

services is likewise exempt. For example, a U.S. person engaged in the sale of copy machines may hire and train a Burmese employee to carry out activities pursuant to such sales, including office support personnel, personnel to provide after-sale service and maintenance in accordance with the terms of a purchase or lease agreement, sales representatives and supervisory personnel. A U.S. person may not, however, open a business after the effective date, the purpose of which is the sale of vocational skills training in the maintenance of copy machines, as this would constitute the economic development of human resources in Burma.

(4) Contracts for the purchase or sale of services incident to the registration and renewal of patents, trademarks and copyrights are not prohibited by this part.

(5) A U.S. bank is allowed to provide trade financing as a service either to the Government of Burma or to non-governmental entities in Burma, but cannot provide them loans earmarked for economic development of resources in Burma if loan repayment is secured by the project. A U.S. bank can provide development project financing as a service, so long as the financing instruments are not convertible into equity, and do not provide for participation, including as collateral or security, in royalties, earnings, or profits in the economic development of resources located in Burma.

§ 537.409 Approval or other facilitation of a foreign person's investment.

(a) The prohibition contained in § 537.202 against approval or other facilitation of a foreign person's investment in Burma bars any action by a U.S. person that assists or supports a foreign person's activity that would constitute prohibited new investment under § 537.201 if engaged in by a U.S. person. This facilitation prohibition is subject to the exemption for trade in goods, services and technology set forth in § 537.204.

(b) *Examples:* (1) A U.S. corporation is prohibited from brokering, financing, guaranteeing, or approving the entry by any foreign person, including a foreign affiliate, into a contract for the development of, e.g., a natural gas

field, a tourist hotel complex, or a rubber plantation in Burma, unless pursuant to the affiliate's exercise of rights under an agreement entered into prior to the effective date. An independent U.S. contractor, however, may perform brokerage, financing, or guarantee services if under a service contract meeting the conditions of § 537.204.

(2) The sale to a foreign person of a U.S. person's equity or income interest in a development project in Burma constitutes facilitation of that foreign person's investment in Burma, unless pursuant to a pre-effective date agreement. Such a sale, however, is authorized by general license under § 537.504.

(3) A U.S. national or permanent resident alien employed in Burma or in a third country by a foreign person may participate in any decision-making role in an activity by the foreign person that includes economic development of resources located in Burma as exempt employment services pursuant to § 537.204, unless such services are undertaken pursuant to a post-effective date agreement between the foreign person and the Government of Burma or a nongovernmental entity in Burma and:

(i) involve the general supervision and guarantee of the foreign person's performance of a contract for the economic development of resources located in Burma, or

(ii) where the individual U.S. person's compensation is provided for, in whole or in part, from shares of ownership in the development project or participation in royalties, earnings, or profits in the development project.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 537.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see subpart C of part 501 of this chapter.

§ 537.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets

Control, shall be deemed to authorize or validate any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 537.503 Exclusion from licenses and authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, property, transactions, or classes thereof. Such action shall be binding upon all persons receiving actual or constructive notice of such exclusion or restriction.

§ 537.504 Divestiture of U.S. person's equity investment in Burma.

Notwithstanding the prohibition in § 537.202 against the facilitation by a U.S. person of a foreign person's investment, all transactions related to the divestiture or transfer to a foreign person of a U.S. person's share of ownership including an equity interest in the economic development of resources lo-

cated in Burma are authorized. U.S. persons participating in such transactions valued at more than \$10,000 are required, within 10 business days after the agreement is signed, to file a report for statistical purposes with the Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Avenue NW.—Annex, Washington, DC 20220.

NOTE TO § 537.504: This authorization includes arrangements by U.S. persons with pre-effective date investments in Burma to "farm in" or sell a stake in the investment to a foreign person. For purposes of this section, the term *farm-in arrangement* is defined to mean the sale of an equity interest in an investment in the economic development of resources located in Burma.

Subpart F—Reports

§ 537.601 Recordkeeping and reporting requirements.

For provisions relating to records and reports, see subpart B of part 501 of this chapter.

Subpart G—Penalties

§ 537.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (the "Act"), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act. Section 206 of the Act, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub.L. 101-410, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty of not to exceed \$11,000 per violation may be imposed on any person who violates any license, order, or regulation issued under the Act;

(2) Whoever willfully violates any license, order, or regulation issued under the Act shall, upon conviction, be fined not more than \$50,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who knowingly participates in