and implement all ILO core conventions and to ensure that national laws are transparent.
- Develop a better understanding of who the key stakeholders are on the ground and how and when to include them in the process, leading to a stakeholder mapping process.
- Help create a common understanding on how to ensure that investments do not contribute directly or indirectly to human rights abuses and that abuses linked to a company’s operations are addressed and remedied in a timely and satisfactory manner.
- Develop a clearly coordinated approach to the garment sector that reflects Myanmar’s priorities for Myanmar workers, the industry and government.
- Understand the potential for collaboration between the ILO and MSIs.
- Understand how the UN Guiding Principles on Business and Human Rights can be implemented in Myanmar to inform MSIs’ members.

IHRB is working with the Danish Institute for Human Rights, the British Council, and other local and international partners to undertake activities in support of responsible investment in Myanmar consistent with the UN Guiding Principles on Business and Human Rights and other relevant international standards. During 2013, the following activities are planned:

- Establishing the Myanmar Centre for Responsible Business (MCRB) in Yangon to provide a neutral forum for all stakeholders to meet and to arrange access for businesses, governments, trade unions and civil society to top-level international expertise concerning human rights challenges and dilemmas;
- As part of the work of the MCRB, organising workshops in Myanmar focused on human rights due diligence with regard to business relationships, relations with communities and workers, and operations. Issues to be covered in these events will include land rights, labour rights, post-conflict business activities, and non-discrimination;
- Briefing trade delegations visiting Myanmar;
- Producing Strategic Human Rights Impact Assessments on selected industry sectors, as well as issue briefings, and other written materials.

Discussions during the Geneva meeting covered a range of subjects, which are summarized in the remainder of this report.

Practical Considerations
Myanmar faces a number of practical, structural and social dilemmas as it continues with reforms and emerges into the world economy. These challenges may hinder its economic development and should be considered by businesses when developing plans to set up projects and programs in the country.

In practical terms, challenges include lack of modern banking facilities, including no current facility for credit card transactions, and an absence of insurance and other banking and financial infrastructure that are taken for granted elsewhere. Similarly, limited availability of hotels, flights and office space as well as poor transportation infrastructure, makes business activity difficult.

With respect to social concerns, on-going conflict in the border areas continues to pose a special challenge, as the need for good jobs and economic development is most acute in these areas, which are generally the most difficult to access. Ten separate cease-fire agreements are currently in place in Myanmar, but conflict continues in the north of the country. Human rights violations have reduced in ceasefire areas but serious violations remain and have increased in areas where no ceasefire exists.

In terms of labour rights-related challenges, the ILO has been operating a forced labour complaints process in Myanmar since 2007. Since reforms were enacted, the ILO receives on average 90 complaints per month. The data does not necessarily suggest an increase in labour related abuses but may suggest that complainants are more comfortable raising issues than in the past and less fearful of retaliation. The ILO is now also supporting efforts to negotiate adequate remedies for victims and working at the request of the Myanmar Government to develop a form of truth and reconciliation process with regard to unanswered complaints to the ILO’s supervisory mechanisms. Support for this process has been received from the ethnic minority groups.

Finally, it should be noted that there is significant lack of capacity and expertise within the country to undertake proper corporate human rights due diligence as called for in the UN Guiding Principles. Enhanced due diligence will require local engagement at the community and village level and caution is advised when obtaining information from local authorities.

**Myanmar’s Garment Industry in the Context of Ongoing Reform**

Myanmar has historically had a relatively small garment industry compared to neighbouring countries. Prior to 2003, about 85% of Myanmar’s exports were garments and 25% of these went to the United States. In 2002, the United States imported approximately $356.4 million of clothing and other goods from Myanmar. These exports took place against the backdrop of the global garment quota system that ended in 2005.

According to the Myanmar Garment Manufacturers’ Association, the economic sanctions imposed on Myanmar and specifically those of the United States government in 2003 resulted in the closure of many garment factories and the loss of 85,000 jobs. Moreover, the withdrawal of the Generalized System of Preferences (GSP) by the EU in 1997 for Myanmar also had an impact on garment manufacturing. Myanmar was subsequently largely off limits to western retailers as a manufacturing hub.

As part of broader political and economic reform efforts, Myanmar President Thein Sein and opposition leader Aung San Suu Kyi have spoken publicly of the need for responsible

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investment. While not necessarily defining what this means, they have both at various times stressed the need for compliance with local laws, respect for labour rights and environmental protections whilst supporting democracy and human rights.²

Additionally, the G8 has noted that the reforms undertaken by Myanmar in the last eighteen months have made the country a more attractive investment destination for business, but that Myanmar remains new terrain for many investors. At the same time, donor countries are considering capacity building programs in the areas of administrative capability, skills creation, land use and acquisition, non-discrimination, labour rights and parliamentary and judicial oversight among other areas of governance reform.

Corruption in Myanmar is an enormous problem, one that has been acknowledged not only by businesses and civil society, but also by the President. As in many countries, working with local partners is part of the requirements for starting a business in Myanmar. Foreign investors considering investments express considerable concern about choosing appropriate local business partners. Businesses investing in Myanmar face difficult challenges in determining the extent to which potential partners may be linked to past human rights abuses.

Myanmar’s recent political reforms include a commitment to protecting human rights, democratic processes and the rule of law. An Anti-Corruption Law and a reform plan focused on administrative reform and transparency were recently adopted to begin to address corruption and bribery issues. These steps toward reform create opportunities for the garment sector - often an early mover in emerging economies and key to broader efforts aimed at job creation and economic development.

While there has been a legacy of past Western sanctions, there has been considerable interest in the Myanmar garment sector from Chinese, South Korean and most recently Thai investors, either building on current investments or new ones. Currently, there are 200 garment factories in Myanmar, of which 195 are privately owned. The exports from these factories were valued at $770 million in 2011 with key export markets being Japan, South Korea, Brazil, Argentina, South Africa and Turkey. Most of the factories are CMP (Cut, Make, Pack) seti ups so very little value added activities are taking place in the garment sector.

Costs of doing business in Myanmar are high – including lack of reliable energy supply, and underdeveloped telecommunications and transportation infrastructure, compared to other countries, while the cost of labour is low compared to other countries. There is currently no domestic supply of fabrics or packaging materials so there are long lead times needed to ship these products into the country. Shipping costs remain high, infrastructure is poor and electricity costs are soaring due to the lack of stable government supply and the need to generate electricity from diesel at four times the average cost of local sources.

Most Myanmar national labour laws are antiquated and were drafted in the 1940s; however two new labour laws were passed last year. Recent important labour law reforms in Myanmar including the right to freedom of association/ collective bargaining; a minimum wage; a ban on forced labour; and labour dispute settlement are signs of change. However, there is a lack of strong institutions, capacity and expertise to ensure effective implementation of labour standards. Labour inspectorates are poorly resourced.

The ILO has had a presence in the country since 2002 and the International Trade Union Confederation (ITUC) recently opened an office in Yangon. There are now over 500 trade unions operating in the country. All are enterprise-based in various sectors. But there are political divisions within the labour movement. In the last year there have been a series of strikes and other disputes and in some instances unions have resorted to calling a strike at the first instance, before attempting negotiation, arbitration, or mediation. The lack of sophisticated industrial relations is a problem.

Myanmar’s new Freedom of Association law was enacted last year but there is a lack of robust dispute mechanism infrastructure and concepts like “social dialogue” and other terms related to human rights do not translate well in Burmese, nor understood properly, requiring significant time and further capacity building to ensure uptake.

Some Myanmar garment sector labour issues include excessive working hours over legal limits, seven-day working weeks, low wages, and lack of health and safety protection. Other concerns include a lack of due process while terminating employment, and discrimination against ethnic and religious minorities in the labour market. Religious intolerance regarding the availability of jobs to non-Buddhists continues to be a significant problem as well.

Skill-development is a clear priority for the sector. Soft investments play a mutually beneficial and positive role, and include sewing skills training, supervisory and management skills, productivity enhancements and worker-management dialogue. However, Myanmar’s development will not be a win-win for all stakeholders in the region. For example, production shifts within the country and from abroad may result in job losses, which will need to be carefully planned for and addressed through alternative employment strategies. Brands and their suppliers should be mindful on how they cease these operations responsibly.

Other considerations include the likely return of Burmese migrants from other countries because of improved local political and economic prospects. Many of those returning to Myanmar will be seeking jobs in the domestic garment sector. Reintegrating these workers will be a challenge, particularly because there are many demands for limited numbers of jobs, including those from ethnic minority populations. The challenge is significant given there are over one million registered and many more unregistered migrant labourers from Myanmar currently working in Thailand alone.

At the 2012, World Economic Forum’s East Asia meeting in Bangkok, Aung San Suu Kyi stated that Myanmar has to ensure security and political peace as overseas migrant workers return home. In this context, she reminded business leaders that Myanmar needs basic education that can enable people to live a decent life and called on investors to bring jobs and training for young people in Myanmar.

**Special Economic Zone (SEZ) Development**

There are currently 13 million people between the ages of 15-28 in Myanmar with a minimum wage of $1.25 per day (plus allowances). The government recently announced that it wants to create 1 million new jobs by 2015, making Myanmar potentially an attractive investment market.
Since the passing of the SEZ law in 2011, the Myanmar government plans to build four SEZs in Thilawa near Yangon, Sittwe, Kyaukpyu and Dawei. It is believed that each SEZ will have its own labour laws. Dawai SEZ has its own law and it is not clear if laws have been passed regulating the other SEZs. Chinese, Thai and Japanese investors have established three of these zones.

It is not yet known if the SEZs will be separated by industry sector but there are reports that a specific apparel zone will be set-up outside of Yangon. The SEZ law is also offering a 5-year tax holiday, custom duty exemptions on imported machinery and equipment costs, which can be used to comply with the capital investment requirements.

The government is currently considering the extent to which existing laws will be applicable in these special zones and the level of regulation within them. The Ministry of Labour will have specific labour inspector offices in each of the zones. In two of these SEZs the labour offices have already been established. The operational policies within the SEZs may not be consistent across all of them. The Japan International Cooperation Agency (JICA) and the German Agency for International Cooperation (GIZ) are drafting some operational policies.

Myanmar civil society and others have expressed concerns about how wages will be set compared to the national wage and whether SEZ land acquisition will be managed in line with international standards for its acquisition and use.

A Role for MSIs?

Multi-stakeholder initiatives (MSIs) were created to address collectively some of the most critical labour and human rights issues and governance gaps in the garment industry’s global supply chains that no one individual entity could resolve on its own. These initiatives operate with distinctive forms of governance drawing on the experience, expertise and resources of their members with shared goals and responsibilities.

Myanmar is a complex environment and many companies and MSIs originating in countries that had imposed sanctions will be entering the market after a considerably long period of absence. During that period much has changed, including a domestic sector with limited foreign investment coming mainly from Asian countries. A still small but growing number of companies based in countries where sanctions had previously been imposed have begun plans to order from Myanmar later in 2013, while others are still tentative and evaluating options.

Political uncertainty, including planned elections two years from now, complicate matters for potential investors – particularly because the unpredictable electoral outcome makes forecasting government policies more difficult. While MSIs have global experience working in emerging markets, it is not yet known which of their existing practices would translate easily and immediately in Myanmar, given the severe capacity constraints among local companies, unions and inspectorates and limited evidence as to their ability to absorb new techniques and policies.

While the garment sector accounts for a small portion of Myanmar’s workforce, agriculture accounts for nearly three-quarters of all employment in the country. This raised the question as to the extent to which MSIs that included agriculture-based companies amongst their membership were exploring involvement in Myanmar as well.
Most MSIs participating in the Geneva meeting shared that they have not heard about specific plans from their corporate members regarding sourcing interest in Myanmar and in some cases interest was nominal.

There is however strong interest from some MSI members to explore opportunities for investment in Myanmar and it was acknowledged that several brand-led visits had already taken place in the country.

**Implementing the UN Guiding Principles on Business and Human Rights in Myanmar**

In June 2011, the United Nations Human Rights Council unanimously adopted the UN Guiding Principles on Business and Human Rights, the result of a six-year multi-stakeholder process led by UN Special Representative John Ruggie. The Guiding Principles enjoy wide support from business, civil society and governments. The Guiding Principles can play an important role in the Myanmar garment industry by:

- Emphasizing the importance of due diligence to anticipate and mitigate human rights risks;
- Ensuring that companies have effective grievance mechanisms in place to address potential rights abuses involving workers or local communities negatively impacted by business activities;
- Defining the responsibilities of global brands and their suppliers as well as the Myanmar government’s own duties in ensuring that forthcoming investments respect human rights and the rule of law;
- Fostering the development of a culture in Myanmar that ensures processes are in place, which help companies comply with international standards.

The Guiding Principles are relatively new and stakeholders often lack knowledge on how to implement the framework, especially in a new market such as Myanmar where sanctions have only recently been suspended. This is a challenge for all stakeholders to address in the time ahead.

Garment sector investment in Myanmar can create positive opportunities for the Myanmar people, including employment opportunities and an improved quality of life. In order to achieve this goal, the private sector must invest responsibly in a way that avoids negative impacts, which may include environmental degradation, biodiversity loss, labour and human rights abuses and a loss of cultural values.

Foreign investment objectives should be designed to benefit Myanmar society in broad terms by creating new jobs, skills and creating a healthy social, environmental and economic environment to create sustained growth. Responsible investment will require a strong legislative framework that is implemented in the labour market. Government capacity to ensure effective implementation will remain weak for some time, meaning that companies will need to demonstrate real leadership both in supporting capacity development and in terms of achieving respect for human rights and labour standards within their own operations and those of their suppliers.

One positive development is that many larger local businesses in Myanmar realize there is a need to understand and apply international standards. At the same time, concerted efforts are required to avoid unintentionally creating a “dual economy” where different sectors of the business community in Myanmar operate differently when it comes to human rights and labor standards implementation.
Myanmar Unions and Labour Relations

The Freedom of Assembly legislation permits people to demonstrate publicly but the organizers need to submit an application stating when, where and the wording to be used on the placards or that will be chanted. The Freedom of Association legislation has no requirements for permission to demonstrate. The only restriction is that a demonstration cannot take place within 500m of a police station, major government facility or bus station. The distinction between these two pieces of legislation, whilst clear in respect of central Government Authorities, remains unclear in the minds of many local authorities and the police, with some workers legally protesting under the Freedom of Association law being improperly charged with failure to gain a permit under the Freedom of Assembly Law.

The Labour Organisation Act provides the policy framework for establishment of both worker and employer labour organizations (unions) commencing at the enterprise level and capable of building through Township (Myanmar city), District, State and National union structures into larger federations and confederations. An enterprise union must have a minimum of 30 workers and the support of at least 10% of the workers in the enterprise to form a union and hold democratic elections. Multiple unions in a unit are allowed but management and worker unions must be separate.

Nearly all strikes to date have been technically illegal due to a failure to follow proper procedures. Currently, the government is playing a mediation role between employers and workers. Discrimination and firing for exercising the right to strike or joining trade unions are still problems, but it has now been a number of months since any striking workers have been arrested.

Potential roles for the Myanmar Centre for Responsible Business (MCRB)

Participants were briefed on plans being developed by IHRB, the Danish Institute for Human Rights and other partners to establish the MCRB as a platform for encouraging responsible business practices in Myanmar. It is hoped that the new Centre when operational will play an important role as a resource for those seeking to foster responsible investment in the country. It was noted that open communication among all stakeholders operating in Myanmar will be essential to avoid duplication and maximize the use of limited resources.

Session participants shared ideas on what role the Centre could play. Suggested activities included:

• Undertaking local stakeholder mapping.
• Sharing information on relevant developments in country.
• Assisting global/local business and government in understanding expectations of international standards such as the UN Guiding Principles and their relevance to the Myanmar context.
• Supporting companies in conducting human rights due diligence for new investments and business relationships.
• Serving as a forum for dialogue on key risks and challenges around business and human rights issues.
• Providing a central repository for existing tools and training materials developed by MSIs and others and making these available as appropriate for local and international companies as well as CSOs.
Potential Future Activities and Opportunities

Participants agreed that a number of potential future activities should be considered aimed at supporting the interests of the respective memberships of different MSIs interested in Myanmar. MSIs can explore questions such as how their members engage with suppliers to build on social dialog that is in place and avoid undermining these existing processes; or how they can support efforts with building capacity in the Myanmar Ministry of Labour with existing institutions like the ILO, or would those efforts be duplicative.

Possible joint activities MSIs could pursue include:

- Conducting a stakeholder mapping exercise both locally, regionally and globally of organizations with expertise regarding Myanmar including governments, government agencies, multi-laterals, civil society, academics, trade unions and business groups.
- Developing an information exchange to ensure developments related to responsible investment are shared among stakeholders with interest in the country.
- Exploring the possibility of creating responsible lobby platforms with MSI member companies to encourage the Myanmar government to continue with social, economic and legal reforms and promote responsible practices in the country.
- Developing a joint MSI statement to the Myanmar government in support of responsible business initiatives, perhaps timed to the World Economic Forum regional meeting to be held in Myanmar in June 2013.
- Liaising with trade delegations visiting the country so that MSIs can seek to influence or participate in their activities.
- Utilising the new MCRB as a neutral space for dialogue and a central repository for existing tools and training materials from MSIs that may be useful to Myanmar stakeholders.
- Contributing to efforts aimed at narrowing the gap between the standards of global and local companies to ensure that a “dual economy” is avoided.

Next Steps

IHRB is committed to remaining in contact with all participants in the meeting about its own work and the future activities of the Myanmar Centre for Responsible Business. Depending on levels of interest from participating MSIs, IHRB would be pleased to facilitate further dialogue and to contribute to efforts by MSIs with respect to their own initiatives in Myanmar.
Appendix: Participants List

**Business for Social Compliance Initiative**
Veronica Rubio, BSCI Senior Manager of Strategic Issues

**Clean Clothes Campaign**
Dominique Muller, International Clean Clothes Campaign Secretariat

**Ethical Trading Initiative**
Julia Kilbourne, Programme Leader Apparel and Textiles

**Fair Labour Association**
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**Fair Wear Foundation**
Ivo Spauwen, International Verification Coordinator

**Institute for Human Rights and Business**
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Vanessa Bissessur, Office Manager

**International Labour Organization**
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Peter Rademaker, CODEV, Coordinator, Donor Relations
Steve Marshall, ILO Liaison Officer, Yangon, Myanmar
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**Social Accountability International**
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**Via Telephone**

**Ethical Trading Initiative, Norway**
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